

The Planning Series

17 – Consenting energy infrastructure

October 2024



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17 – Consenting energy infrastructure

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Wind energy generation



		On land		At sea	
		Up to 10 MW	Over 10 MW	Inshore region (up to 12 NM) 1-350 MW	Over 350 MW
				Offshore region (up to 200 NM) 50-350 MW	
Deciding authority		Local Planning Authorities	Welsh Government	Welsh Government	UK Government
Consenting regime		Town and Country Planning	Town and Country Planning: Developments of National Significance	Section 36 Electricity Act 1989	Planning Act 2008: Nationally Significant Infrastructure Projects

Energy generation (other than wind and most forms of energy storage)

		On land			At sea	
		Up to 10 MW	10-350 MW	Over 350 MW	Inshore region (up to 12 NM) 1-350 MW (renewable) 50-350 MW (non-renewable)	Over 350 MW
Deciding authority		Local Planning Authorities	Welsh Government	UK Government	Welsh Government	UK Government
Consenting regime		Town and Country Planning	Town and Country Planning: Developments of National Significance	Planning Act 2008: Nationally Significant Infrastructure Projects	Section 36 Electricity Act 1989	Planning Act 2008: Nationally Significant Infrastructure Projects

NM = Nautical mile

MW = Megawatt

A Marine Licence from Natural Resources Wales is required for the consenting of all energy generation in the sea ('Welsh waters'), regardless of whether consent is required from the Welsh Ministers or the Secretary of State.

Welsh waters consist of the Welsh inshore region (from mean high water spring tides out to 12 nautical miles) and the Welsh offshore region (beyond 12 nautical miles out to 200 nautical miles), or to an equal distance between the Welsh coast and the coast of a neighbouring territory, whichever is closest to the Welsh coast. See map at Annex A]

Overview

This is a quick guide to energy consenting in Wales. It sets out the current consenting processes and planning policies. It also describes the legislative changes brought into effect by the [Infrastructure \(Wales\) Act 2024](#).

What are the current processes for consenting energy infrastructure?

The consenting regime and deciding authority for energy generating infrastructure projects is determined by the installed generation capacity of the project and whether it is on land or at sea. This subsequently determines which planning policies are relevant to the decision-making process (see section 3 of this quick guide).

On land

Wind

Planning applications for wind energy generating projects on land in Wales which have an installed generation capacity of **10MW or more** (there is no upper limit) are made directly to the Welsh Ministers under the Developments of National Significance (DNS) process.

They are determined in accordance with policies set out in the ‘development plan’, which currently consists of [Future Wales: the national plan 2040](#) and the Local Development Plan (LDP) for the area, unless material considerations indicate otherwise.

The development plan also includes any Strategic Development Plan (SDP) for the region, but no SDP has yet been produced in Wales.

Material considerations must be genuine planning matters. The Courts have the final say on what can be regarded as material considerations in relation to any particular application.

You can read more about the DNS process in our [DNS quick guide](#).

Applications for projects of **under 10MW** are made to the Local Planning Authority

(LPA) and are also determined in accordance with the development plan, unless material considerations indicate otherwise.

Non-wind

Planning applications for energy generating projects on land, other than wind, which have an installed generation capacity of **between 10MW and 350MW** are made directly to the Welsh Ministers under the DNS regime and are determined in accordance with the development plan, unless material considerations indicate otherwise.

Energy generating projects on land, other than wind, of **over 350MW** are consented by the UK Secretary of State under the **Nationally Significant Infrastructure Projects (NSIPs) process**. They are determined in accordance with policies set out in UK **National Policy Statements**.

As above, projects of **under 10MW** are determined by the LPA in accordance with the development plan, unless material considerations indicate otherwise.

At sea

In the Welsh **inshore area** (out to 12 nautical miles (NM)), **renewable** energy generation projects of **between 1MW and 350MW**, and **non-renewable** energy generation projects of **between 50MW and 350MW**, are consented by the Welsh Ministers under **section 36 of the *Electricity Act 1989***.

In the Welsh **offshore area** (beyond 12NM out to 200NM), all types of energy generating projects of **between 50MW and 350MW** are consented by the Welsh Ministers under section 36 of the *Electricity Act 1989*.

