



The Association for Renewable Energy and Clean Technology

Consultation Response

*REA Response: Land Rights and Consents for Electricity
Network Infrastructure – Call for Evidence*

15th September 2022

Introduction

About the Association for Renewable Energy and Clean Technology ('the REA')

The REA is the UK's largest trade association for renewable energy and clean technology, representing around 550 member companies operating across the heat, power, transport, and circular bioresources sectors. The REA has technology-specific member Forums, each with its own elected Chair and Steering Group. In the case of this consultation response, member interest was received from the REA EV Forum and Solar and Energy Storage Forum.

About this consultation response

This consultation response focuses on the key issues of concern to REA members. It does not offer comment on proposals that do not impact the business sectors covered by our membership.

Contact

For questions and further discussion, please contact Callum Coleman, Policy Analyst (ccoleman@r-e-a.net) or Jacob Roberts, Transport Policy Manager (jroberts@r-e-a.net).

Overall

1. Should anything else be included, or excluded, from the scope of this review of the land rights and consents processes for electricity network infrastructure, and why?

2. Questions on specific processes will be asked below. What has been your overall experience of the land rights and consenting processes for electricity network infrastructure?

- Processes have slowed deployment: Developing sites requires a multitude of moving parts and a key variable is securing a wayleave for those projects, both for power generation and for Electric Vehicle (EV) charging infrastructure. In the case of EVs, many projects require new cabling between a substation and the electric vehicle supply equipment (EVSE). In a fast-moving and capital-intensive market, project development delays due to uncertainty in securing a wayleave raise a complication – and often a direct barrier - to many developers.

Voluntary Wayleaves

3. What is your experience of, and what are the pros and cons of, the current voluntary negotiation process for wayleaves and easements? For example, this could include consideration of time and cost, impact on landowners, communication between parties.

- The current system is costly, complicated, and regularly serves to delay the deployment of renewables by causing uncertainty to clean technology infrastructure installation.
- The process is “one size fits all”, making it more suitable for certain developments (e.g. property development) but unsuitable for the development of energy infrastructure such as EV charging equipment, renewable energy generation and energy storage. Such energy demand and generation assets – particularly EV charging infrastructure – are typically smaller in size than property developments, making the standard wayleaves process a proportionately greater burden on a site-by-site basis. The impact of this burden is also felt more acutely as the electrical connection dictates the early critical path for the development of energy infrastructure, which is not the case for property development.
- We also see an issue in the different (and, in some cases, the lack of) incentives for DNOs and their legal teams to agree wayleaves in a satisfactory timeframe. The consequences of delays in agreeing wayleaves for electrical connections are felt mostly by the connection customer, not by the DNO. In the worst case, developments of EV charging infrastructure, renewable energy generation and/or energy storage may be unable to continue due to unpredictable delays caused by the wayleave process, but there is little incentive for the DNOs to act in a manner to prevent such a scenario occurring. In the absence of any incentive for DNOs to act or deliver within a specific timeframe, or any alternative option but to pursue wayleaves via the DNO, a significant level of risk remains attached to new renewable energy and clean technology developments.
- Some barriers commonly experienced broadly by members, with two specific Electric Vehicle related points, are identified in figure one below:

