

Navigating the Consenting Processes for Renewable Energy Developments

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Introduction

This information sheet is for anyone involved with, or affected by, a proposal for **onshore renewable energy-related development**. This includes electricity generating stations such as windfarms, solar farms, hydro schemes and battery energy storage systems. It also includes transmission infrastructure such as overhead lines (and pylons) and electricity substations.

The writers are chartered planners working for Planning Aid Scotland. We provide impartial information about the Scottish planning system.



Important to note

Legislation about the energy development consenting is currently under review. This review may lead to changes in the process. We will update the information sheet accordingly.



Want to know more?



We have a range of related information sheets on [our website](#).

We recommend you have a look at the following:

- **Development Management**
- **Material Considerations**
- **Planning Appeals and Local Reviews**
- **Rights and Challenges in the Scottish Planning System**



Common terms

S36	Section 36 Consent is required to build, operate or modify onshore electricity generating stations with capacities of 50 or more megawatts (MW). Section 36 refers to the Electricity Act 1989.
S37	Section 37 Consent is required to install certain overhead power lines from 20kV up to 400kV. Section 37 refers to the Electricity Act 1989.
BESS	Battery Energy Storage System
DPEA	The Directorate for Planning and Environmental Appeals (DPEA) is now called the Planning and Environmental Appeals Division. However, the acronym DPEA has not changed. Therefore, the name and acronym do not match.
ECU	Energy Consents Unit
EIA	Environmental Impact Assessment
HES	Historic Environment Scotland
kV	Kilovolts
LDP	Local Development Plan
LRB	Local Review Body
MW	Megawatts
NPF4	National Planning Framework 4
PAN	Proposal of Application Notice
SEPA	Scottish Environment Protection Agency

What are the different types of renewable energy?

A wide range of developments are part of the generation, storage and transmission of electricity. They range from small-scale proposals, like a solar panel on a house roof, to large-scale solar farms. There are two types of energy development: those that **generate energy** and those that **transmit energy**.



1. Development generating energy

- **Wind energy:** Produced by wind turbines, which can vary in size. Wind turbines can be built onshore and offshore. This information sheet covers onshore wind only.
- **Solar energy:** Solar panels can be put on homes or sheds and in gardens, or they can be part of larger scale solar farms. Solar farms can cover 60 to 190 hectares. In solar farms, the panels can be up to 3m high, and they can be raised off the ground to allow other land use, such as sheep grazing.
- **Hydroelectric:** We have a long history of using water to generate electricity in Scotland. Small projects may power hundreds of houses while larger proposals could power whole towns.
- **Battery Energy Storage Systems (BESS):** These store electricity in batteries for later use. They help to manage variable and intermittent renewable energy sources, like solar and wind. If too much energy is produced, such as when the sun is shining or the wind is blowing strongly, a BESS stores the surplus energy.

BESS does not generate energy. However, the Scottish Government considers BESS to generate energy for the consenting process.



2. Development transmitting energy

- **Overhead power lines (and pylons):** 'Transmission' networks take electricity from where it is made to regional substations at high voltages (400kV, 275kV or 132kV). Pylons used to support high voltage overhead power lines are typically 42 metres to 65 metres high. The 'distribution' network transports electricity at much lower voltage from substations to homes and businesses, typically using overhead lines on wooden poles.
- **Underground power lines:** Underground cables cover more distance in the Scottish Power Energy Network than overhead lines. Underground lines are generally **permitted development** so do not require consent. However, they are much more expensive so overhead power lines are often preferred.
- **Electricity substations/switching stations:** These hold equipment to increase or decrease voltage. They make sure electricity is delivered reliably and safely. Substations are found where electricity enters the transmission network, often near a major power source. They are also found where it leaves the transmission network for distribution to homes and businesses.

What are the two consenting processes for energy development?

There are **two** different application/consenting routes for energy development, depending on the type (**generating or transmitting**) and 'scale.'

The scale is **how much** energy a development either generates or transmits.

1. Planning applications

Applications for electricity generating stations that will generate **less than 50MW** and distribution lines **under 20kV** are considered under the [Town and Country Planning \(Scotland\) Act 1997](#), as amended ("the Planning Act").

The **planning authority** administers and decides applications. This will be your local council or, if you live in a National Park, the National Park Authority.

2. Section 36 and 37 applications (Energy Consents applications)

Under the [Electricity Act 1989](#) ("the Electricity Act"), electricity generating stations that will generate **50MW and more**, or overhead lines **exceeding 20kV**, require consent from an 'appropriate' authority. In Scotland, **Scottish Ministers** decide applications. The [ECU](#), an operational division of the Scottish Government, administers applications on behalf of Scottish Ministers.