Projects of **over 350MW** are consented by the Secretary of State under the NSIP process.

A Marine Licence, issued by Natural Resources Wales, is required for the consenting of all marine energy generation, regardless of whether a consent is required from the Welsh Ministers or the Secretary of State.

The map at Annex A shows the Welsh inshore and offshore areas.

A **previous version of this quick guide** sets out some of the legislative changes that established the current consenting processes.

What are the relevant planning policies?

Welsh Government

Town and country planning decisions in Wales should be taken in accordance with policies contained in the development plan for the area. As noted above, the development plan consists of **Future Wales: the national plan 2040**, any SDP in place, and the LDP (i.e. the national, regional and local tier plans), unless material considerations indicate otherwise.

Welsh national planning policy is set out in **Planning Policy Wales (PPW)**, which is a significant material consideration in the determination of applications.

PPW says the planning system has an active role to play in helping deliver the **Welsh Government’s targets for generating renewable energy**, which are:

- 70% of electricity consumption to be generated from renewable energy by 2030;
- one gigawatt of renewable energy capacity to be locally owned by 2030; and
- new renewable energy projects to have at least an element of local ownership from 2020.

Policies 17 and 18 of Future Wales focus on renewable energy development and contain strategic spatial and detailed criteria-based policies respectively. They should be considered together in determining DNS applications, alongside relevant policies in PPW.

Future Wales identifies a number of ‘Pre-Assessed Areas for Wind Energy’ (shown in the map on **page 94**). In these areas, the Welsh Government has already modelled the likely impact on the landscape and has found them to be capable of accommodating development in an acceptable way. There is a presumption in favour of large-scale wind energy development (including repowering) in these areas. This is set out in **policy 17**. However any potential development would be subject to a number of criteria, which are set out in **policy 18**.

The Welsh Government has published the **assessment used to identify the pre-assessed areas**.

The **Design Commission for Wales** has produced guidance for developing large-scale onshore wind and solar farms in **Designing for Renewable Energy In Wales**.

This guidance updates and expands on the [Designing Wind Farms in Wales 2014](#) good practice guide. The town and country planning system, however, only applies to the land. Energy projects in Welsh waters (the inshore and offshore areas), where Welsh Ministers are the deciding authority, should be determined in accordance with policies set out the [Wales National Marine Plan](#). The Marine Plan contains a number of general policies and two that are specific to energy generation: [Low Carbon](#); and [Oil and Gas](#).

UK Government

[National Policy Statements \(NPSs\)](#) are produced by the UK Government. They set out its objectives for the development of nationally significant infrastructure and provide the legal framework for the planning decisions it makes in relation to them.

There are six Energy NPSs, which can be viewed on the [UK Government website](#). The six Energy NPSs are:

- NPS for Overarching Energy (EN-1);
- NPS for Natural Gas Energy (EN-2);
- NPS for Renewable Energy (EN-3);
- NPS for Oil and Gas Supply and Storage (EN-4);
- NPS for Electricity Networks (EN-5); and
- NPS for Nuclear Power (EN-6).

The Energy NPSs were originally published in 2011.. NPSs EN-1 to EN-5 were revised in 2023 and came into force on 17 January 2024.

NPS EN-6 was designated on 19 July 2011 and had effect for listed nuclear projects capable of being deployed by the end of 2025. This was produced by the former Department of Energy and Climate Change (DECC), now the [Department for Energy Security and Net Zero \(DESNZ\)](#). A new NPS EN-6 is being prepared by the Department for Energy Security and Net Zero.

Local Planning Authorities

For projects where the generation capacity means they are determined by the LPA, applications are determined in accordance with the development plan, unless material considerations indicate otherwise.

What changes are on the horizon in Wales?

In July 2022, the then **First Minister, Mark Drakeford MS, announced the Welsh Government would bring forward an infrastructure consenting bill** to simplify the process for agreeing major infrastructure projects and introduce a single consent requirement to construct and operate a project. This would only apply to those projects for which consenting is devolved to Wales.

