

# Electricity Line Consenting



## 1 INTRODUCTION

1.1 This note sets out the consents required to deliver the works to install overhead electrical lines to connect energy generation projects to the National Grid.

## 2 CONSENTING REGIMES

### 2.1 Development Consent

2.2 If a 132kV overhead line is more than 2km in length consent must be sought pursuant to the Planning Act 2008.

### 2.3 Permitted Development

2.4 A statutory undertaker can install an electric line in, on, over or under land for the purposes of its undertaking pursuant Part 15 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

2.5 However, this permitted development right is removed where it consists of or includes the installation or replacement of an electric line to which section 37(1) of the Electricity Act 1989 applies.

2.6 It should also be noted that permitted development rights do not apply to EIA development nor in environmentally sensitive areas.

### 2.7 Planning Permission

2.8 132kV overhead lines which do not fall within permitted development and are less than 2km in length require planning permission pursuant to the Town and Country Planning Act 1990.

2.9 This can be applied for in the usual way under section 57 of the Act or if sought as part of an application for consent pursuant to section 37 of the Electricity Act 1989 it may be deemed to be granted (section 90(1) and (2)).

### 2.10 Electricity Act 1989

2.11 Overhead electricity lines are required to be consented by the Secretary of State (section 37(1) of the Electricity Act 1989 unless they are subject to the Planning Act 2008.

2.12 There are some exemptions set out in paragraph (2). These would not apply in this case.

2.13 In paragraph (3) it is made clear that conditions can be applied (3(1)) and that they can be temporary in duration (paragraph 3(1) and 3(3)).

## 3 RELEVANT EXTRACTS FROM LEGISLATION

### 3.1 Town and Country Planning (General Permitted Development) (England) Order 2015.:

#### Schedule 2 Part 15

#### Class B

*Development by statutory undertakers for the generation, transmission, distribution or supply of electricity for the purposes of their undertaking consisting of—*

*(a) the installation or replacement in, on, over or under land of an electric line and the construction of shafts and tunnels and the installation or replacement of feeder or service*

*pillars or transforming or switching stations or chambers reasonably necessary in connection with an electric line;*

*(b) the installation or replacement of any electronic communications line which connects any part of an electric line to any electrical plant or building, and the installation or replacement of any support for any such line;*

*(c) the sinking of boreholes to ascertain the nature of the subsoil and the installation of any plant or machinery reasonably necessary in connection with such boreholes;*

*(d) the extension or alteration of buildings on operational land;*

*(e) the erection on operational land of the [F1undertaking of] a building solely for the protection of plant or machinery;*

*(f) any other development carried out in, on, over or under the operational land of the undertaking.*

**B.1** *Development is not permitted by Class B if—*

*(i) it would consist of or include the installation or replacement of an electric line to which section 37(1) of the Electricity Act 1989 (consent required for overhead lines) applies; or*

*(ii) it would consist of or include the installation or replacement at or above ground level or under a highway used by vehicular traffic, of a chamber for housing apparatus and the chamber would exceed 29 cubic metres in capacity;*

## **3.2 Electricity Act 1989**

### Section 37

*(1) Subject to [subsections (1A) to] [(2A)] below, an electric line shall not be installed or kept installed above ground except in accordance with a consent granted by the Secretary of State.*

*[(1A) So far as relating to the installation of an electric line, subsection (1) is subject to section 33(1) of the Planning Act 2008 (exclusion of requirement for other consents for development for which development consent required).*

*(1B) So far as relating to keeping an electric line installed, subsection (1) does not apply if keeping the line installed is authorised by an order granting development consent under the Planning Act 2008.]*

*(2) Subsection (1) above shall not apply—*

*(a) in relation to an electric line which has a nominal voltage not exceeding 20 kilovolts and is used or intended to be used for supplying a single consumer;*

*(b) in relation to so much of an electric line as is or will be within premises in the occupation or control of the person responsible for its installation; or*

*(c) in such other cases as may be prescribed.*

*(3) A consent under this section—*

*(a) may include such conditions (including conditions as to the ownership and operation of the line) as appear to the Secretary of State to be appropriate;*

*(b) may be varied or revoked by the Secretary of State at any time after the end of such period as may be specified in the consent; and*

*(c) subject to paragraph (b) above, shall continue in force for such period as may be specified in or determined by or under the consent.*

### Definition of an electric line

*“electric line” means any line which is used for carrying electricity for any purpose and includes, unless the context otherwise requires—*

*(a) any support for any such line, that is to say, any structure, pole or other thing in, on, by or from which any such line is or may be supported, carried or suspended;*

*(b) any apparatus connected to any such line for the purpose of carrying electricity; and*

*(c) any wire, cable, tube, pipe or other similar thing (including its casing or coating) which surrounds or supports, or is surrounded or supported by, or is installed in close proximity to, or is supported, carried or suspended in association with, any such line;*

### **3.3 Town and Country Planning Act 1990**

#### Section 90

*(1) Where the authorisation of a government department is required by virtue of an enactment in respect of development to be carried out by a local authority [or National Park authority], or by statutory undertakers who are not a local authority [or National Park authority], that department may, on granting that authorisation, direct that planning permission for that development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction*

*[(2) On granting or varying a consent under section 36 or 37 of the Electricity Act 1989 in relation to a generating station or electric line in England or Wales, the Secretary of State [or the Welsh Ministers] may give a direction for planning permission to be deemed to be granted, subject to such conditions (if any) as may be specified in the direction, for—*

*(a) so much of the operation or change of use to which the consent relates as constitutes development;*

*(b) any development ancillary to the operation or change of use to which the consent relates*

### **Burges Salmon**

**13 June 2024**