The application process is outlined in Section 36 (generating stations) and Section 37 (overhead electric lines) of the Electricity Act. These applications are therefore often referred to as Section 36 (S36) or Section 37 (S37) applications. They are also known as Energy Consents applications.

These applications are **NOT** planning applications and are **NOT** decided by the planning authority.

Generation, transmission, distribution and supply of electricity is a reserved matter in the Scotland Act 1998, so applications are decided based on UK-wide legislation.

Where consent is granted under Section 36 or 37 of the Electricity Act, Scottish Ministers grant 'deemed' planning permission. This means there is no need to apply for planning permission after energy consent is granted.

A note on hydrogen

Hydrogen is chemical, not electrical, energy. This means proposed hydrogen plants are considered under the Planning Act, not the Electricity Act. However, electricity generating stations needed to power a hydrogen plant may fall under the Electricity Act.



Why should you get involved in early engagement?

This section is about early engagement with the applicant **before** their formal application is submitted.



A **representation** is a comment made by the public or a community supporting or objecting to an application.

Applicants will often do early engagement with communities and other interested parties before submitting their application.

Planning Aid Scotland strongly encourages you to take advantage of any opportunity to engage with the applicant, and to do so as early as possible.

Early engagement gives individuals and communities the most effective opportunity to contribute to the design and delivery of developments.

Applicants often summarise changes made following consultation as proof of engagement.

Comments submitted during early engagement are not official. Even so, they can result in changes to the proposal. It is still important to look at the application following submission and make official representations at that stage.

Requesting changes

At this early stage it is helpful to think about how the applicant could address your concerns by modifying the development proposal. Is there a particular feature of the proposal that could be changed to make it acceptable?

You could suggest changes to scale, diversion of construction traffic, additional planting or species protection. You could also suggest outdoor and environmental improvements, for example to local paths and signs, or contributions to adjacent community facilities such as a village hall or park. Bear in mind that the applicant can more easily make improvements on their application site than on neighbouring sites they do not own.

Discussing or requesting changes does not affect your right to object to the principle of the development. It is an opportunity to suggest mitigation measures should the development go ahead.

Community liaison person

The early stages have the most potential for changes to the proposals. Many applicants, particularly for Section 36 and 37 applications, will have a nominated 'community liaison' person. This person is your point of contact. They will be keen to speak to people affected by a proposal and to understand your concerns.

Planning Aid Scotland encourages community groups to also nominate one group member as the point of contact. This reduces duplication and increases the chance of developing an effective and influential relationship with the applicant.

Early engagement for planning applications

Early engagement is legally required for **major developments and national developments**.

Applicants must submit a Proposal of Application Notice (PAN) to the planning authority 12 weeks before submitting a major planning application. A 12-week (minimum) pre-application consultation process then follows. The applicant must hold two public events where people can comment. At the second event the applicant should give feedback on the outcomes of the first event.

A notice of the proposal and public events must be published in a local newspaper. Every Community Council whose area is in, or borders, the proposed site must be consulted.

Early engagement for Section 36 and 37 applications

There is no legal requirement to carry out early engagement for Section 36 and 37 applications. However, the Energy Consents Unit encourages developers to engage with affected communities from an early stage. Applicants often use a similar approach to that used for major planning applications. The Scottish Government has [good practice guidance](#) on early engagement.

Applicants will often host engagement events which can be online or in person, they are normally advertised in a local newspaper. Applicants usually also reach out to the relevant Community Councils and give contact details of the [community liaison person](#).

To note: Changes in legislation were introduced by the UK Planning and Infrastructure Act 2025. These changes give Scottish Ministers the power to introduce a legal requirement to carry out early engagement for Section 36 and 37 applications. At the time of writing (June 2026) this has not yet been introduced.

A note on Community Benefits

Community Benefits may also be discussed before an application is submitted. **Community Benefits are additional voluntary benefits a developer chooses to provide to the community.**

These benefits are independent from the planning and consenting system. **Therefore, Community Benefits are not a material consideration in deciding an application.**

This is because these benefits cannot be enforced under planning legislation.

Community Benefits are a well-established part of energy developments in Scotland, and the Scottish Government supports them. Discussing Community Benefits does not affect your right to express a view on the development proposals.

Objecting to or supporting the development does not affect your right to discuss proposed Community Benefits.





How are the different applications processed?