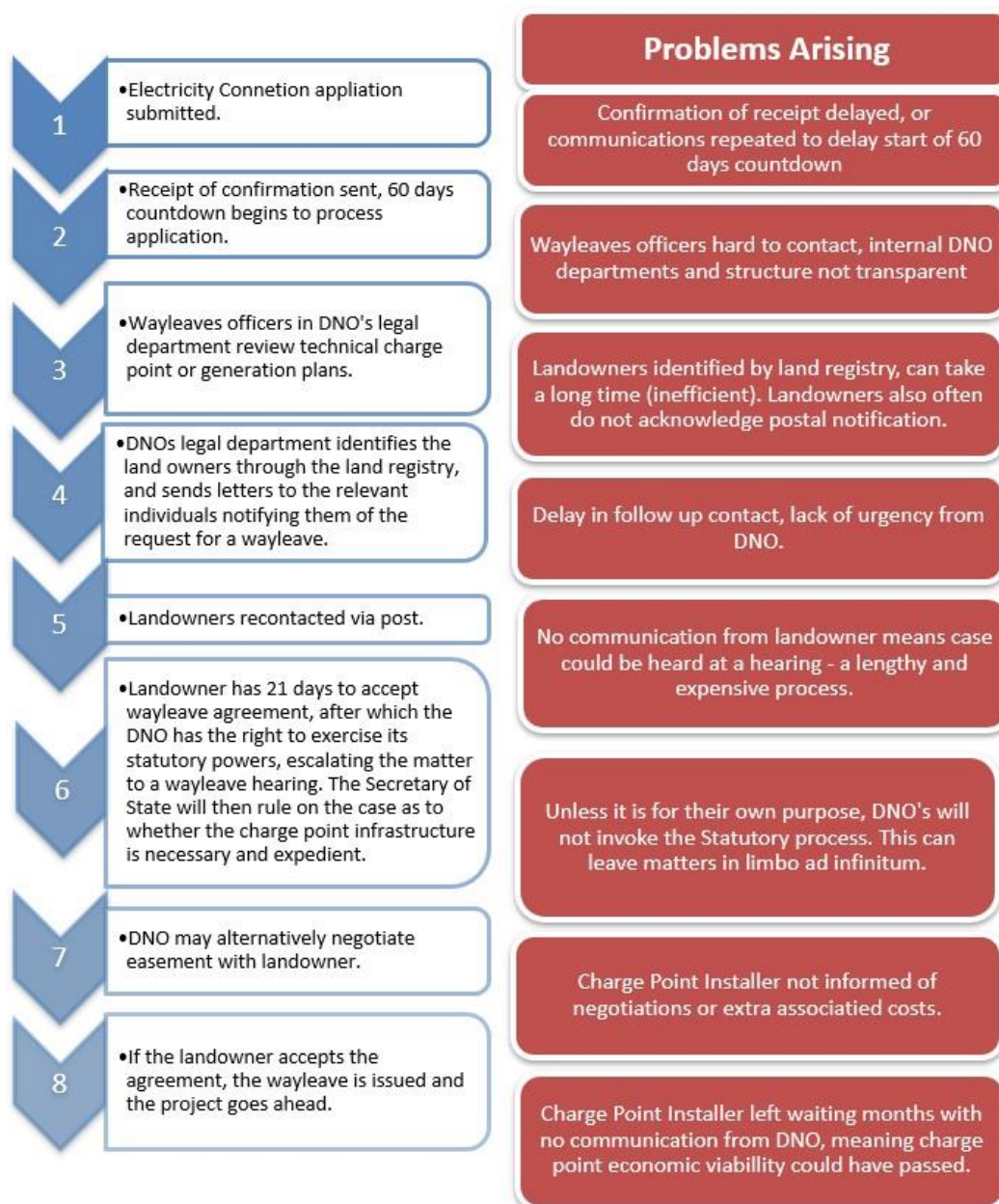


Figure 1.

4. How do you expect your experience of the voluntary negotiation process for wayleaves and easements to change given a rapid increase in network build will be required to meet net zero and energy security objectives?

- Current issues likely to be exacerbated as more connections are needed to the grid and capacity constraints become even more problematic.
- Renewable deployment is likely to cause further complications as the system becomes more decentralised and a number of smaller developers and community-based initiatives emerge. In light of this, we must ensure that renewable developers with fewer resources are able to secure connection to the grid through a standardised, accessible process.

5. How do you think the voluntary negotiation process for wayleaves and easements could be improved?

Short term:

In the short-term, we believe that standardised processes for wayleaves approval should be developed and introduced, to be applied across all licenced distribution network operators. This should be accompanied by document templates, standardised contracts and adequate guidance for all stakeholder groups, including connection customers and landlords.

The standardised processes should be overseen by Ofgem and should be aligned across DNOs and IDNOs, with IDNOs given the ability to negotiate and issue wayleaves. Allowing IDNOs to issue wayleaves will decrease the resource burden on DNOs and offer connection customers a competitive alternative where DNOs are not resourced to act in an acceptable timeframe.

This will reduce disparity between the approaches taken by the DNOs across different licence areas, and by IDNOs. By applying standardised, predictable processes across all electricity network licence areas, no area of the UK will be unduly disadvantaged as we deploy renewable energy and clean technology.

