KMCC/S-LB-B/IK

Electricity Act 1989

Town and Country Planning (Scotland) Acts 1997 as amended

PROPOSED SPITTAL – LOCH BUIDHE – BEAULY (S-LB-B)

S37 OHL APPLICATION

ECU Ref: 00006008

Highland Council Reference: 25/03311/S37

OBJECTION

on behalf of

Kilmorack Community Council (KMCC)

(third party objector)

Submitted: by 12th October 2025 by email only

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Summary

Need

There is no justifiable need for this proposed development which is designed to facilitate a new wave of wind farm development rather than to connect to the grid what is already built, consented, in planning, or at scoping.

Development Plan Conclusions

In summary, for the reasons given in this objection, the proposal is not in accordance with the Development Plan, particularly in respect of NPF4, and material considerations do not change this conclusion. That is a material factor which weighs strongly in the balance against planning permission in principle being granted.

Electricity Act Conclusions

The current approach of decision makers to the question of compliance with the provisions of the Electricity Act is simply to assess whether or not sufficient mitigation has been delivered by the proposals. Having regard to the EIA-R, the Council's likely consideration of the application in terms of its own current and interim policies, and to the submitted objections, the conclusion that is reached is that sufficient mitigation has not been secured. The proposal, therefore, is not in accordance with the provisions of the Act.

Conclusions and Submission

The objector respectfully submits that the Scottish Ministers should refuse S37 consent and deemed planning permission for the proposed OHL for the reason that significant additional information is needed and has not been supplied. In the absence of that information the precautionary conclusion must be that the proposal is contrary to the relevant provisions of the Electricity Act in that insufficient mitigation has been provided and contrary to the Development Plan including NPF4 in that there is inadequate mitigation resulting in the significant adverse scheme specific and cumulative effects of the proposal not being outweighed by any asserted benefits.

The Case for a Comprehensive Public Local Inquiry

It is accepted that Ministers might not wish to move to a straight rejection of the proposal but might prefer to convene a PLI. Should that be the case the objector would support the holding of what should be a comprehensive PLI, addressing the larger project of grid upgrades in north and north east Scotland as a whole, and would formally submit that the following process and procedure be applied.

The Inquiry should consist of four modules as below:

a. Consideration of need, including fit with the NESO Strategic Spatial Plan for Energy and any emerging North of Scotland Regional Strategic Plan (the Reporters will need technical assessors to assist in this aspect).

b. The Spittal – Loch Buidhe – Beauly section of the overall OHL grid upgrade project including the integral Hub substation applications.

c. The Beauly – Peterhead section of the project including the integral Hub substation applications.

d. The Kintore – Tealing section of the project including the integral Hub substation applications.

However, the Reporters should be required to first hear the evidence on need and to then report to Ministers on that aspect for an initial Ministerial decision on the question of need. This is an essential approach since, absent an independently verifiable need case, the other three modules will not be needed. And to proceed with them would potentially be an unreasonable and unnecessary expense for the objectors.

Background and Introduction

2. This **objection** has been prepared in respect of the submitted Electricity Act S37 application for the proposed Spittal to Loch Buidhe to Beauly OHL. The ECU reference is 00006008 and the Highland Council ePlanning reference is 25/03311/S37.
3. The objection has been prepared by Ian Kelly (see below for qualifications and experience) on behalf of Kilmorack Community Council (KMCC). The likely and rapidly expanding wide range and nature of cumulative effects from multiple proposed renewable energy related proposals is of particularly serious concern in the circumstances of there being no single forum that assesses, considers, and determines what is happening to Caithness, Sutherland and Ross-Shire as a whole. Instead, there is only uncoordinated multiple single project decision making.

4. The instructions in this case have been issued by Mr John Graham on behalf of KMCC. The objection is being submitted to the ECU and copied to the Highland Council.

5. It is the intention of the objector that this objection is followed up, in due course, with a further short supplementary objection submission once the formal response from the Council is available. That will be after the deadline date set for public responses, but the further submission will be lodged in any event.

6. Ian Kelly MRTPI is an independent Planning Consultant, and a chartered town planner, with over 48 years' professional and managerial experience in the public and private sectors, mainly in Scotland, but also involving work south of the Border, and in Europe, mainly in Scandinavia. His relevant project work has included expert witness advice in relation to a very considerable number of wind farm proposals in Scotland and elsewhere – both planning applications and S36 and S37 Electricity Act applications. He has assessed almost all of the major renewable energy applications that are contributing to cumulative effects.

A Preliminary Consideration

7. It is important to stress that the current situation with this proposed overall OHL project (see later), with the similar OHL projects elsewhere in Scotland and in England, and with the related aspects of constraints payments and paying gas plants to fire up (over £1billion in the first 9 months of 2025) is solely the result of a policy approach that dictated that grid capacity and grid connection should not be considered when determining wind farm applications.

8. Such an approach is inexplicable and profoundly wrong. There is not any other land use activity that is subject to planning controls where offside infrastructure is not addressed at the point of assessing and determining the primary proposal. What we have had is a complete lack of proper planning.

9. Current examples of this can be seen in relation to wind farms in and adjoining the Flow Country World Heritage Site (WHS). The RSPB has properly identified that there is now a significant problem in that wind farms that were consented without considering the grid connection are now in a situation where the currently proposed grid connections are being opposed by NatureScot, the Council, and the RSPB on account of adverse effects on the WHS. It is not clear that there is a solution. Comprehensive and strategic thinking would have produced better outcomes.