A note on permitted development

Some development is 'permitted development' and does not require an application for planning permission. These developments are defined under the [Town and Country Planning \(General Permitted Development\) \(Scotland\) Order 1992 \(as amended\)](#).

For renewable energy, this includes underground power lines and smaller substations. It also includes some smaller domestic and non-domestic renewable energy proposals, such as certain types of solar panels. As there is no planning application there is no mechanism to make representations on the proposals.

If you plan to install a renewable energy development (such as a solar panel) at your house or business, first check with your planning authority whether it qualifies as permitted development. You can also access our free [Advice Service](#) for any planning queries.

Underground lines

Unless underground lines require an [Environmental Impact Assessment](#), they are permitted development for statutory undertakers. Anyone else would still need to apply for permission.

A sealing end compound is a structure that connects overhead lines with underground cables. This structure may require planning permission.

1. Planning applications

As explained on [page 4](#), planning applications are decided by the planning authority. This is your local council or National Park Authority (NPA)¹.

A planning application is allocated to a case officer who works for the planning authority. They will visit the application site and review all the material submitted, along with all consultations and representations received.

All planning applications must be decided in line with the 'development plan', unless 'material considerations' suggest otherwise. The development plan is made up of National Planning Framework 4 and the Local Development Plan for the area. Material considerations include comments submitted by the public. See [pages 12 and 13](#) for more information.

The case officer will write a 'Report of Handling.' This outlines the relevant policies and whether there are any material considerations. The case officer then either determines the application (makes the decision to grant or refuse permission) or writes a recommendation to planning committee.

The planning committee, consisting of elected members (councillors), then decides the application, rather than the case officer.

Local applications may go to planning committee if the proposal goes against the development plan or if a number of objections² have been received (this varies by planning authority). Major applications tend to go to planning committee, but some councils' rules allow larger scale applications to be decided by planning officers.

For more information on the consenting process for planning applications, see our information sheet on [Development Management](#).

1. The Loch Lomond NPA decides planning applications in its area. In the Cairngorms NPA applications go to the relevant councils, but the park authority can call in an application for its decision.
2. The number is set by each local authority and changes across Scotland.



Local development (Up to 20MW)

Proposals for energy developments with less than 20MW generating capacity are called 'local' development. These developments require planning permission and are called 'local' planning applications.

Early engagement is not legally required for local planning applications. However, applicants may still carry out some form of early engagement voluntarily.

These planning applications are typically advertised in the local press and notification of neighbours will take place. The public can submit representation within the consultation period, which should be at least 21 days from notification.

Major development (20-50MW)

Proposals for onshore generating stations with a capacity of 20-50MW are called 'major' development. These developments require planning permission and are called 'major' planning applications.

As mentioned above, there is a legal requirement for pre-application consultation with the community for major applications (known as Proposal of Application Notice, PAN). This means many smaller scale developments, including windfarms, solar farms, hydro schemes and BESS, require pre-application consultation.

After the PAN process, when the application is submitted, applications are typically advertised in the local press and notification of neighbours will take place. At this stage you can make formal representation to the planning authority. You should do so within the time given, which is typically 21 days.

2. Section 36 and 37 applications

As explained on [page 4](#), Section 36 and 37 applications are decided by Scottish Ministers.

Prospective applicants often carry out early engagement, but this is voluntary.

Once an application is submitted, it should be advertised for two consecutive weeks in the local and national press. There is then a 28-day consultation period to give representation. You should send representations to the Energy Consents Unit (ECU).

The ECU has published [good practice guidance](#) on the procedures for applications under Section 36 and Section 37.

The decision process for both Section 36 and 37 applications

An Energy Consents application will typically be allocated to a case officer within ECU. This case officer gathers and reviews **all the public representations and consultation responses**. This includes those from statutory consultees such as planning authorities. If an Environmental Impact assessment (EIA) is required, it also includes responses from SEPA, NatureScot and Historic Environment Scotland (HES).

The relevant planning authority becomes a statutory consultee for Energy Consents applications. This means that Scottish Ministers must seek their views on the application for consent, but the planning authority does not decide the application.

An ECU recommendation typically sets out whether and how development meets legislative and policy requirements. It also includes a summary of all consultation responses and objections. Scottish Ministers then review the application alongside the recommendation and make their decision.

A note on conditions following permission/consent

Planning conditions are often attached to planning permissions or energy consents. These conditions make sure specific aspects of a proposal are completed as required.

For planning permission, the planning conditions are monitored and enforced by the planning authority. For further information on planning conditions, see [Scottish Government Circular 4/1998: the use of conditions in planning permissions](#).