These processes should be **proportionate to the size and nature of the development**, ensuring that development of decentralised infrastructure is not unduly hindered by processes tailored for larger, centralised developments. The processes should also be **considerate of the importance of the timely delivery of an electrical connection**. Where the delivery of an electrical connection occurs early on the critical path for a development (as is the case for EV charging, renewable energy and energy storage), the process of securing wayleaves/easements to deliver this connection should be prioritised over developments where the delivery of a grid connection does not hinder the early stages of development (such as for large property development).

DNOs should provide a single point of contact on land rights for each customer sector. For example, each DNO should have a dedicated point of contact to oversee land rights enquiries for EV charging, for renewable energy and for energy storage, across their licence area. Alongside this, there should be systems in place for connection customers to track progress of DNO activities, to inform estimated project completion timescales.

DNOs should be required to adequately resource their legal teams and/or solicitors to deliver within an acceptable timeframe. They should also be provided with suitable incentive to complete legal proceedings within an acceptable timeframe. We believe this could be achieved by moving to a “payment on completion” model, as opposed to the up-front payment model used today.

Mid-Long term:

The consequences of climate change are grave and, to mitigate these risks, the UK faces a considerable challenge to achieve net zero carbon emissions by 2050. We believe that the size of this challenge justifies Government to introduce greater powers to hasten the rollout of renewable energy and clean technologies. There is precedent for such powers being granted in the context of communications infrastructure.

To streamline and simplify the delivery of electricity grid connections for renewable energy and clean technology installations, we propose that **Government should introduce a Clean Technology Connection Code**, overseen by Ofgem. This code would confer similar powers on electricity network

operators as the Electronic Communication Code confers upon providers of communications infrastructure.

The Clean Technology Connection Code should confer rights upon on electricity network operators that allow them to:

- Install electricity network cabling on, under or over the land;
- Keep installed cabling which is on, under or over land;
- Inspect and maintain the cabling;
- Carry out works on the land to enable cabling to be installed and maintained; and
- Gain access to land to maintain electricity network cabling.

These powers may appear to be significant, but they would not go as far as those already granted under the Electronic Communications Code. The Electronic Communication Code and the Electronic Communications Act 2003 allows certain telecommunication companies the rights to install key equipment (in exchange for compensation to the landowners) and the application or extension of such rights to energy and EV charging infrastructure would help solve the current situation and rapidly speed up deployment. This would require secondary legislation which could be quicker than primary legislation for the above changes.

The code would only need to cover the grid connections required to connect renewable energy and clean technology installations to the electricity grid, and not cover the installation itself.

Introducing such powers would significantly simplify the process of connecting renewable energy and clean technology installations to the electricity grid, where such a connection requires cabling to be installed on private land. This would accelerate the adoption of such technologies and, with it, support the decarbonisation and energy security of the UK economy.

Necessary wayleaves

6. What is your experience of, and what are the pros and cons of, the necessary wayleave process? For example, this could include consideration of time and cost, and the mechanism for determining compensation.

- The current system is costly, complicated, and regularly serves to delay the deployment of renewables by causing uncertainty to clean technology infrastructure installation.
- The necessary wayleave process in particular is inaccessible and has poor visibility from case-to-case, causing issues when planning projects and adding uncertainty to developers business models.

7. How do you expect your experience of the necessary wayleave process to change given a rapid increase in network build will be required to meet net zero and energy security objectives?

- Current issues likely to be exacerbated as more connections are needed to the grid and capacity constraints become even more problematic.
- Renewable deployment is likely to cause further complications as the system becomes more decentralised and a number of smaller developers and community-based initiatives emerge. In light of this, we must ensure that renewable developers with fewer resources are able to secure connection to the grid through a standardised, accessible process.

8. How could the necessary wayleave process be improved?

To reduce the instances of wayleaves causing delays to the installation of renewable energy and clean technology developments, the Government and the energy industry regulator, Ofgem, can act in the short-term to ensure that electricity network operators are both encouraged and enabled to utilise their existing statutory powers, conferred to them under Schedules 3 and 4 of The Electricity Act 1989. These powers allow licenced electricity network operators to take compulsory proceedings where the owner/occupiers of land are unwilling to voluntarily agree to wayleaves necessary to deliver connections to the UK's electricity network. At present, electricity network operators are not resourced to invoke compulsory proceedings at the scale required to avoid widespread delays in connecting renewable energy and clean technology developments to the grid.