Consultation Procedure

10. This proposed OHL, along with its constituent substation Hubs, is the largest single infrastructure development project to come before the Highland Council in the last twenty years. It is also an enormously complex proposal with multiple extensive documents spread across four separate proposals.

11. In those circumstances the allowance of only five weeks for the public to respond means that a full evaluation simply cannot be carried out at this time. That is a matter of very considerable concern. Similarly, and taking account of the scale of the application and the very limited response time, it is inconceivable that a proposal of this scale could be approved and implemented without being the subject of a comprehensive Public Local Inquiry (PLI) similar to that held for the original Beauly

to Denny OHL. A submission in respect of a comprehensive PLI is made at the end of this objection.

12. Given what is set out above in this section of the objection it is stressed that this initial submission does not set out to address a detailed assessment of the whole OHL proposal. Rather it is an overarching objection that focusses on key issues. In effect it is a preliminary statement of case as a prelude to the PLI procedures.

What is the Project

13. Following on from the above this is a fundamental preliminary consideration. The application documentation is perfectly candid that this application and the three submitted Hub applications are part and parcel of the same single project. That brings the concept of what has become known as salami slicing into play.

14. The tests for addressing whether or not salami slicing has been applied to the consideration of the environmental effects of a proposal are now well known. There are three aspects:

    a. The proposals/applications are being promoted by the same party or related parties.

    b. The proposals are functionally interdependent.

    c. One part would not be built without the other part also being built.

15. Clearly, the combination of the OHL proposal and the directly related Hub proposals meets all three tests. That means that there should be a single EIA-R for the total project. Such a single EIA-R does not exist. That means that the terms of The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 have not been complied with.

16. <u>The application can be refused on this basis should the Scottish Ministers decide to do so.</u>

17. It is important to recognise that the same analysis could be applied to the remaining sections of the proposed OHL, and associated Hubs and workers' camps, down to the

boundary with the Scottish Power operational area. This is addressed in the case for a PLI.

The Application Proposals

18. This is a S37 application that is part of a wider, larger scheme. The S 37 proposal is for 173 km of new double circuit 400kV OHL on steel lattice towers along with a further 18 km of line diversion works. Given the proposed very wide limits of deviation, given the land has still to be acquired (both for the application proposals and for mitigation), and given the experience with the existing B2D OHL the detail of the proposal is very likely to change if consent were to be granted. Therefore, as noted earlier, there is no attempt to undertake a detailed assessment of the proposals.

19. There are also a range of proposed ancillary works the detail of which will also likely change if construction were to proceed. However, the scale of these construction related works should not be underestimated and they will require very detailed control given the sensitivity of the receiving environments.

20. For the purposes of the EIA-R the OHL route is split into five sections as below:

    a. Section A – Spittal to Brora

    b. Section B – Brora to Loch Buidhe

    c. Section C – Loch Buidhe to Dounie

    d. Section D – Dounie to near Strathpeffer

    e. Section E – Near Strathpeffer to Beauly

21. However, given the purpose of this objection, as explained earlier, the comments that are set out will generally relate to the totality of the proposed OHL route.

22. In terms of a preliminary overview, and taking account of the findings in the EIA-R, there can be no doubt that all four principal components of the overall project within the Highlands (the OHL and the three substation Hubs) have the very clear potential to cause significant harm to a whole range of sensitive environmental receptors

including archaeological remains, the landscape, flora and fauna - in particular birds, bats, and fish - and people. Yet, the full detail of those scheme specific and cumulative significant adverse effects cannot be accurately assessed at this stage because the submitted information is inadequate.

23. Taking these aspects together, along with the salami slicing assessed in the preceding section of this objection, the conclusion that is reached is that the Scottish Ministers simply do not have the necessary information to fully assess this S37 application and they would be entitled to refuse S37 consent and deemed planning permission on that basis alone.

24. Although this is the clear conclusion that is submitted on behalf of the objector it is recognised that Ministers may not agree with this conclusion and, therefore, to protect the interests of the objector further comment is made on the application. Also, the consideration of "what is the project" is further addressed when the aspect of transmission to England is addressed.

The Emerging Cumulative Position

25. In addition to the plethora of existing offshore and onshore wind farms and proposed offshore and onshore wind farms, solar farms and BESS proposals in Caithness, Sutherland, and Ross-Shire it is becoming clearer that the dispersed random pattern of energy production favoured by the Scottish Government is leading to the need for significant grid connections in the form of new OHLs, upgraded OHLs, new and/or expanded substations and battery energy storage systems (BESS).

26. There is a particular issue in this case with the cumulative assessments. At both the Fanellan Hub and the Banniskirk Hub (and the existing Spittal substation) SSEN are proposing significant engineering works to be undertaken under permitted development rights. Although several emails have been sent to the Council raising various concerns on this matter, neither the Council nor the ECU has any detail on the permitted developments rights works proposed by SSEN. Therefore, the full extent of cumulative effects cannot be assessed as the full range of Environmental Information is missing significant elements.

27. These important cumulative aspects should be fully considered and should all be included in the cumulative visualisations and in the cumulative assessments so that the overall emerging picture is very clear. If these other elements are not included, then the decision maker has only a partial picture of what the outcome of a consent would be.

28. To facilitate this cumulative assessment Ministers should require SSEN to submit the full details of the onshore works for the Western Link HVDC project and for the onshore works associated with the Spital to Peterhead subsea cable. Should SSEN decline to do so then Ministers should proceed to refuse the OHL application.