For S36 and S37 consents, there are two types of conditions: 'deemed planning permission conditions' and 'Section 36/37 conditions.' The deemed conditions are monitored and enforced by the planning authority. S36/S37 conditions are often conditions that cut across multiple authorities and sectors, for example aviation. These conditions are the responsibility of Scottish Ministers and are monitored and enforced by the ECU.

Scottish Government has published [Guidance on standard planning conditions for onshore wind development](#).





What policy and legislation are considered to decide applications?

1. Planning applications

The development plan is made up of [National Planning Framework 4](#) (NPF4) and the council's own **Local Development Plan (LDP)**.

NPF4 sets out Scottish Government planning policy. The LDP sets out the council's planning policies and its approach to various types of development. Planning applications must be assessed against the development plan. The case officer reads the development plan as a whole and, for each application, decides what weight to attach to policies.

National Planning Framework 4

NPF4 sets out Scottish Ministers' vision for working towards a net zero Scotland by 2045. It includes the key priorities for where and what development should take place nationally. It also gives general policies about how applications should be decided. It therefore influences all planning decisions.

It is important to understand that Scottish Government planning policy in NPF4 places climate and nature at the centre of Scotland's planning system. In particular, [Policy 11 of NPF4](#) supports all forms of renewable, low-carbon and zero emission technologies, including transmission and distribution infrastructure. However, potential impacts on communities, nature and cultural heritage, including cumulative effects, are important considerations. It is a good idea to read Policy 11 so you know the principal considerations.

As mentioned before, a planning officer will consider **all** policies in the development plan. The decision will not solely be based on Policy 11.

Local Development Plan

The planning authority will also consider its own LDP. You can view the LDP on the planning pages of the planning authority's website. The LDP includes detailed policies which only apply locally within the planning authority boundaries.

2. Section 36 and 37 applications

Section 36 and 37 applications are decided under [Schedule 9 of the Electricity Act](#). Schedule 9 says the applicant must consider natural beauty, plant and animal conservation, natural features of special interest, and sites of architectural, historic or archaeological interest.

Schedule 9 also says the applicant has a duty to do what they reasonably can to mitigate effects on the natural beauty of the countryside or on relevant plants, animals, features, sites, buildings or objects. These considerations and mitigations are often covered by an [Environmental Impact Assessment](#) (EIA). If no EIA is required, separate assessments on different environmental aspects must still be submitted.

The desirability of these features, and how far Section 9 has been complied with, must be considered by Scottish Ministers. Other assessments, for example those related to the Conservation of Habitats and Species Regulations 2017, may also be relevant.



National Developments designation

National Planning Framework 4 (NPF4) defines 'National Developments' National Developments are "significant developments of national importance that will help to deliver our spatial strategy".

There are 18 National Developments and the third is "Strategic Renewable Electricity Generation and Transmission Infrastructure". It includes:

- a. *"On and offshore electricity generation, including electricity storage, from renewables exceeding 50 megawatts capacity;*
- b. *New and/or replacement upgraded on and offshore high voltage electricity transmission lines, cables and interconnectors of 132kV or more; and*
- c. *New and/or upgraded infrastructure directly supporting on and offshore high voltage electricity lines, cables and interconnectors including converter stations, switching stations and substations."* (Annex B p.103 of the NPF4)

For planning applications: This designation means the principle of the development is already agreed. The case officer will focus instead on design and environmental details during the application.

For S36 and S37 applications: This designation means the principle of the development becomes a material consideration.

National Developments designation does not grant planning permission for the development. All relevant consents are still required, whether via a planning application or a Section 36/ 37 application.



What are material considerations?

1. Planning applications

Section 25 of the Planning Act says planning applications must be decided in accordance with the development plan **unless material considerations indicate otherwise**.

The possibility of material considerations informing a decision gives some discretion in the decision-making framework.

The Scottish Government's **Planning Circular 3/2022 on Development Management Procedures** explains material considerations on pages 57 and 58:

'The question of whether or not a consideration is a material consideration is a question of law and so something which is ultimately for the courts to determine. It is for the decision maker to assess both the weight to be attached to each material consideration and whether individually or together they are sufficient to outweigh the development plan.'

This planning circular notes that Local Place Plans are a potential material consideration. However, the decision-maker decides how much weight to give to each consideration.

The case officer considers both the development plan and material considerations when reviewing the application. This includes comments submitted by statutory consultees, individuals and community groups. It also includes other guidance, national and local strategies and plans. The case officer then decides whether:

- a. any of these material considerations are so significant they 'override' policies within the development plan and therefore influence the planning decision; or
- b. whether conditions attached to the planning permission could mitigate some of the considerations.

