

Report

Report to:	Planning Committee
Date of Meeting:	24 February 2026
Report by:	Executive Director (Community and Enterprise Resources)

Subject:	Electricity Infrastructure Consents
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1. Purpose of Report

1.1. The purpose of the report is to:-

- ◆ inform the Planning Committee of recent changes introduced by the UK Government through the Planning and Infrastructure Act 2025 in relation to the role of Scottish Planning Authorities as a consultee on applications made under sections 36 and 37 of the Electricity Act 1989 for large scale renewable energy projects
- ◆ seek approval from members on the response to a consultation by the Scottish Government on increasing the threshold for making applications under the Electricity Act 1989

2. Recommendation(s)

2.1. The Committee is asked to approve the following recommendation(s):-

- (1) that the changes to the consenting regime for large scale renewable energy projects in Scotland introduced by the Planning and Infrastructure Act 2025 and the implications for the Council be noted; and
- (2) that the Council's response to a consultation by the Scottish Government on proposals to increase the threshold for applications made under the Electricity Act 1989, as set out in section 6 of the report, be approved.

3. Current Position

- 3.1. The Scottish Government has powers to determine applications to develop new, or replace/extend existing, electricity infrastructure in Scotland involving generating stations with a capacity of over 50 megawatts (MW) under sections 36 and 37 of the Electricity Act 1989 and network projects involving the construction or replacement of overhead lines.
- 3.2. Applications made under sections 36 and 37 of the Act are submitted to the Energy Consents Unit (ECU) who are responsible for the administrative arrangements for the application including carrying out consultation.
- 3.3. The Council is a statutory consultee and has 4 months to respond to a consultation request to an application although this time frame can be extended through agreement. In this respect, while the Planning Authority is not the decision-making body, it can decide to object to or support applications that have been submitted to the Energy Consents Unit.

- 3.4. The Planning Service carries out internal consultation with, for example, Roads, Transportation and Fleet Services and Environmental Services with the ECU consulting agencies such as NatureScot, SEPA and National Air Traffic Control Service (NATS).
- 3.5. Publicity for section 36 and 37 applications is the responsibility of the applicant and involves placing an advert in the local press. However, there is no requirement to carry out neighbour notification as is the case with planning applications. At present, while an applicant is encouraged to voluntarily carry out pre-application consultation and engagement, this is not required by the legislation. Members of the public and community bodies are required to submit representations directly to the ECU.
- 3.6. The final decision on a section 36 or section 37 application is taken by the ECU on behalf of Scottish Ministers, taking into account consultation responses and any representation received. A consent granted under section 36 or 37 is also the subject of a deemed planning permission under section 57 of the Planning Act.
- 3.7. The Council is responsible for the discharge of conditions attached to the deemed consent and the monitoring of the development as it is carried out. The Council also receives half of the application fee submitted to the ECU.

4. Planning and Infrastructure Act 2025

- 4.1. This Act received Royal Assent on 18 December 2025 following approval by the UK Government. The vast majority of the Act is focussed on changes to the planning system and delivering new infrastructure in England and Wales and does not apply to Scotland.
- 4.2. However, sections 19 to 25 of the Act modify the procedure for dealing with applications made under the Electricity Act 1989. The key change is the introduction of a new “Reporter led examination process” in circumstances where a Planning Authority objects to an application and that objection is not withdrawn or cannot be resolved by conditions or modifications.
- 4.3. These changes come into effect on 18 February 2026 and apply from that date but may apply differently to current live applications.
- 4.4. Firstly, where a Planning Authority objected to an application prior to 18 February 2026, and that objection has been made within the period provided for, a public inquiry may still be held.
- 4.5. In cases where a Planning Authority objected before 18 February 2026 to an application which remains undetermined by the ECU on that date, but the objection was not made within the period provided for, a Scottish Government Reporter will be appointed to examine the application under the new provisions.
- 4.6. Finally, where a Planning Authority objects to an application on or after 18 February, the new process will apply and a Reporter will be appointed to carry out an Examination unless that objection is withdrawn or cannot be resolved by conditions or modifications.
- 4.7. The Act provides for the appointed Reporter to determine the procedure for the examination of the case. In this respect they may decide to rely on written representation, hold one or more hearing sessions or, as is currently the case, hold a public inquiry. At the end of the Examination the Reporter is to submit a report to Scottish Ministers setting out their recommendations.