29. The KMCC is aware that numerous developments have been missed from the cumulative assessment. This shows that there have been material errors that will need to be corrected in the lead up to any PLI.

30. In addition to the points made above it is noted that the application is indicating that a construction programme of up to 4 years, probably between 2027 and 2031 (no fixed dates are given), is envisaged. It is proposed that a 7 day working week from 0700 to 1900 would be the norm. This must be seen in the context of the potential for other renewable energy projects, approved and proposed, being implemented over similar timeframes. It is considered that both the trunk road infrastructure and the local roads network throughout the affected area will never have the capacity to cope with such a set of cumulative construction related effects without there being very significant physical damage and road closures with diversions as well as significant risks to public safety, convenience, amenity and access to essential facilities and services. It is noted that the Highland Council Transportation Planning Team has identified various data and evaluation aspects of the scheme specific and cumulative assessments as a seriously underassessed issue when responding to the Banniskirk and Fanellan Hub planning applications. It is clearly the case that the A9 and the associated side roads are a lifeline route for the local population whilst there has been an increase in both traffic and accidents in the last two years.

31. Therefore, in view of the seriousness of this issue of cumulative construction stage impacts it is submitted that Ministers should require the submission of a fully

detailed assessment of the likely construction timelines for all major development projects in Caithness, Sutherland, and Ross-Shire, and a detailed programme of measures to address those implications. This submission should be required in advance of the determination of this S37 and Hub applications as it might well lead to the same conclusion as set out above, namely that the trunk roads and local roads would not be able to cope.

32. Finally, on this key aspect of cumulative assessment, all three Hub applications have now been the subject of the submission of significant Additional Information, the response dates for which are after the deadline date for this objection. Obviously, the submitted EIA-R cannot have taken account of this new Information as it was not available at the time of finalisation of the EIA-R. Similar consideration apply to the workers' camps now being proposed for sites at Golspie and Lairg. As noted at several points in this objection there is a perfectly valid case for seeking a fully updated, corrected, and comprehensive new EIA-R for the whole project.

Transmission to England

33. Scotland does not need additional electricity from wind farms to supply the electricity needed for the NESO predicted 2050 maximum winter demand of between 8.6GW and 11GW. Therefore, the market for this electricity is in England.

34. The grid is currently already struggling with the amount of electricity Scotland can produce and could send to England. The result is the level of constraint payments we currently see. However, the limitations on transmission are not in the Highlands, they are further south in Scotland and in England.

35. The proposed OHL is the start of a new wave of developments generating renewable electricity, as explained later. The points made above mean transmitting this electricity for 400 to 500 miles via substations and OHLs that currently do not exist. At the moment there are only proposals for upgrading the grid in the Highlands (the onshore proposals for a Beauly to Peterhead grid upgrade have not yet been submitted). None of the infrastructure has been granted consent and there is a powerful case that what has been proposed is not needed. This means that, at the

moment, there are anticipated downstream and cumulative environmental effects that will be material, but which cannot be assessed just now because the details of the infrastructure that will ultimately need to stretch from Caithness to London, rather than just being in the Highlands, are not known.

36. Therefore, in addition to what has been said earlier and the final submissions set out later, it is submitted that the determination of this application should be delayed to enable its consideration alongside the other SSEN grid related proposals (and the other necessary infrastructure) so that the full suite of cumulative effects can be understood. This would mean that an updated EIA-R for this project would need to be prepared and advertised at that time.

The Need Case – Generation and Demand

37. Taking this application as part of a wider plan to increase renewable energy generation the absence of any realistic need case is considered to be a further fundamental consideration. Scotland is experiencing a surge of onshore wind farm applications (and BESS applications) at the same time as a massive increase in the development and planning of a significant number of offshore wind farms. Total generating capacity would be well beyond current and predicted electricity needs. There are already days when all of Scotland's electricity needs have been easily met by existing wind energy installations.

38. The 2025 Q2 Energy Statistics were published by the Scottish Government in September 2025. The figures are summarized below alongside demand figures from NESO:

Demand

NESO, in its Ten Year Electricity Statement, confirms the following for Scotland:

- Current peak demand – just over 4 GW
- 2030 peak demand – 5 GW
- 2050 peak – between 8.5 GW and 11 GW

Current Supply Capacity

- Total current generating capacity – 17.7 GW
- Of which
    - Offshore wind generating capacity – 4.3 GW
    - Onshore wind generating capacity – 10.4 GW
    - Other onshore generating capacity – 2.2 GW

Total Pipeline

- Total as at June 2025 – 1,114 projects in the planning pipeline – 76.5 GW
- Of which:
    - 683 generation projects – 37.7 GW
    - 373 storage projects – 35.3 GW
    - 58 other projects – 3.5 GW

Pipeline – Generation

- Offshore wind
    - Applications – 8.6 GW
    - Awaiting construction – 7.9 GW
    - Under construction – 1.3 GW
- Onshore wind
    - Applications – 9.4 GW
    - Awaiting construction – 5.9 GW
    - Under construction – 1.7 GW
- Other onshore technologies
    - Applications – 1.23 GW
    - Awaiting construction – 1.5 GW
    - Under construction – 0.2 GW

Pipeline – Storage

- Batteries

  - Applications – 10.0 GW
  - Awaiting construction – 14.2 GW
  - Under construction – 2.1 GW
- Pumped Hydro Storage
  - Applications – 4.2 GW
  - Awaiting construction – 4.8 GW
  - Under construction – 0.0GW

39. Adding the current operational capacity (17.7 GW) to the onshore plus offshore wind under construction (3 GW) and the onshore plus offshore wind awaiting construction (13.8 GW) gives a total of 34.5 GW. Live onshore plus offshore wind applications add in another 18 GW giving an overall total of 52.5 GW. Whilst changes to the way the figures are presented makes quarterly comparisons slightly difficult, these figures continue to show that the official energy statistics are now recognizing the clear potential for excessive generation provision when the 52.5 GW figure is compared with the current Scottish peak winter demand of 4.6GW (the annual average is 3.6GW) and the NESO predicted peak future 2050 Scottish demand figure of between 8.5GW and 11GW (noting that the latest NESO Ten Year Electricity Statement states that peak demand in Scotland will still be under 5GW in 2030).