The case officer's report should outline how much weight was given to the considerations.

For further information see our information sheet on **Material Considerations**.

Examples of material considerations

Courts have previously said a material consideration must meet two test points:

1. It should serve or be related to the purpose of planning. This means it should relate to the development and use of land.
2. It should fairly and reasonably relate to the planning application.

[✓] Accepted material considerations	[X] Not accepted material considerations
Public objection (on relevant planning ground)	Cost of energy in your area
Site history	Your property value
Additional guidance and policies	Moral, religious or political arguments
Comments from statutory and other consultees	Property rights including boundary, access and ownership disputes
Nuisances such as noise, smell, fumes, strong lights	Business conflict
Visual appearance and its relationship to its surroundings	Change in personal view or dislike of proposal

Fire safety

Individuals and communities are often concerned about fire risk and safety. People may worry about the safety of battery units located near property. To ensure safety, BESS projects in Scotland must comply with regulations. These are on top of any aspects of fire safety considered through the planning process.

An application may include a 'Site Management Plan' with proposed safety measures such as:

- a battery monitoring system
- separation of components
- automatic fire alarms
- gas and smoke detection

This means some land use aspects of fire safety are considered during the application process. You can refer to these when making representation.

However, material considerations are a matter of law. At the time of writing, June 2026, no court has given definitive views on whether fire safety and risk are material considerations. Therefore, fire safety is not in the list of material considerations above.

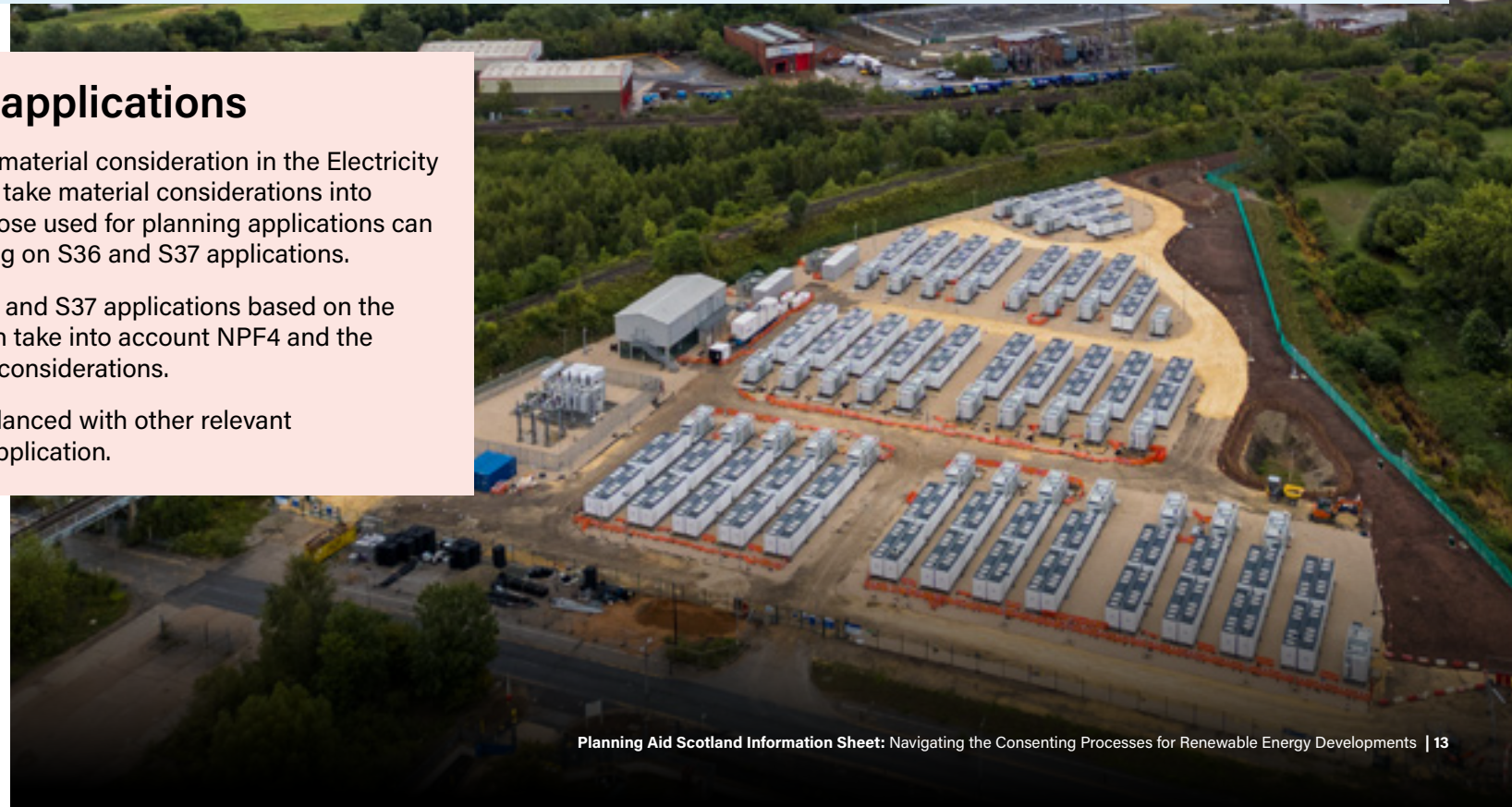
The Scottish Government has published [planning guidance on BESS applications](#).

