



Land Rights For Connection Customers

Background

The network of overhead lines, underground cables and substations that are owned, operated and maintained by SP Energy Networks ("SPEN") affect land owned and occupied by thousands of individuals. We have a statutory obligation to connect new customers to the existing network. Developing such connections may require us to place new apparatus on land owned by others. SPEN requires a legal agreement with the landowner before it can install this apparatus to ensure it can be kept there and access remains available for future operation and maintenance.

Purpose

The purpose of this guide is to explain to customers in what situations land rights may be required as part of your connection, what types of land rights may be required, how long these may take to obtain and who is responsible at the various stages throughout the process.

This guide is applicable to connections where we are providing 'full works'. This is where we will complete all of the works in relation to your connection.

What are Land Rights?

The term land rights is used as a collective term to cover the acquisition of property rights, such as freehold and leasehold interests a lease or purchase or servitudes, easements or wayleaves, that SPEN will require to be in place before we can make a connection for you to our network. In order to ensure the works are undertaken in a lawful manner we may also require 'statutory planning' consents such as a section 37 consent to install an overhead line or a planning consents to construct a substation. Other environmental consents, licences or permits may also be required for work in or around certain sensitive ecological habitats or species, water bodies or cultural heritage sites, some of which may have significant statutory protection.

What Land Rights may be required for your connection?

We endorse the view that land right requirements for the electrical assets associated with providing your connection, whether obtained by us or through other parties on our behalf, shall be no more onerous than for activities associated with the construction, replacement, renewal, refurbishment, operation and maintenance of our distribution network.

Depending upon the location of the existing network and the development seeking connection, we may need to place apparatus on under or across the development site or third party land. We will need legal agreements to do this. The legal agreements required will depend upon the specific requirements of the connection, the apparatus to be installed, the individual circumstances surrounding land ownership and whether the connection may benefit others.

Appropriate land rights must be secured with relevant landowner and any associated 3rd parties for all apparatus including cables overhead lines and substations.



The key principle underpinning SPENS approach to securing land rights is a presumption that a secure right will be sought in the first instance. Such an approach ensures that SPEN can maintain an efficient, co-ordinated and economical system of electricity distribution as required to meet our statutory licence conditions. However, on occasion we recognise that we may require to depart from this presumption in order to secure the most 'appropriate' rights in the circumstance. In certain circumstances we may accept a wayleave as an alternative, but this will be determined on a case by case basis.

There are two broad categories of land rights; **Wayleaves / Servitudes / Easements** (for overhead lines and cables) and **Purchase / lease agreements** (for substations or other non-linear apparatus)

Land Rights for Overhead Lines or Underground Cables

Wayleave Agreement

A wayleave is a simple form of a personal agreement between us and the landowner that can be used to gain consent for overhead line and underground cable apparatus, along with the required access for inspection maintenance and future operation. It can also be used to secure agreement with an occupier of land who is not also the owner. Wayleaves are not registered against the affected land. Commonly, wayleave agreements usually provide for an annual or one-off payment to be made by us. Payment rates are normally reviewed annually and are based upon the type and size of the structure and the classification of the land.

Servitude / Easement

A servitude/easement provides us with greater security for our apparatus. A servitude or easement is executed as a Deed. This means that it is registered against the affected property at HM Land Registry and is usually permanently affixed to the land. A servitude or easement for overhead line and underground cable apparatus forms a contract between us and the landowner and will include the required access for inspection maintenance and future operation. Servitudes or easements are processed through solicitors and this reflects the greater security of tenure afforded to us when compared with a wayleave Agreement.

Land Rights for Substations and Fixed Site Assets

We require the transfer of the freehold or alternatively the grant of long leasehold of any substation site that forms part of the works required to provide your connection.

Freehold Transfer

Where a substation is required for a connection, such as in the case of housing developments, we would prefer to acquire the freehold interest in the land where the substation is to be built. This means that the land for the installation would be owned by us and we would require Title to be registered at HM Land Registry. The transfer would also include associated rights of access to the land and appropriate land rights for connections such as underground cables.



Lease

In some situations where a substation is required in respect of a connection to our network such as for commercial or industrial developments, we may be prepared to secure the substation site by a lease. This is where a landowner allows us the right to occupy their land or building over a period of time (duration determined as appropriate). The lease will include rights for us to access the substation building 24 hours a day, every day, together with rights for underground cables or associated apparatus. A lease is a legal document that we would wish to register with HM Land Registry.