There is also need for improved communication between all stakeholder groups involved in connecting renewable energy and clean technology installations to the grid. This should be at the heart of newly standardised processes. By improving communication, clean technology developers and their neighbouring landowners will have better visibility of process of agreeing necessary wayleaves and the wider electrical grid connection process. This will allow all parties to plan and act to avoid complications and delays, with the primary goal of achieving the timely agreement of voluntary wayleaves.

Mid-long term:

As outlined in our answer to Q.5, a Clean Technology Connection Code should be introduced to remove the barriers presented by the wayleaves process.

To streamline and simplify the delivery of electricity grid connections for renewable energy and clean technology installations, we propose that **Government should introduce a Clean Technology Connection Code**, overseen by Ofgem. This code would confer similar powers on electricity network operators as the Electronic Communication Code confers upon providers of communications infrastructure.

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Voluntary purchasing and leasing of land

9. What is your experience of, and what are the pros and cons of, the voluntary negotiation process for purchase or lease of land?

When developing clean technologies such as EV charging equipment, renewable energy generation and/or energy storage, it can be beneficial to agree separate land leases for the technology and the electrical connection. Doing so can simplify the process by avoiding the need for subletting, shared site occupancy and/or specific site access. It is particularly beneficial when there are or will be multiple customers for the connection.

However, a challenge with this approach is that the land acquired for the electrical connection can be leased over a different (typically longer) period than the development that it is supporting. In the case of EV charging, sites are typically leased for 10-30 years, whereas DNOs will typically pursue leases for over 99 years for the electrical connection. This length of lease for the electrical connection often makes it difficult to agree a voluntary wayleave/easement with the landowner, particularly as most DNOs will not negotiate on the length of lease.

10. How do you expect your experience of the process for voluntary purchasing and leasing of land to change given a rapid increase in network build will be required to meet net zero and energy security objectives?

Under current circumstances, we do not expect that it will change and it will remain a significant barrier to growth in the renewable energy and clean technology sectors.

11. How could the process for voluntary purchasing and leasing of land be improved?

In appropriate circumstances, we believe that shorter lease terms for electrical connections would present more agreeable terms to landowners, thereby shortening the negotiating period to attain a voluntary wayleave/easement. The terms of lease for the electrical connection should, wherever possible, be matched to the terms of lease for the development.

Compulsory purchase of land

12. Are there any specific issues with the compulsory purchase process in England and Wales relating to its use by network operators, beyond those addressed in the current Bill, which need to be considered, and what is the impact of the specific issue(s)? For example, this could include consideration of any issues around determining compensation.

13. How could the compulsory purchase process be improved further to address the issue?

Section 37 Process

14. What is your experience of, and what are the pros and cons of, obtaining Section 37 consent for overhead lines?

15. How do you expect your experience of the consenting process for overhead lines to change given a rapid increase in network build will be required to meet net zero and energy security objectives?

16. How could the Section 37 process be improved?

Permitted development rights for substations

17. Is the 29m³ size threshold for substations (Part 15, Class B (B.1.(a)(ii))) suitable for a future electricity system? If not, what would be a suitable size threshold? What evidence do you have to justify this change?

No. The size threshold should be increased to 40 m³. This would accommodate new “containerised” solutions that package different electrical components into a single, easily deployable asset. Such solutions typically combine components including the ring main unit (RMU), transformers and low voltage panel.

18. What would be the benefits and impacts of increasing the threshold beyond 29m³? Are there any locations where an increased size threshold beyond 29m³ would be inappropriate?

Increasing the permitted development threshold to 40 m³ would enable more widespread use of aforementioned “containerised” solutions. Doing so would reduce the overall footprint of individual sites, decrease installation times (as equipment can be pre-assembled off-site for rapid installation on-site) and therefore increase the pace of the overall rollout of technologies including EV charging infrastructure, renewable energy generation and energy storage.

Comparison of land rights to other utility industries

19. Recognising that there are differences between electricity network infrastructure and the infrastructure of other utilities, how could the electricity industry learn lessons from the comparable processes in the telecommunications and water industries?

See answers to Q.5 and Q.8, the REA support the introduction of a Clean Technology Connection Code, overseen by Ofgem, to streamline and simplify the delivery of electricity grid connections for renewable energy and clean technology installations.

This code would confer similar powers on electricity network operators as the Electronic Communication Code confers upon providers of communications infrastructure.

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20. Is there any additional information or evidence that you would like to submit?