2. Section 36 and 37 applications

There is no guidance or definition of material consideration in the Electricity Act. However, Scottish Ministers can take material considerations into account. Similar considerations to those used for planning applications can therefore be raised when commenting on S36 and S37 applications.

Scottish Ministers do not decide S36 and S37 applications based on the development plan. However, they can take into account NPF4 and the Local Development Plan as material considerations.

Compliance with these policies is balanced with other relevant considerations depending on each application.





How can I find out about applications?

1. Planning applications

The planning authority must notify neighbours when they receive an application for planning permission. Notification is usually done by post. This is to tell those most affected they can make representations about the application.

'Notifiable neighbours' are neighbours within 20 metres of an application site. For many types of energy development this may be only a few properties.

Applications for energy development are often also advertised by the planning authority in the local press.

Each planning authority has a section of its website, the e-planning portal, where you can search and view planning applications. You will be able to find this by searching for '*planning applications online in <insert local authority name>*'.

Once you have found your planning authority's e-planning portal there are multiple search options. You can use the 'simple search' facility if you know the application number or search for a 'key word' such as an address or plot name. You can also use the 'advanced search' facility. This allows you to use a range of options such as date, the type of application made, or the type of decision issued.

There is also usually a 'map-based search'. The default setting for the map-based search shows only the last 6 months. You should be able to toggle the timeframe for the search up to 2 years, 5 years or all time.

Community Councils are statutory consultees on planning applications within their area. The planning authority should send them a weekly list of all validated planning applications. Community Councils can request a time extension to respond to a planning application. Community Councils should discuss the details of this process with their planning authority.

2. Section 36 and 37 applications

Developers must notify the public in the local and national press when they apply for Section 36 or 37 consent.

The legal requirements are:

- Advertising in one or more local newspapers for two successive weeks
- Advertising in one or more national newspapers (e.g. *The Herald*, *The Scotsman*) once
- Advertising in the Edinburgh Gazette once

Applicants will often also advertise the development on their website. This becomes a legal requirement if the application requires an [EIA](#).

Information about current Section 36 and 37 applications is also available on the [ECU website](#).

The ECU website gives you the option to opt in and be notified when a decision has been made on an application you are interested in.

The details on publicity requirements can be found in this Scottish Government guidance: [Energy consents: application procedure and publicity requirements](#).



When can I make a formal representation?

Anyone can make representations at the application stage for both planning applications and Section 36 and 37 applications. How you do this depends on the application type.

You have the option to request an extension of time for most applications, but this is only granted in exceptional circumstances.

1. Planning applications

You can make representations on planning applications using the planning authority's online e-planning portal. Search online with a phrase like *'how to make a representation to a planning application in <enter area name>'* to find out how to do this in your council area.

Each planning authority has advice and guidance online on how to make a representation.

You have at least 21 days to make your representation. Planning Aid Scotland advises making any comments well within the time given. Make sure your points reflect policies mentioned in the [Development Plan](#) or are relevant [material considerations](#).

2. Section 36 and 37 applications

You have at least 28 days from the final day of advertisement to make your representation. Use the [Energy Consent Unit online form to submit your representation](#).

Do not send your representation to the planning authority.

Planning Aid Scotland advises making any comments well within the time given. Make sure your points either reflect topics in Schedule 9 of the Electricity Act or to refer to policies mentioned in the [Development Plan](#). You could also mention other relevant points if they are [material considerations](#).



How can an applicant challenge a decision?

Only the applicant has a right of appeal. There is no third-party right of appeal. This means communities or members of the public cannot appeal the outcome of a decision other than through courts.