40. This conclusion becomes even more pronounced if the likely future outputs from all of the ScotWind offshore leases are also included, leading to a total potential generation capacity of over 70GW, just under 7 times the NESO predicted peak future 2050 Scottish demand figure of between 8.5GW and 11GW.

41. This not only means that Scotland already has sufficient renewable energy for its own consumption, but it also means that Scotland will overshoot the 2030 and 2035 caps set in the NESO Clean Power 2030 Action Plan, April 2030 Update. Boundary constraints identified by NESO will prevent renewable energy actually reaching all consumers, and they must therefore rely on fossil fuels (imports) or nuclear when wind energy is not available. It should be noted that all planned grid reinforcements are already taken into account when the 2030 and 2035 caps were set. It follows that

therefore there is absolutely no need for any new onshore or offshore wind farms to be consented to meet the public interest and satisfy the Government's policy demands of either required future demand for electricity or the securing of a net zero outcome. Using official numbers, Scotland has sufficient existing generation and transmission capacity to supply its own needs were it not for the pinch points within Scotland which are outside of the Highland Council area.

42. In summary, the predicted high levels of renewable electricity generation in Scotland, combined with the modest levels of consumption and the current and projected sets of constraints severely limiting capacity to transfer electricity south (especially when much of the generation is in the far north of Scotland), means that already significant amounts of electricity that is produced in Scotland cannot be used. Such generation is, therefore, frequently turned off and curtailed. To expand the grid infrastructure in the north of Scotland or to consent more wind farms will not help with existing grid restrictions, it will only encourage an increase in generating capacity and additional generating capacity will simply exacerbate the current curtailment rates and increase the amount of constraints payments, a particular concern given the high fuel prices and high levels of fuel poverty in the Highlands.

43. As noted above, reference should be made to the NESO Boundaries Constraints Map, and the NESO Clean Power Plan April 2025 Update caps publication. These are now important material considerations, and the consideration of the limits and caps should lead to refusal of this application.

44. Another related consideration of the aspect of need is the recent decision of the UK Government (alongside the Scottish and Welsh Governments) to produce a Strategic Spatial Plan for Energy infrastructure. It should be remembered that 'Energy' is a Reserved Matter, which means that it is subject to UK legislation and policy and is not regulated merely at the behest of the Scottish Government. The Spatial Plan will look at demand and supply and at both offshore and onshore aspects. The first iteration of the Spatial Plan will be published in 2026. With the background assessments for this strategic plan probably already underway, with future need in Scotland already provided for several times over, it would seem sensible not to

continue to consider consenting major proposals in advance of the publication of the new strategic plan.

45. Furthermore, NESO and OFGEM are now encouraging the production of Regional Spatial Plans for energy with frameworks already having been published. This all adds to the case that the current position on need and supply is such that the north of Scotland can safely await the publication of these plans and then consider what their implications are (alongside market reform decisions) for the scale of further renewable energy that is justified in the north of Scotland.

The Need Case – The OHL Project's Asserted Need Case

46. In the light of the above, consideration can be given to the specific question as to whether or not there is a verifiable need for this proposed OHL.

47. The very short need chapter in the EIA-R (Chapter 2) relies entirely on the terms of NPF4 (addressed later) and on work undertaken by OFGEM/NESO in relation to the Pathway to 2030 and Beyond 2030. Very surprisingly, given the asserted purpose of the OHL, there is no listing of the wind farms, their consenting system status, their proposed installed capacity, and the totality of that capacity compared with existing and proposed transmission capacity. There is no independent assessment of need including considering, based on the above, if the existing infrastructure is adequate for future needs. Such a mathematically based needs case will be essential evidence for review in any PLI.

48. Therefore, the starting point for addressing this aspect is the Holistic Network Design OFGEM Pathway to 2030 documentation and the follow up Beyond 2030 produced jointly by OFGEM and NESO. Before making any comments on these documents with respect to this OHL project it is critically important to point out that OFGEM and NESO prepared their plans without any form of consultation with or communication with local authorities, environmental regulators, communities, or landowners. Nor were the plans the subject of any independent assessment, review and approval process. Basically, plans that are highly material to the planning

permission and the S36/S37 consenting systems were prepared without any reference to or involvement with those systems.

49. Having reviewed both documents it is considered that this initial objection is not the place for a detailed critique, only overview criticisms and comments are needed, and these are set out below:

    a. The Holistic Network Design had four objectives – cost to consumer, deliverability, impact on environment, and impact on communities.

    b. For the first point there appears to have been insufficient consideration of lower cost options including locating generation closer to demand. This proposed OHL would actually appear to be the highest cost project in terms of consumer interest.

    c. There is no evidence of a comprehensive evaluation of the last two points given the absence of community consultation.

    d. The Beyond 2030 report deals with longer term ambitions but again the report suffers from the same issues as above, a complete absence of community consultation.

