

## Insights

# GOVERNMENT CONFIRMS MAJOR OVERHAUL OF ELECTRICITY INFRASTRUCTURE CONSENTS AND LAND ACCESS RIGHTS

May 21, 2026

## SUMMARY

The Government has confirmed that it will proceed with its package of reforms to accelerate electricity network deployment following consultation last year. The reforms are focussed on improving the planning and consenting of network infrastructure, extending and clarifying land access rights for operators, and providing greater protections for landowners.

The measures are wide-ranging, in some cases going beyond the original proposals in response to consultation feedback, and will require changes to elements of the Town and Country Planning Act 1990, the Electricity Act 1989, and the DCO Planning Act 2008 consenting regimes. They are expected to be introduced later this year via legislation and updated guidance.

## PLANNING AND CONSENTING CHANGES

The planning changes are designed to remove unnecessary delays, accelerate delivery and reduce administrative burdens on Network Operators and planning authorities and include:

- **Extended permitted development rights for substations** in all areas other than SSSIs and European Sites so larger substations up to 45 cubic metres can be built without planning consent (compared to the previous limit of 29 cubic metres) subject to prior approval, height limits and limits on the proximity to dwellings.
- **Revised thresholds for overhead line projects under the NSIP/DCO regime**, with the distance threshold for NSIP classification to be increased from 2 km to 15 km, going beyond the 10 km limit originally consulted upon. This will avoid smaller schemes from being unnecessarily routed through the NSIP process.
- **Expanded s37 consent exemptions, and procedural changes to the section 37 consenting process** will bring more upgrade works within the exempt category and changes to the

procedure will support faster decisions and more proportionate oversight where s37 consent is needed. For example, in non-protected areas, works to upgrade overhead lines to a three-phase system up to 11kV (in contrast to the current single-phase exemption) and upgrades to existing lines from a nominal voltage to 11kV will be permitted without section 37 consent. Minor works will also be exempt in all areas except SSSIs and European Sites, extending the current exemption which excludes to all protected areas. Exemption limits will, in some cases, be increased to allow, for example, installation of replacement lines further from the original location, and taller pole replacements.

## **LAND ACCESS RIGHTS**

Clarification and extension of the statutory rights to access third party land where voluntary agreement cannot be reached will help mitigate delays caused by access issues. These include an extension of the powers of access that apply to District Network Operators under the Electricity Act 1989 to include Transmission Owners, and clarification that access to existing infrastructure to carry out repairs, upgrades, alterations, or place infrastructure will apply to all land, along with a new power to allow access to third-party land to install new infrastructure and allow voltage upgrade works.

These expanded rights will be balanced by stronger protections for landowners, including enhanced compensation provisions, longer notice periods, new notice requirements, and new dispute resolution routes.

Responsibility for tree and vegetation management will transfer from landowners to Licence Holders. Alongside this, the current tree lopping process will be replaced, and Licence Holders will benefit from expanded access rights to carry out work with prior notice, and a requirement to compensate landowners for loss or damage caused by tree works.

## **NECESSARY WAYLEAVES**

Perhaps one of the most significant changes concerns the Necessary (compulsory) Wayleave process under Schedule 4 to the Electricity Act 1989. This process is critical because it allows Licence Holders to retain electricity infrastructure on private land where a voluntary wayleave cannot be agreed.

The current process has long presented challenges. In particular, the standard 15-year term means that multiple wayleave agreements are often required to cover the lifespan of an asset, typically 40 to 80 years, creating uncertainty about whether infrastructure routes will remain in place, and generating unnecessary costs and delays for maintenance.

The standard term for Necessary Wayleaves is confirmed to increase to 40 years with the Secretary of State to retain discretion to grant a shorter or longer term where appropriate, and

additional measures will be introduced to streamline the process overall.

## **WORKS IN PRIVATE STREETS**

Further measures will align a Licence Holder's ability to carry out works in private streets with existing rights that apply in public streets and highways, and with the approach permitted to other utilities under the New Roads and Street Works Act 1991 (NRSWA 1991).

This means that if voluntary agreement cannot be reached with private street authorities, as a last resort Licence Holders will be able to temporarily open or break up private streets to install or upgrade electricity infrastructure without requiring consent from private street authorities, subject to the same notice and reinstatement responsibilities in the NRSWA 1991 as apply to other street works. As with the other expanded rights, this extension is balanced by additional safeguards for private street owners, including introduction of a formal tribunal mechanism to resolve compensation disputes.

## **WHAT THIS MEANS IN PRACTICE**

Taken together, these reforms represent a meaningful response to long-standing challenges facing the electricity sector and strike a more considered balance between the operational needs of network operators and the rights of landowners.

Legislation is expected to be introduced later this year, but the detail will be crucial. The expanded rights will come with conditions and constraints that will warrant close attention as the legislative programme progresses.

## **RELATED CAPABILITIES**

- Planning & Zoning
- Infrastructure

## MEET THE TEAM



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