1. Planning applications

Planning appeals

Once a planning application is decided, the applicant can appeal. They submit an appeal either to the planning authority's Local Review Body (LRB) or the Scottish Government's Planning and Environmental Appeals Division (DPEA)¹.

The appeal could seek to overturn a refusal or amend or delete planning conditions. The applicant must submit their appeal within three months of the decision date.

Any representations made against the original planning application will be considered during the appeal.

Anyone who submitted a representation should be notified by the planning authority if they receive an appeal. There is an opportunity to make further representations. However, you cannot raise new concerns at appeal. Make sure your representation at the application stage covers everything you are concerned about.

Judicial reviews

Sometimes a planning application or planning appeal can be taken to the Court of Session. Applicants and third parties with 'sufficient interest' can appeal to the Court of Session if they believe the decision was made unlawfully. They cannot challenge the decision itself, only the decision process. The appeal must be started within six weeks of the decision.

For further information see our information sheet on [Rights and Challenges in the Scottish Planning System](#).

1. The Directorate for Planning and Environmental Appeals (DPEA) is now called the Planning and Environmental Appeals Division. However, the acronym DPEA has not changed. Therefore, the name and acronym do not match.

2. Section 36 and 37 applications

Judicial review

Section 36 and 37 applications cannot be appealed like planning applications. A decision by Scottish Ministers is final.

However, anyone with 'sufficient interest' may petition the Court of Session for judicial review. They cannot challenge the decision itself, only the decision process. This petition must be made within six weeks of the decision.

A note on 'sufficient interest'

It is for the Court of Session to decide whether an appellant has '**sufficient interest**'. The applicant normally has sufficient interest. A third party needs to prove they are and/or have been impacted by the decision. Factors that may prove sufficient interest is distance to the site, use of the site, wider environmental impact of the proposal, level of activism prior to the decision.

What is the examination process for S36 and S37 applications?

In some cases, a Section 36 or 37 application can be moved from a standard application process to an examination process. There are two instances where this can happen.

1. The most common case is where a relevant **planning authority** objects to a Section 36 or 37 application. Ministers will first consider whether modifications or additional planning conditions could address the planning authority's objection. The authority can withdraw the objection if they are happy with the changes. If the authority does not withdraw the objection, Scottish Ministers must start an examination of the application.
2. Where the planning authority has not objected but **other consultees**, including Community Councils, have, Scottish Ministers will consider the objections and any material considerations. Scottish Ministers decide whether a reporter should lead an examination process. See page 15 on how to object as a Community Council.

In both cases the application is passed to the Scottish Government's Planning and Environmental Appeals Division (DPEA). Scottish Ministers appoint a reporter (or reporters) within the DPEA who will review the application and decide how to examine it. The examination could be:

- An inquiry
- A hearing
- A site investigation

Everyone who submitted a representation about the application will receive information about the examination.

Any examination will include consultation responses from the public and other stakeholders. These will be reviewed considering relevant legislation and policies. A reporter may ask for additional representations.

The reporter submits their report to the ECU. Scottish Ministers review the report and are the ultimate decision makers.





What is the role of Environmental Impact Assessments (EIA)?

The main aim of an Environmental Impact Assessment is to make sure the decision maker knows about effects on the environment.

An EIA can cover topics such as impact on human population, human health, biodiversity, land, soil, water, air, climate, cultural heritage and landscape. It can cover both direct and indirect effects.

The two consenting routes have separate EIA regulations, but they are very similar routes.

1. For **planning applications**, the key legislation is [The Town and Country Planning \(Environmental Impact Assessment\) \(Scotland\) regulations 2017](#). This is supported by Circular 1/2017 on the EIA Regulations.

2. For **Section 36 and 37 applications**, the key legislation is [The Electricity Works \(Environmental Impact Assessment\) \(Scotland\) Regulations 2017](#).

There are five stages to an EIA:

- **Screening:** To **decide** whether a project requires an EIA. Both EIA regulations include two schedules giving detailed descriptions. Projects identified in Schedule 1 require an EIA. Projects in Schedule 2 need screening to decide if the likely environmental effects are significant.
- **Scoping:** An **opportunity to understand** the extent of environmental issues. An applicant can request the decision maker's opinion on what information they need to include in the EIA report. This is called a 'scoping opinion.'
- **Preparing an EIA report:** If an EIA is required, the applicant must prepare and submit an EIA report alongside the application. Where a scoping opinion exists, the EIA report must reflect that opinion.
- **Consultation:** The EIA report must be publicised together with the application. Consultation bodies and the public must have an opportunity to comment on the development and the EIA report. The minimum consultation period on EIA is 30 days.
- **Decision making:** The EIA report, together with any other relevant information and any comments and representations, must be considered in the consent decision. If consent is granted, a conclusion on the likely significant effects on the environment must be included in the decision. A description of any mitigation measures must also be included. The decision must be publicised and people who were consultees informed.