50. Given that neither report has been the subject of community consultation or independent assessment they should be given little weight at this stage.

51. At a PLI the objector will be asking the Reporter to require NESO to provide a witness whose evidence can then be cross examined in detail.

52. Turning to the need case asserted by the applicants there is little to add to the above as no independent assessment of need is set out in the EIA-R. As noted, the absence of a listing of the wind farms that this OHL has been designed to serve is particularly telling.

53. The KMCC are aware of the undernoted documents having been submitted to the ECU. These comprise:

    a. Facts and Figures February 2025

b. Clean Power 2030 Action Plan and Capacity April 2025

c. Cumulative Impact Map and Transmission Capacity June 2025

d. Generation and Demand Graph October 2025

54. The initial important point to note from these documents is that there are no projects currently in planning or in the public domain pre-planning stages that would necessitate the provision of this OHL to enable a grid connection. The existing transmission infrastructure can deal with all of the onshore projects in planning and the planned subsea links from Shetland and Caithness can deal with all of the offshore schemes in planning. Therefore, this OHL, rather than serving existing projects that have been consented and are awaiting a grid connection, would instead start a new wave of wind farm projects on top of the current projects and in excess of the NESO 2035 targets. To that extent it is a speculative use of bill payers' money.

The Application Documents

55. The application is accompanied by significant amounts of documentation. The key parts of that documentation have been reviewed, including the LVIA material with its considerable number of viewpoint visualisations. However, for the objector's interests at this stage, the focus is on considering the principle of what is being proposed and, therefore, a summary set of concerns are set out below. The approach for each topic/concern is to summarise what the EIA-R finds (taken from the Non Technical Summary – NTS – at this stage) followed by commentary. At the end there is reference to matters of particular local concern to the objector. All of these topics/concerns, along with the aspect of need, would be expanded upon in evidence for the PLI. That expanded material will also take into account any new or additional information submitted by the applicants.

Alternatives

56. The consideration of alternatives has largely been confined initially to route corridor evaluation, two corridors for the northern sections of the OHL and three corridors for

the southern section. This was followed by route selection and then detailed alignment selection. There was very limited consideration of undergrounding.

57. There was no consideration given either to an offshore cable option, with cables from the Pentland Firth to a landfall much further south.

58. This very restricted considerations of alternatives is a serious flaw in the application.

World Heritage Site (WHS)

59. There is very little consideration of the effects on the WHS largely because it is simply seen as a natural heritage asset of the blanket bog. However, as noted by the Flow Country Partnership in its response to the latest Tormsdale S36 wind farm FEI 2, the WHS also has landscape and cultural heritage aspects to it that are inherently associated with the blanket bog. Therefore, the OHL is very likely to have adverse effects on the OUV of the WHS. There is also the need to take forward, as identified by the RSPB, a holistic, comprehensive and strategic approach to considering the multiplicity of adverse effects on the OUV that would arise from the large number of proposed developments in and around the edges of the WHS. This aspect of the effect on the WHS is a matter that can be addressed in evidence, with the Flow Country Partnership, at the requested PLI. In the meantime, it is noted that both NatureScot and the RSPB have objected, inter alia, on the ground of irreversible damage to the OUV.

LVIA Effects

60. The EIA-R concludes that the proposal would have significant adverse effects on the character of some landscapes including SLA's. The development would reduce the sense of wildness and tranquility especially in upland and remote locations. There would be significant adverse visual effects for residents living in close proximity to the line as well as for road users, railway users, and users of core paths. In association with other developments, including the associated substations (the EIA-R uses this accurate wording) and other wind farms, there would be significant adverse cumulative effects on both landscape and visual receptors.

61. Whilst a range of significant adverse effects are identified the probability is that these are underassessed simply on the basis of the assumption of limited visibility of the pylons beyond receptors in close distance. The pylons will be taller than any other pylons along the line and thus much more visible. In particular in areas of flat topography long stretches of the OHL will be visible. Because they will be made of steel, they will be particularly susceptible to changing light conditions. With a full sun shining on them, they will stand out as particularly bright objects in the landscape. In many locations they will be back clothed by hills making them stand out even more. In low sun conditions they will cast long shadows. In addition, and although consideration is given to the aspect of multiple effects from multiple projects on single receptors, this aspect is underassessed.

62. Therefore, both the scheme specific effects and the cumulative effects are underassessed. This submission will be expanded upon in evidence at the requested PLI.

Residential Amenity

63. A separate residential amenity assessment has been submitted as part of the application documentation. The assessment concluded that the views of the proposed development would not be so dominant as to breach the residential visual amenity threshold.

64. However, in the Strath Oykel S36 wind farm PLI Report the Reporters questioned how this threshold was applied and undertook accompanied site visits to a considerable number of affected properties. They concluded that there were significant adverse effects that had not been mitigated sufficiently and that, therefore, there was a breach of policy. They recommended refusal of the application.

65. Similarly, for this OHL application, it is considered that the matter of effects on residential amenity can only be addressed by accompanied site visits to a representative sample of affected properties along the full length of the OHL.

66. It should also be added that in areas of flat topography the list of receptors has to be expanded to include representative properties that are not located immediately next to the proposal.

Ecology and Nature Conservation and Peatland

67. The EIA-R predicts no significant effects on ecologically important sites, but that conclusion is dependent on mitigation being effective. In terms of protected species significant adverse effects are predicted for bats. For the other protected species again, the findings are dependent on mitigation being effective. Significant adverse residual effects were predicted for eight habitats including ancient woodlands and blanket bog. It is asserted that there will be no cumulative effects.