What if a voluntary agreement cannot be reached?

In some cases a voluntary agreement will not be reached and we may require to rely on our statutory powers to compulsorily secure the relevant land rights. In such circumstances where agreement cannot be reached and no alternative design solution exists. Prior to entering into the use of statutory powers, the circumstances and how to proceed should be reviewed by the SPEN Project Manager, Land Offer and the customer. The costs relating to the use of statutory powers will be in addition to your connection costs

Compulsory Purchase

We can acquire ownership of, rights in, and rights to, land by way of the compulsory acquisition process set down under schedule 3 of the Electricity Act 1989 (as amended).

A “start to finish” compulsory acquisition can take between 9 months to 3 years. As such, the process is only effective in projects where there are sufficiently defined timescales. Furthermore, a compulsory purchase order can only be proposed where there is a sufficient “needs case” justification for doing so.

Necessary Wayleave

We can acquire a necessary wayleave for overhead line and cable apparatus under Schedule 4 of the Electricity Act. A necessary wayleave offers more protection than a voluntary wayleave in that it binds the land covered by the necessary wayleave for a stated term and does not fall as a result of a change of owner. The process can take between 6-12 months.

What other consents may be required?

As well as land rights, other consents may be required as part of your connection. These may relate to:

- Statutory planning consents for the construction of an overhead line or substation.
- Other environmental consents, licences or permits which may be required for:
 - Work in or around water bodies;
 - Work in or around certain sensitive ecological habitats or species, some of which may have significant statutory protection.



- Work in or around buildings and sites of historic importance
- In cases where such 'sensitive sites' are encountered these may trigger the need for particular environmental evaluation or the need for full Environmental Impact Assessment (EIA).

The requirement for such consents is obviously dependent on the development type and its location and as such requires to be considered on a case by case basis. Different types of consents will have different programme implications.

These consents will require various levels of engagement with statutory authorities and interested parties.

Section 37 Consent

The Electricity Act contains certain provisions for planning relating to the construction or alteration of overhead lines. Consent relating to 33kV overhead lines and below are required under section 37 of the Act.

Section 37 consent is granted by the Scottish Ministers in Scotland and the Secretary of State in England and Wales. Whilst applications are made to The Scottish Government / DECC, these consents requires consultation with the relevant local authorities and other statutory bodies. The Secretary of State Scottish Ministers may take in to account the number of land rights that have been granted prior to the granting of the section 37 consent.

The Land Officer appointed to your connection will keep you fully informed as to any consent that may be required to construct the connection.

Planning Consent by a customer

If a substation is required as part of the customer's connection arrangements, typically for development such as housing or commercial, we expect you to obtain planning permission for the new substation. Before a lease or transfer for a new substation site can be concluded, you must provide evidence to our solicitor that planning permission has been obtained for the new substation.

How long will it take to obtain the land rights & other consent?

The time to achieve land rights and other necessary consents will depend upon the individual circumstances and the ability to reach agreements with the various parties involved. Timescales for successful negotiations vary greatly but we will try to complete these as efficiently as possible to meet overall project timescales.

Any statutory or environmental consent needed will be, where possible, progressed in parallel to the land rights. The timescales for these are in the main out with our control and will also depend on the specifics of the works and the third parties we will have to engage with.

Based on our past experiences and the functional processes of both obtaining land rights and statutory consents we have developed a range of indicative lead times. These lead times factor in



such elements as set out above and are primarily dependant on the type of land right being sought e.g. wayleaves or servitudes/easements and what, if any, statutory or other consents are required.

Other factors may include where a third party land right is required from an organisation such as local authority or rail operator, where they may have set processes and timescales to deal with such matters.

- A simple underground connection on your land, for which we seek a wayleave, may take approximately 5 weeks from the point of the Land Team having all the necessary information. Where you do not own the land this may take as long as 7 weeks, extending to 10 weeks where land is owned by an infrastructure operator or local authority.
- Where permission is required from third party landowners including an infrastructure owner or local authority and perhaps a licence or permit is required in relation to an environmental site, then the land rights and associated consents may take between approximately 18 and 22 weeks.
- Where an overhead line is required which is less than 33 kV but involves 3 party land owners and requires a section 37 consent involving a licences or permit related to the environment this may take up to 20 weeks.
- Where a more complex connection requires an overhead line of a significant length and involves a variety of 3 party landowners and requires section 37 consents with sensitive environmental aspects it may take up to 50 weeks for the consents to be granted.

