



For decision

Title: Onshore electricity generation: Consultation on increasing the threshold for applications under the Electricity Act

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Purpose

This paper presents the Cairngorms National Park Authority's proposed response to a consultation on increasing the 50MW threshold which determines whether applications for onshore electricity generation developments are determined by the relevant planning authority or by Scottish Ministers.

Recommendation

The Committee is asked to:

- a) Approve the Park Authority's proposed response to the consultation, as outlined in paragraph 14 of this report.

Background and strategic context

1. In Scotland, applications for onshore electricity generation developments are considered through two different routes. Applications for developments with generating capacities of 50MW or less are largely decided by planning authorities under the provisions of the Town and Country Planning (Scotland) Act 1997 (as amended). However, the Scottish Ministers are responsible for deciding applications for electricity generation developments with capacities exceeding 50 megawatts (MW) under the provisions of Section 36 of the Electricity Act 1989. These applications are often referred to as 'Section 36 applications' and are made to the Scottish Government's Energy Consents Unit (ECU). Where consent is granted under Section 36 of the Electricity Act 1989, the Scottish Ministers have powers under planning legislation to grant 'deemed planning permission'.



2. Members will recall that the UK and Scottish Governments undertook a consultation in late 2024 on proposals for reforming the consenting process under the Electricity Act 1989. Proposed reforms were identified to remove inefficiencies whilst giving communities and statutory consultees meaningful opportunities to influence applications for consents. The Park Authority's response to that consultation was agreed by Planning Committee on 13 December 2024¹. Reforms have subsequently been included in the UK Government's Planning and Infrastructure Act 2025, which received Royal Assent on 18 December 2025.
3. The Scottish Ministers also have powers to make changes to the type, characteristics and capacity of electricity generation developments which require consent under Section 36 of the Electricity Act. This would require an Order, which would need to be laid before the Scottish Parliament.
4. The Scottish Government is now consulting on proposals to increase the current 50MW threshold for Section 36 applications². Increasing the 50MW threshold would reduce the number of applications that have to be determined by the Scottish Ministers and transfer responsibility for determining more applications for electricity generation developments to planning authorities at the local level.
5. The consultation document outlines that during the 2024/25 financial year, 64 planning applications for major electricity generation developments were determined by planning authorities – 53 of these were approved and 11 were refused (82.8% approval rate). During the same period, 33 Section 36 applications were determined by Scottish Ministers – 32 of these were approved and 1 was refused (96.9% approval rate).
6. The consultation document also notes that during Q2 2025, there were 352 on-shore renewable energy generation developments going through the planning / consenting process in Scotland. Of those, 320 had information about the generating capacity of the proposed development. The table overleaf provides a breakdown of the 320 proposed developments based on generating capacity and determining authority. It shows that just under 60% of the proposed developments

¹ [Item7ElectricityInfraConsentingPaper.pdf](#)

² [on-shore electricity generation - consultation on increasing the threshold for applications under the Electricity Act](#)



under consideration in Q2 2025 were being determined by the relevant planning authority, with just over 40% being determined by the Scottish Ministers.

Generating capacity	Category of development	Determining authority	Number of proposals
0 – 19.99MW	'Local' development (Planning Act)	Planning authority	80
20 – 49.99MW	'Major' development (Planning Act)	Planning authority	109 (NB 32 of these had a capacity of 49 – 49.99MW)
50 – 99.99MW	S36 development (Electricity Act 1989)	Scottish Ministers	64
100 – 149.99MW	S36 development (Electricity Act 1989)	Scottish Ministers	39
150 – 199.99MW	S36 development (Electricity Act 1989)	Scottish Ministers	5
200MW upwards	S36 development (Electricity Act 1989)	Scottish Ministers	23
Total projects			320

7. Scottish Government statistics show that the volume of Section 36 applications has more than quadrupled over the last 20 years, with 15 applications made between 2001-03 and 70 applications made between 2021-23. This increase is largely due to technological advances over the 20-year period. For example, wind farm proposals today may include turbines greater than 180m in height and with a generating capacity of 5-7MW each. This means that a wind farm proposal consisting of just 8 or 9 turbines is now likely to meet the 50MW threshold and require determination by the Scottish Ministers. In contrast, applications submitted in the early part of the 20-year period were generally for smaller turbines with lower generating capacities – therefore significantly more turbines were required to reach the threshold for determination by the Scottish Ministers.
8. As a result of the significant increase in the volume of Section 36 applications, consideration is being given to whether the 50MW threshold remains appropriate.



9. Initial engagement undertaken by the Scottish Government shows that some developers value the strategic oversight and consistency which can be afforded where decision-making is centralised and more decisions on electricity generation projects are taken by Scottish Ministers. Conversely, the initial engagement shows that representatives of the public sector, third sector and community groups generally appear to favour increasing the existing 50MW threshold to enable more decisions to be taken by planning authorities in the future. Reasons cited for this include greater local autonomy and community involvement in decision making, primacy of the development plan under planning legislation, and additional fee income for planning authorities.
10. The current consultation is seeking formal views on whether the existing 50MW threshold should be increased. It sets out potential threshold options of 100MW or 150MW, as well as the option of introducing different thresholds for different energy generation technologies.

Proposed consultation response

11. There have been relatively few applications for electricity generation developments in the National Park. This is likely due to the significant landscape and natural heritage sensitivities within the National Park, and because planning policies in National Planning Framework 4 and the Local Development Plan include a presumption against large scale wind turbines and wind farms within the Park. The applications submitted to date have been of a relatively modest scale in terms of generating capacity and have been determined through the mainstream planning process (with the vast majority being called-in for determination by the Park Authority).
12. However, a significant number of Section 36 applications for electricity generation developments in excess of the 50MW threshold have been submitted for sites just outside the National Park. These have primarily been applications for wind farms. An assessment of formal applications and pre-application enquiries since 2018 shows that approximately 43% had a generating capacity of 50 – 99.99MW, 26% had a capacity of 100 – 149.99MW, and 30% had a capacity of more than 150MW.



13. On this basis, an increased threshold of either 100MW or 150MW (as outlined as potential options in the consultation document) would clearly have resulted in substantially more of the applications just outside the National Park being determined by the relevant planning authority rather than the Scottish Ministers (although the Park Authority would still only have been a consultee to the decision-making process).
14. Whilst the Park Authority is unlikely to see a significant direct impact as a result of any increase to the threshold for Section 36 applications, it is nevertheless recommended that a consultation response be submitted to support the principle of increasing the 50MW threshold to enable a higher proportion of future applications for electricity generation developments to be determined at the local level by the relevant planning authority. A proposed response is set out below:

“The Cairngorms National Park Authority acknowledges and supports the Verity House principle that decisions should be *“local by default, national by agreement”*. As such, the Park Authority is of the opinion that the existing threshold of 50MW should be increased to at least 100MW in order to ensure that a higher proportion of future applications for electricity generation developments are determined at the local level and through the mainstream planning process.

The Park Authority believes this would increase democratic accountability and better reflect the primacy of the development plan within the decision-making process. It would also facilitate a fairer and more appropriate resourcing arrangement for planning authorities through increased fee income. This is because planning authorities are already required to undertake a significant amount of work as consultees to Section 36 applications and currently only receive a proportion of the application fee for this work.

Next steps

15. Subject to Committee approval, the Park Authority’s response will be submitted before the consultation deadline on 27 March 2026.

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