68. Based on the experience to date with Creag Riabhach and the Sutherland spaceport, there must be severe concerns about the total reliance on mitigation being effective, especially when there is no assessment of what would be done should the mitigation be found to be ineffective. It is noted that the Kyle of Sutherland Fishery Board has objected on the ground of ineffective mitigation whilst there are also comprehensive objections from NatureScot and the RSPB alongside a requirement from SEPA for significant additional information.

Ornithology

69. In the EIA-R some 25 species were identified as important ornithological features. The main risks were assessed as loss of habitat, disturbance during construction, and collisions. The findings of no significant effects are again dependent on mitigation being effective.

70. As has been seen in the responses from the RSPB to a number of renewable energy applications in the north of Scotland, there is a serious concern that cumulative effects are being systematically underassessed largely because of a lack of basic scientific understanding of how species respond to the multiple effects of cumulative developments. Given the length of the proposed OHL, the height of the wires, the locations of the three hub applications, and the number of cumulative developments,

the impacts on protected species are likely to be significant. It is noted that the RSPB has objected.

Water Environment

71. The EIA-R has identified that here are 44 Water Framework Directive watercourses hydrologically connected to the proposed development. The findings for both scheme specific effects and for cumulative effects are entirely dependent on mitigation and the adoption of best practice construction techniques and mitigation.

72. The situation with watercourse pollution from the Viking wind farm in Shetland is a particularly relevant and serious example of what can happen when reliance is placed on mitigation alone to protect watercourses. It is submitted that designing the line to avoid as many watercourses as possible and/or having much greater stand-off and buffer zones would be a more effective approach.

Cultural Heritage

73. The EIA-R identified just over 5,000 cultural heritage assets with the assessment concluding that 76 of the assets will experience significant adverse effects, including 32 that will be directly, physically impacted by the proposed development. The EIA-R concludes that the cumulative effects to setting from the proposed development and other developments results in significant adverse cumulative effects.

74. This aspect is being addressed by other objectors whose work is supported. That work will take full account of the comprehensive and strongly worded objection from Historic Environment Scotland (HES).

Forestry

75. In total almost 1,100 hectares (ha) of forestry will require to be felled by way of felling needed for the construction and felling to minimize windblow. The total of this within the Ancient Woodland Inventory and the Native Woodland Survey of Scotland amounts to over 180 ha. Scheme specific and cumulative effects on these assets are major, adverse and significant.

76. This aspect of forestry is addressed in terms of policy under NPF4. However, for the purposes of assessing the EIA-R much more information is needed on the locations for replanting, the nature and timings of that replanting, and the management proposals to ensure that the replanted areas thrive (bearing in mind that some locations will have a challenging local climate). Currently this essential information is missing from the EIA-R.

77. The felling of such large areas of forestry will have an influence on water courses and on flood risk and should thus be included in a cumulative assessment.

Traffic and Transport

78. The EIA-R identifies a number of potential effects including severance, delay and fear/intimidation. In terms of cumulative effects, it is asserted that with careful and coordinated planning the cumulative effects of the proposed development with other developments in the area would not lead to any changes in the scheme specific significance of effects. However, it is not taken into account that such careful planning would result in a longer construction period.

79. This aspect has been addressed earlier when consideration was given to cumulative effects. As noted earlier in this objection the Highland Council Transportation Team do seem to be aware of the issues and it is assumed that they will address this in the Council's response. Again, this is a matter that can be addressed in evidence at a PLI.

Tourism and Recreation

80. The EIA-R recognizes the potential for moderate and therefore significant effects on the tourist and recreational receptors in the Strathpeffer and Contin areas.

81. The operators of the facilities in Strathpeffer and Contin are best placed to comment on this aspect although it is important to note that the effects on tourism can arise from multiple aspects of the proposed development including, for example, the transportation effects that were noted earlier.

82. It should also be noted that the proposed development runs in parallel along almost half the NC500 route which together with vast un-industrialised landscapes are the

main draws for tourists to the whole area. Thus, it seems unlikely that there should not be a significant effect on tourism in other areas affected by the proposal.

Cumulative Effects

83. The EIA-R takes the approach of looking at cumulative effects from multiple projects but also the effects of interactions from multiple effects on a single receptor. The key cumulative effects are listed under the headings of landscape and visual, cultural heritage, and forestry. As always, the assumption is that mitigation will be fully effective.

84. This aspect has been addressed earlier and no further comment is needed.

Omissions

85. As noted earlier, the KMCC is aware of a plan and a list showing the various omissions, in the north part of the line, when it comes to the projects for cumulative assessment. That assessment needs to be updated.

Conclusions

86. The OHL and the directly associated Hubs will have a considerable amount of scheme specific and cumulative effects on sensitive receptors. Whilst the detail of those effects and the effectiveness, or not, of mitigation might be disputed in the detail, the fact is that this OHL is not needed. Therefore, the level of environmental harm is unacceptable. In Electricity Act terms, insufficient mitigation has been provided to overcome the harm from the scheme.

The Development Plan Assessment

87. The applicants have set out their own assessment of policy matters. That can be addressed at a future PLI stage. At this stage it is sufficient to set out a broad based policy assessment on behalf of the objector.

88. Although this is only part of the total project and notwithstanding the concerns set out earlier about that total project not being the subject of an EIA-R, it is still considered appropriate to address the Development Plan aspects raised by the

proposal (and then address material considerations). The objections by NatureScot, the RSPB and HES have been taken into account in the assessment below.