The Project Manger appointed to your connection will keep you fully informed as to the progress towards gaining these consents.

Who to contact

Should you require further information in relation to your connection please click the link below http://www.spenergynetworks.co.uk/pages/connections_contact_us.asp

Who is involved?

Customer	<ul style="list-style-type: none"> • Where you are also the landowner see below. • As part of the connection agreement, request that land rights are to be progressed to enable your connection. • Where you are responsible for gaining land rights, ensure you do so as early as possible. • Discuss and agree with SPEN what land rights you will obtain. • Ensure you keep the Land Officer informed of your progress in gaining consents. • If a substation is required as part of your connection arrangements, obtain planning permission for the new substation. • You must provide evidence to our solicitor that planning permission has been obtained for the new substation before a lease or transfer can be concluded.
SPEN Design & Planning Team	<ul style="list-style-type: none"> • Responsible for the design of the connection • Responsible for liaison with SPEN Project Manager and Land Officer on any elements of redesign which may be required to achieve a voluntary land right
SPEN Project Manager	<ul style="list-style-type: none"> • Initiates request to SPEN Land Team • Advise customer who the Land Officer will be, the process that will be followed and provide an indicative timescale for the delivery of land rights and other consents • Customer's first point of contact in relation to the development. • Provide you with regular updates on progress of the connection including land rights • Work alongside the Land Officer to ensure appropriate land rights are being obtained • Provides technical delivery advice around any land rights activities • Liaise with customer on any required changes to design to facilitate a voluntary land right or the need for SPEN to rely upon its statutory powers
SPEN Land Officer	<ul style="list-style-type: none"> • Establish what types of land rights and other consents are required in consultation with Project Manager • Discuss with the customer and agree what land rights you will obtain • Progress appropriate land rights, identifying what if any, third party landowners may be affected by the development. • Make contact with landowners/occupiers and other interested parties • Agrees terms with landowners/occupiers • Prepares wayleave documentation and issue to relevant landowners/occupiers • Instruct and liaise SPEN Legal Services on servitudes/easements/ lease/purchase • Responsible for consultation with statutory consultees / interested parties to obtain section 37 or planning consent / licences /permits • Liaise with customer on land rights matters where required
Landowner	<ul style="list-style-type: none"> • Grant appropriate consents to SPEN. • Where appropriate instruct solicitor as early as possible to work with SPEN to progress agreements. • Provide evidence of title. • Ensure you tell us of any restrictions in your title or any special agreements that may be in place on the land concerned. • Tell us of any changes to ownership which may affect the agreement as soon as possible
SPEN Legal Services	<ul style="list-style-type: none"> • Provide advice and support on legal matters to the SPEN team. • Instruct and liaise with SPEN external solicitors as appropriate • Progress servitudes/easements / lease or purchase of sites

Land Rights Process

Once your connection agreement goes live, it will trigger the requirements for **SPEN** to progress the appropriate land rights.

An instruction will then be sent to the **Land & Planning Team** which will be logged on the system allowing a **Land Officer** to be assigned and a lead time set. The lead time is the approximate time it will take to obtain the necessary land rights and any other consents required for your connection.

The **SPEN Project Manager** will be your key point of contact and will provide updates on the progress of your connection.

The **Land Officer** will progress any required statutory or other consents in parallel with obtaining the necessary land rights.

On more complex connections the **Land Officer** who is dealing with your connection may wish to meet with you at the outset to discuss the land rights process and establish where you can assist with consenting on land you control.

The **Land Officer** will establish the various landowners involved in the connection and discuss the requirements to obtain consent. It is hoped that terms can be agreed to enable **SPEN** to gain the appropriate land rights.

Where a land right cannot be obtained the **Land Officer** will discuss with the Project Manager to consider whether any alternatives are available.

The **Project Manger** may also discuss these options with you. Where no alternative exists the **Land Officer** and **Project Manager** in consultation with you will discuss the possible use of statutory powers.

Where the **Land Officer** has agreed that a **servitudes/easements / lease or purchase** will be sought, the **Land Officer** will instruct **SPEN legal Team** to obtain the agreement(s)

Where the Land Officer has agreed a **wayleave** with the landowner, **the Land Officer will** send the Landowner the wayleave documentation to be signed and returned

On receipt of the completed land rights documentation and any other consents the **Land Officer** will release the job to the delivery team. The **Project Manager** will programme the works to begin and liaise with you to what happens