The then First Minister said:

The consenting Bill will allow us to develop a consenting regime in Wales that is quicker and slicker than the current one, that will allow renewable energy projects to move ahead so that they can help us with the climate emergency, but will, at the same time, recognise our obligations to not do things that could put that very fragile environment at risk. And that will be the debate, the balance between those two aspects, which I have no doubt we will have as the Bill makes its way through the Senedd.

The **Welsh Government consulted on initial proposals in 2018** and published a **summary of responses to the consultation**. You can read more on the proposals at that time in our **June 2018 article**.

The Senedd's Climate Change, Environment and Infrastructure Committee looked into consenting issues as part of its **renewable energy inquiry** in spring 2022. The **Committee recommended** better resourcing for LPAs, clarification of the timeline for introduction of the infrastructure consenting bill, and clarification on how the Welsh Government will streamline the process for developing renewable energy projects in the Celtic Sea. The **Welsh Government's response is set out in this document**. The Welsh Government **accepted all the Committee's recommendations** in its response.

The Welsh Government introduced the **Infrastructure (Wales) Bill** into the Senedd on 12 June 2023. The Bill contained the framework for the new process, with the finer detail to be set out in regulations. The Senedd's Climate Change, Environment, and Infrastructure Committee was **critical of this during scrutiny**. The Committee felt the Bill was over reliant on secondary legislation. Further detail regarding the Committee's scrutiny can be found in its **Stage 1 Report** on the Bill.

The **Infrastructure (Wales) Act 2024** (the Act) was given Royal Assent on 3 June 2024. The Act simplifies the process for developing significant infrastructure projects by establishing a single infrastructure consenting process for specified types of major infrastructure projects.

The new form of consent will be known as an ‘Infrastructure Consent’ (IC) and will be issued for projects which are prescribed as a ‘Significant Infrastructure Project’ (SIP). SIP’s include energy, transport, waste and water, and gas projects on land and in Welsh waters. An IC contains the full range of authorisations required to enable development. This will mean developers will not have to apply for secondary consents separately. Developers must obtain an IC for a SIP.

The Welsh Government is **consulting on implementation of the Act** (19 September to 13 December 2024) and the new IC regime is expected to commence in mid 2025.

Senedd Research produced a number of publications during the Bill’s passage through the Senedd.

Key sources

Welsh Government

Welsh national planning policy is set out in **Planning Policy Wales (PPW)** and **Future Wales: the national plan 2040**.

The Welsh Government has published research which informed the identification of the priority areas for solar and wind energy in **Future Wales: Assessment of on-shore wind and solar energy potential in Wales**.

The **Wales National Marine Plan** sets out the policies relevant to deciding energy generation projects in Welsh waters, where the Welsh Ministers are the deciding authority.

The Law Wales website has information on the **Infrastructure (Wales) Act 2024**. The Welsh Government is **consulting on its implementation** (19 September – 13 December 2024).

Design Commission for Wales

The Design Commission for Wales has produced guidance for developing large-scale onshore wind and solar farms in **Designing for Renewable Energy In Wales**. This guidance updates and expands on the **Designing Wind Farms in Wales 2014** good practice guide

UK Government

The UK Government’s **National Policy Statements (NPSs)** provide the framework for its decisions on nationally significant infrastructure projects consented under the **Planning Act 2008**. There are **six NPSs for energy infrastructure**. NPSs EN-1 to EN-5 were revised in 2023 and came into force on 17 January 2024. A new NPS EN-6 is being prepared by the Department for Energy Security and Net Zero.

Senedd Research

Other planning quick guides produced by Senedd Research are available on our **quick guides webpage**, including a **DNS quick guide**.

Senedd Research’s **resource page for the Infrastructure (Wales) Bill** contains publications relating to the Bill’s passage through the Senedd.

Senedd Cymru

The Climate Change, Environment and Infrastructure Committee’s 2022 **inquiry** and **report on renewable energy**, and the **Welsh Government’s response**.

Planning Aid Wales

Planning Aid Wales is a charity helping eligible individuals and communities to participate more effectively in the planning system. It provides advisory services, including a helpline and **guidance publications**.

Annex A - Map showing Welsh inshore and offshore areas