- 4.8. The Act also introduces several other changes that will be enacted through the publication of regulations by the Scottish Government.
- 4.9. A letter dated 30 January 2026 from the Minister for Public Finance states that consultation will be carried out later this year on the additional measures. They include:-
- ◆ Mandatory pre-application requirements to ensure that there is meaningful engagement with communities and statutory consultees early in the process. This may include the power to charge fees for this service.
 - ◆ Specific application requirements to be set out to help developers to submit applications with all the relevant information with time periods to be set for key stages of the application process.
 - ◆ The ability to allow variations to existing consents to address changes in circumstances relating to the environment or technological changes, or to correct an error in the consent.

5. Consultation on Increasing the Threshold for Applications Under the Electricity Act

- 5.1. As noted above, proposals for electricity generating stations with a generating capacity of over 50MW are subject to the provisions of the Electricity Act. The Scottish Government published a consultation in December 2025 seeking views on whether to increase the 50MW threshold and, if so, if the new threshold should be increased to 100MW or 150MW. A supplementary question relates to whether there should be a single threshold that applies to types of renewable energy technologies or if different figures should apply. The consultation closes on 27 March 2026.
- 5.2. The volume of applications made to Scottish Ministers has increased significantly in recent years. This is largely as a result of technological advances with more recent wind farm proposals involving turbines of a greater height and output than earlier. This means a wind farm proposal comprising approximately 8 or 9 turbines is now likely to meet the 50MW threshold whereas an application for a wind farm submitted in 2004 comprising 22 turbines would have had generation capacity of less than 50MW.
- 5.3. This has resulted in fewer decisions being made by the Planning Authority on significant infrastructure proposals that can impact on local communities. Increasing the threshold would therefore lead to greater local autonomy and community involvement in decision making. At present the views of local communities can only be taken into account by the Energy Consents Unit and not the Council as Planning Authority.
- 5.4. South Lanarkshire Council's Planning Service already deals with a range of large scale development proposals and have the skills and experience to effectively project manage an application of this scale and complexity.
- 5.5. Some additional consultation with key agencies and other external organisations would be required and the Council would be responsible for procedural matters such as neighbour notification and publicity, however, these tasks would not create an unreasonable burden for the Planning Service.
- 5.6. It is therefore recommended that the Council's response to the consultation should be to support the increase of the threshold to 150MW as this will allow the Planning Authority to become the decision maker on a greater range of proposals that impact on local communities and the wider environment of South Lanarkshire.

6. Next Steps

- 6.1. If members agree with the recommendation to increase the threshold for section 36 applications to 150MW this will form the response by the Head of Planning and Regulatory Services to the Scottish Government.
- 6.2. Any changes to the consenting regime will be the subject of an Order laid before the Scottish Parliament. A further report will be presented to the Planning Committee once the outcome of this consultation exercise is known.

7. Employee Implications

- 7.1. Any changes to the consenting regime under the Electricity Act will be carried out using existing staff resources within Planning and Regulatory Services.

8. Financial Implications

- 8.1. At the present time the Council receives 50% of the fee submitted to the Scottish Government for the processing of applications under the Electricity Act. In addition, planning applications for renewable energy infrastructure projects below 50MW are subject to the statutory planning application fee.
- 8.2. The consultation paper does not identify what the fee arrangements would be for those proposals that would be the subject of a planning application if the threshold were increased. The Council's response to the consultation paper will make a reference to the need to ensure the Planning Service is properly resourced to handle any additional workload.

9. Climate Change, Sustainability and Environmental Implications

- 9.1. The planning system will have an increasingly key role in addressing the climate change agenda. This includes the processing of applications for new electricity infrastructure.

10. Other Implications

- 10.1. The provisions set out in the Planning and Infrastructure Act 2025 are a statutory requirement for the Council to take into account in its decision making.

11. Integrated Impact Assessment and Consultation Requirements

- 11.1. This report does not introduce a new policy, function, or strategy, or recommend a change to an existing policy, function, or strategy. As such, no impact assessment or consultation was required.

Kevin Carr

Executive Director (Community and Enterprise Resources)

13 February 2026

Link(s) to Council Values/Priorities/Outcomes

- ◆ Accountable, effective, efficient and transparent
- ◆ Good quality, suitable and sustainable places to live

Previous References

- ◆ None

List of Background Papers

- ◆ [Planning and Infrastructure Act 2025](#)
- ◆ [Onshore electricity generation - Electricity Act threshold: consultation - gov.scot](#)

Contact for Further Information

If you would like to inspect background papers or want further information, please contact:-

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