

## S36 SCHEMES

1. I have been collating data for **S36** schemes and publishing the results quarterly for schemes at the Scoping Stage and Live Applications in spreadsheets and word documents.
2. I have included some comments on the state of play with the applications. This document sets out the different potential scenarios (after the **Planning and Infrastructure Act**) and includes the number of schemes currently at the various stages.
3. The unspoken aim of **SG** and the **ECU** has always been to have as few **PLI**'s as possible. This was made easier by rules and regulations that were clearly out of date .
4. Schedule 8 para 2 (2) of **The Electricity Act 1989** stated that if the relevant planning authority objects Scottish Ministers **shall** cause a **PLI** to be held unless the objection is withdrawn providing an **automatic right to a PLI** following a **timeous objection from a council**.

**The right was modified by** Regulation 8 (1) which limited the period for objection. Any late objection (described as **non-timeous**) **may** be disregarded.

Inconveniently for **SG** councils have continued to lodge objections. **SG**'s reaction has been **The Planning and Infrastructure Act** which removed the **automatic right to a PLI** following a **timeous objection from a council**.

6. My research shows there are currently **91** live applications and I set out below my best estimate of the numbers at various stages of the application process.

### **A. APPLICATIONS WHERE NO OBJECTION LODGED BY COUNCILS (8)**

I have identified **8** applications where councils have **lodged no objection**. These will all be waved through by the **Scottish Government** even if other consultees have objected. The **4** affected by the **Eskdalemuir Noise Budget** will remain in limbo until the long promised but continually delayed progress is made on the ENB..

### **B. TIMEOUS OBJECTIONS LODGED BEFORE 180226 BUT NOT YET AT A PLI (15)**

**15** schemes fall into this category. They are unaffected by the changes and will still proceed to a **PLI** unless the applicant decides to lodge further information.

### **C. TIMEOUS OBJECTIONS LODGED AFTER 180226 (2)**

These will follow the course set out in the **Act** though as it only came into force on **18<sup>th</sup> February** it isn't yet clear how the new procedure will work. We do know that every scheme will be considered by a **Reporter**. Schemes in this category will increase if councils continue to object.

#### **D. NON TIMEOUS OBJECTION LODGED BEFORE 180226 (3)**

Shortly before **180226** 4 schemes were in this category but a decision in **Ditcher Law** was announced on **130226**. The remaining 3 schemes will be treated in the same way as **C** above.

#### **E. APPLICATIONS AT PLI YET TO BE DETERMINED (22)**

**22** schemes are at various stages of the **PLI** process. On **4** the reporter has sent a **PLI** report to **SG**. **SG** can take **as long as they want to** announce decisions and aren't obliged to deal with schemes according to the date the report was received.

#### **F. SCHEMES AWAITING DECISION WHETHER TO OBJECT (38)**

The remaining schemes await a decision on whether to object from the relevant council. Any objection **timeous or otherwise** will trigger the new procedure.

Stephen Lucking

18<sup>th</sup> March 2026