89. The Highland Wide Development Plan is now over 12 years old. With the adoption of NPF4 as part of the Development Plan, and with NPF4 having specific relevant policies, it is considered appropriate to initially focus on NPF4.

90. The relatively generic text in the Regional Spatial Strategy for the North (pages 25, 26 and 27 of NPF4) lists renewable energy generation and transmission as one of the priorities whilst recognising the area's exceptional assets and natural resources. However, this broad brush generic statement of spatial planning priorities cannot then translate directly across to an approval for any specific project in any specific location. The various relevant policies in NPF4 still have to be applied. NPF4 is very clear on this aspect.

91. In terms of NPF4, the overall OHL project is a national development (national development 3). The text in this part of NPF4 is a fairly generic statement and is not location specific or project specific in any way. Indeed, what is said is no more than the obvious. It is stated in NPF4 that delivery of any national development 3 will be informed by market, policy, and regulatory developments and decisions. However, it is not explained how these other regulatory systems are to interact with the role of the Planning Authority or with the Electricity Act section 37 determination process.

92. For example, it is understood that NESO/OFGEM are actively considering strengthening the transmission charging system to discourage the investment in generation that is remote from the intended market and which, thus, creates the need for "avoidable" OHL grid upgrades. NESO has also set geographic and technology based caps. The likely consequence of this is that remoter rural areas of Scotland will be less attractive for wind farm developments and some proposals that are already consented might well not proceed. NPF4 does not address these key issues although they were known about, in draft form, when NPF4 was being developed. Decision making that is not joined up does not help anyone.

93. Nor are any demand or generation figures given. The capacity for Scotland to either use or transmit electricity is limited just now and still will be limited after planned future investments as reflected in the NESO caps based on the grid boundaries plan. That fact needs to be explicitly recognised. There is little to be gained from supporting developments that have no route to market and/or no demand that they would satisfy. The need case requires to be quantified in policy documents if it is to be of any assistance whatsoever in the decision making on individual projects.

94. In addition, the introduction text to Annex B National Developments and the text under Spatial Strategy makes it clear that proposals still need to be considered carefully at project level, that this status does not grant planning permission for the development, and that all relevant consents are required.

95. In summary, for specific project proposals set in a specific location, there is little in the way of specific support that flows from these generic, obvious statements.

96. Therefore, for national developments the location specific and project specific policy assessments from NPF4 still have to address the key question as to whether or not this is the right development in the right location. To do that requires the consideration of NPF4 Policies as addressed in the following paragraphs.

97. Policy 1 (tackling the climate and nature crises) is an overarching policy that requires that significant weight is given to these two issues when considering development proposals. In relation to this Policy there is ample evidence that the totality of the OHL proposal will cause harm to nature through effects on salmon, other fish species, offshore and onshore bird and bat species, through onshore habitat disturbance and displacement, as partly recognised in the EIA-R. These effects will be particularly serious given the relative wildness of much of the landscape and, therefore, its importance for nature. Furthermore, the applicants can point to no evidence that the project, on its own or in combination with other wind farms or transmission projects, will have any verifiable and measurable beneficial effect on modelled future global climate patterns. The proposal, therefore, has no demonstrable beneficial effect on climate indeed, overall there might well be an adverse effect on climate given the process of overseas construction of some the core components for a

scheme to serve a non-existent or distant market, but has an adverse effect on nature (that is not offset by any deliverable net biodiversity gain) and so the proposal fails to demonstrate compliance with the terms of this overarching policy test.

98. In the EIA-R the findings of significant (but with mitigation) and non significant effects for the various biodiversity considerations are predicated on mitigation being successful. As far as is known, there are no NatureScot sponsored peer reviewed scientific studies into the effectiveness of renewable energy related mitigation measures in Scottish energy schemes. On the contrary, the recent experience with projects such as Creag Riabhach and the Sutherland Spaceport is that the reliance on planning controls through conditions has not worked and that environmental harm occurs without subsequent effective enforcement action.

99. With regard to this aspect Policy 3 (biodiversity) is key. Policy 3b provides that for, inter alia, national developments, these will only be supported where it can be demonstrated that the proposal will conserve, restore and enhance biodiversity, including nature networks so that they are in a demonstrably better state than without intervention. This comparison with the non intervention scenario is of particular importance in this case where there will be significant adverse effects on a considerable number of SAC's and SPA's as well as general adverse effects on biodiversity. The preference will be to leave matters are they are just now as the existing transmission infrastructure can cope with what is being planned. The EIA-R does not provide any guarantees in relation to metric based assessment or related specific proposals nor are there legally guaranteed delivery mechanisms to deliver on the policy requirement for betterment. Without the combination of metrics and a long term legally binding guaranteed delivery mechanism it is simply not plausible to rely on say an outline Habitat Management Plan as a basis for asserting compliance with this NPF4 policy.

100. In terms of the criteria set out in Policy 3b) it is concluded as below for the OHL (recognising the risks that arise from it just being a part of a much more extensive "project"):

i. It is agreed that the context is partly understood.

ii. It is not clear that all feasible opportunities have been taken to integrate and make best use of nature based solutions.

iii. In terms of the mitigation hierarchy the first principle, avoidance, should have led to a more detailed consideration of alternatives on other sites or the use of other technologies.

iv. There is no evidence of significant legally guaranteed biodiversity enhancements of the types mentioned in the Policy text, nor of the required certainty of delivery, nor of legally binding provisions for the long term management, retention and monitoring that is required to deliver the benefits envisaged by this Policy.

v. Nor are there firm proposals for delivering and securing local community benefits from biodiversity enhancement.