You can find screening and/or scoping opinions on your local e-planning portal if they relate to a planning application or on the ECU website if they relate to Section 36 and 37 applications.

Additional information

Professional support

Most individuals and communities making representations to energy development proposals will do so without professional help. You can also hire a planning consultant to act on your behalf, although there will be a cost associated with this.

Planning Aid Scotland is an impartial organisation and does not recommend particular consultants. RTPi Scotland publishes a [directory](#) of planning consultants.

Planning Aid Scotland recommends employing a chartered/MRTPI planner, and you will find more through online searches than are listed in the directory.

Scottish Government guidance

Scottish Government has extensive guidance relating energy development:

- [Code of Practice for Handling Inquiries under Section 62 and Schedule 8 to the Electricity Act 1989](#)
- [DPEA Guidance Note 23 - managing an efficient inquiry process](#)
- [Energy consents - Energy infrastructure - gov.scot](#)
- [Electricity Act 1989 - Sections 36 and 37: applications guidance - gov.scot](#)
- [Energy consents: application procedure and publicity requirements - gov.scot](#)
- [Energy consents: applications for variation of Section 36 consent guidance - gov.scot](#)
- [Standard onshore wind conditions - Section 36 consent and deemed planning permission: form and guidance - gov.scot](#)
- [Battery Energy Storage Systems: planning guidance - gov.scot](#)

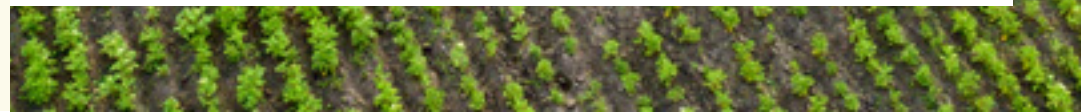


How can Planning Aid Scotland help?

Planning Aid Scotland offers a free, impartial and confidential Advice Service to help individuals, community groups and business start-ups navigate the planning system.

You can contact the Advice Service with questions relating to your own home, other development proposals, planning matters in your local area, or any other planning matter.

Submit an enquiry by filling out our [online form](#).



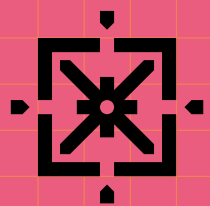


Appendix

Summary of energy development types (consenting routes, representations and appeals).

Development scale and/or type	Type of application required	Consenting authority	Pre-application consultation	Can I make representation?	Is there an appeal process? <i>Note: There is no third-party right of appeal.</i>
Underground electric line*	None (permitted development)	Not applicable	No	No	No
Electricity Substation up to 45 cubic metres in size*	None (permitted development)	Not applicable	No	No	No
Development generating electricity <20MW	Planning permission (Local)	Planning authority	No	Yes. To the planning authority following submission.	Yes. The applicant can appeal to LRB or DPEA. Representation can be made to LRB or DPEA.
Electricity Substation on a site less than 2ha in size	Planning Permission (Local)	Planning authority	No	Yes. To the planning authority following submission.	Yes. The applicant can appeal to LRB or DPEA. Representation can be made to LRB or DPEA.
Electricity Substation on a site of or exceeding 2ha in size	Planning Permission (Major)	Planning authority	Yes. Statutory requirement.	Yes. To the applicant at pre-application stage and to the planning authority at application stage.	Yes. The applicant can appeal to DPEA. Representation can be made to DPEA.
Development generating electricity 20-50MW	Planning Permission (Major)	Planning authority	Yes. Statutory requirement.	Yes. To the applicant at pre-application stage and to the planning authority at application stage.	Yes. The applicant can appeal to DPEA. Representation can be made to DPEA.
Development generating electricity =>50MW	S36 consent	Scottish Ministers through ECU	No statutory requirement. Encouraged by Scottish Government.	Yes. To the applicant at pre-application stage and to the ECU at application stage.	Potential for a public inquiry. The applicant can appeal to the Court of Session.
Overhead electric line and pylons	S37 consent	Scottish Ministers through ECU	No statutory requirement. Encouraged by Scottish Government.	Yes. To the applicant at pre-application stage and to the ECU at application stage.	Potential for a public inquiry. The applicant can appeal to the Court of Session.

*Only applicable to statutory undertakers.



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