

Sustainable Communities Act Proposal To Empower Parish Councils to Sell Electricity they Generate.

I am writing to you to ask that Dartmoor Forest Parish Council please submit a proposal under the Sustainable Communities Act asking for the government to give all parish and town councils the right to sell electricity that they generate from local schemes.

Currently local authorities have the power to sell electricity from local power generation schemes that they set up, whilst parish and town councils are prevented from doing so.

There are already a significant number of parish and town councils across the country that have successful local energy schemes that produce excess electricity but these councils are not able to gain any revenue from this excess electricity because they are not allowed to sell it into the national grid.

This proposal has a good chance of success. Giving parish and town councils the right to sell electricity is in line with current government policy on promoting community energy. The proposal is also likely to attract wide support from community and environment groups.

Below is a suggested version of the proposal together with supporting rationale, evidence and case studies which I hope is helpful. Submitting a proposal under the Sustainable Communities Act is a very straight forward and simple procedure and we are keen to do all we can to assist your council with this.

Could you please let me know if your council would be happy to submit this proposal?

Kind regards

Steve Shaw

National Co-ordinator

Local Works www.localworks.org

office: 020 7278 4443 direct: 020 7239 9053 mobile: 07788 646 933

Draft Sustainable Communities Act Proposal The Right for Parish and Town Councils to Sell Electricity

- Proposed Government Action -

That the government gives Parish and Town Councils (Local Councils) the right to sell electricity either by legislating to this effect itself or by giving support and, if necessary, adequate Parliamentary time for a Private Members Bill that gives Local Councils this right.

- Case study: Cambourne Parish Council, Cambridgeshire -

Cambourne Parish Council, Cambridgeshire, has ambitious plans to generate community energy but these plans are being stunted by the lack of a right for Local Councils to sell electricity from community energy schemes. In summer 2012 solar panels were installed on the roofs of a number of community buildings in the Parish of Cambourne, Cambridgeshire. The Parish Council is not selling the electricity because of the concern that doing so would be illegal.

The council want to build wind turbines but would have to sell the electricity to make such a project viable and the grey area regarding the legality of doing so has put them off. If Parish Councils had a legal right to sell electricity Cambourne would immediately proceed with more local renewable energy projects such as wind turbines and the earnings from these would go into the community fund they have already set up to reduce the community's carbon footprint through investment in better quality local housing, more efficient community facilities etc.

The solar panels the council have are generating more electricity than is being used by the buildings they are on top of. If they could sell the electricity now the revenue would go into their community fund that would be spent directly on local carbon footprint reduction rather than to private hands that are far less likely to spend it on local carbon footprint reduction.

- The Case for the Proposal -

There is great potential for communities to benefit from generating their own community energy. Many Town and Parish Councils (Local Councils) want to start new environmentally friendly schemes to help sustain their communities. This proposal is supported by [number TBC] Local Councils from across the country that share this view and the following County Associations of Local Councils; East Sussex ALC, West Sussex ALC, Surrey ALC, Cumbria ALC, Leicestershire and Rutland ALC and Kent CALC.

However, there are differing legal views, leading to uncertainty over whether Local Councils can sell the electricity that they generate. Therefore urgent clarification is sought as it impacts on the government's policy to incentivise the generation of local energy. This policy is laid out in the Government's Community Energy Strategy published on 27th January 2014 and highlighted by the Secretary of State, Rt Hon Edward Davey MP's forwarding statement, "By making community energy an easier option, achievable by more people, we want to enable communities and individuals to exercise real market power".

In the Community Energy Strategy the government names generating and selling energy as one of the crucial elements of realising greater community energy generation. The strategy states, "The ability to sell electricity locally, at a 'local price' could be one way of enabling all members of the community to benefit from a community energy project. We also recognise that community energy projects may wish to sell electricity beyond their local community, which ultimately has the potential to increase competition in the retail market and increase access for consumers to the sector".

The issue arises by virtue of Section 11 of the Local Government (Miscellaneous Provisions) Act 1976 which gives power for a Local Authority to sell electricity that it generates. However, the definition of 'Local Authority' in that Act does not include a Local Council, i.e. does not include a Town or Parish Council. The 1976 Act was amended in August 2010 to cover other forms of generation such as solar, wind, etc. These amendments however did not extend the right to sell electricity generated by such sources to Local Councils.

The General Power of Competence was designed by the government to assist Local Councils, among others, wishing to broaden the work they do supporting communities. However, it cannot be used where specific legislation prohibits a particular activity. Local Councils can therefore not use the General Power of Competence to sell electricity because the 1976 Act specifically prohibits them from doing so.

Another legal view is that Parish Councils could sell surplus electricity by virtue of Section 111 of the Local Government Act 1972 notwithstanding Section 1 of the 2011 Localism Act and Section 11 of the 1976 Act but subject to the Electricity Act 1989.

Either way there is general agreement that urgent clarification is required from government. The unfortunate consequence of this legal uncertainty is that Local Councils may well be prevented from doing what the Secretary of State said on 27th January 2014, i.e. from "making community energy an easier option, achievable by more people".

The average annual income for the local councils who currently have energy schemes is £2700 and an average annual bill saving of over £450. Beyond the environmental benefit then, local councils can gain considerable economic benefit from generating renewable energy.

In addition to a principle local authority, it is also possible for a charity or a not for profit body to sell electricity. Because of this there are a handful of examples which show how willing some Local Councils are to carry out linked activities and support other local organisations in order to see their local community benefit from the selling of electricity generated by community energy.

Burscough Parish Council, Lancashire, have done this via a scheme that saw solar panels installed in the roof of the local cricket club and Cambourne Parish Council, Cambridgeshire (see case study below), have done this via a similar scheme that saw solar panels installed on the local library, sports centre, sports pavilion and other community buildings.

In many cases, using the ready vehicle of a Local Council to trade in electricity themselves would be a good solution to see more community energy generated. To kick off community schemes it is often best to have a body which has staff, a broad public service remit, the ability to reclaim VAT, public accountability, and some funds.

A Local Council would then further avoid the additional bureaucratic hurdles of corporation tax, unlike a community interest company (CIC). Ashton Hayes Community Energy CIC have shown that their volunteer directors face a real demand on their time in completing reports to Companies House and filing tax returns to HMRC.

Over time a Local Council could decide to transfer the activity to a charity or other local organisation that would not wish, or indeed could not, from the outset be subject to the delays, bureaucracy of setting up the charity, problems of finding people willing to take responsibility and confines of specific charitable objects. However the significant resources required to set up community energy schemes creates a strong disincentive to Local Councils who want to set up such schemes. It is this disincentive that is the major problem and barrier that has led to the submission of this proposal.