101. In conclusion, the proposal fails in respect of this policy test having regard to the general principles and to the related criteria (bar criterion 1 which relates to the understanding of the existing characteristics). The proposal, therefore, fails in terms of this key policy test.

102. Policy 4 (natural places) is another key policy. In relation to this Policy and applying the test in Policy 4a, the proposal's unacceptable impact on the natural environment means that the proposal should not be supported. In terms of the effects on the landscape, including direct and indirect effects on SLAs, and indirect effects on NSA's and WLA's, NPF4 Policy 4d applies. In considering that Policy the significant adverse effects are not clearly outweighed by the benefits of at least local importance. In terms of protected species, policy 4f, the proposal has failed to deliver adequate protection in that the reduction of effects to a non significant level is again dependent in mitigation whose effectiveness cannot be guaranteed at this stage. The proposal, therefore, fails in terms of this key policy test.

103. Policy 5 Soils in parts c) and d) provide the required tests. As the basic submission of this objection is that the OHL is not needed the proposal fails these tests.

104. Policy 6 Forestry, Woodland and Trees is of importance given the scale of tree felling that is proposed. The section b) in the policy provides that proposals which result in the loss of ancient woodland will not be supported. The proposed OHL is in conflict with this policy.

105. Policy 7 Historic Assets and Places seeks to protect important cultural heritage features. Having regard to the objection from HES this policy is not complied with.

106. Policy 11 (energy) is the key policy in terms of the assessment of renewable energy related proposals. In terms of the specific impacts listed in Policy 11e the proposed OHL element of the overall project has not adequately addressed and mitigated:

a. Impacts on communities.

b. Landscape and visual effects that are not localised including effects on the SLAs, the NSA and the WLA.

c. Scheme specific and cumulative impacts on road traffic and traffic infrastructure with related safety and community concerns.

d. Biodiversity effects including effects on birds and other species.

e. Cumulative impacts in terms of the known proposals for major wind farms, substation Hubs, BESS proposals, and likely workers camps (already being proposed at Golspie and Lairg) forming a significant set of development clusters with highly varying effects extending from Spittal to Beauly, a distance of 191km of OHL related works.

107. The proposal, therefore, fails in terms of this key policy.

108. Some consideration should be given to Policy 14 (design, quality and place). Although not considered to be a key determining issue, the proposal fails the test of Policy 14a in that it has not been designed to improve the quality of the varied rural locations it affects. It will not contribute towards creating a successful place and does little to counteract the very many negative aspects of adverse effects on community

activity and community investment that can flow from a reliance on difficult to access "community benefit" funds.

109. In terms of the policy outcomes for Policy 18 (infrastructure first) the applicants have not addressed the issue that the existing infrastructure assets (existing and consented wind farms plus the existing electricity export capacity) can be used sustainably without the need for this proposed new development whilst, furthermore, their project strategy relies on additional infrastructure that is not currently in place and is, therefore, not an infrastructure first approach. This is an important NPF4 policy test that is directly related to sustainable development and, therefore, it is also important to note that the proposal fails this test.

110. Policy 25 (community wealth building) is also considered to be of some relevance. The various factors mentioned in Policy 25a in terms of building local community wealth have not been addressed by the applicants. A more localised development and use model for renewable energy would be appropriate here following on from the lead given in Policy 15 (local living and 20 minute neighbourhoods) and also reflecting the regulatory update being progressed by OFGEM.

111. The consideration of Policy 29 (rural development) follows on from this. It cannot be seen how this project, which is specifically designed and justified (so far as can be assessed at this stage) on the basis of providing an electricity supply to a distant market and not to a local market, can make a material contribution to helping to create vibrant and sustainable local rural businesses and communities.

112. Therefore, it can be concluded that, overall, and apart from the classification of the proposal within the fairly generic national development 3 description the proposal can draw no support from the various NPF4 Policies assessed above.

Material Considerations

113. In previous renewable energy application stages and subsequent Inquiry cases the applicants have tended to lodge vast amounts of documentation on international and national protocols and treaties and intentions on climate change alongside

various documents on energy policy and energy strategy. However, beyond the need to understand the bigger picture and the NESO and OFGEM publications mentioned earlier, the objector is satisfied that all of the appropriate policy provisions and material considerations for a determination are now captured in the very up to date NPF4 and there is no need to go beyond that.

114. Therefore, there is, at this stage, nothing that would lead to a setting aside of the conclusions that flow from the assessment of the relevant policies as set out above.

Development Plan Conclusions

115. In summary, for the reasons given in this objection, the proposal is not in accordance with the Development Plan, particularly in respect of NPF4, and material considerations do not change this conclusion. That is a material factor which weighs strongly in the balance against planning permission in principle being granted.

Electricity Act Conclusions

116. The current approach of decision makers to the question of compliance with the provisions of the Electricity Act is simply to assess whether or not sufficient mitigation has been delivered by the proposals. Having regard to the EIA-R, the Council's likely consideration of the application in terms of its own current and interim policies, and to the submitted objections, the conclusion that is reached is that sufficient mitigation has not been secured. The proposal, therefore, is not in accordance with the provisions of the Act.

Conclusions and Submission

117. As a primary consideration the objector submits that this proposed OHL is simply not needed and should be rejected on that basis.

118. If Ministers disagree, then the objector respectfully submits that the Scottish Ministers should refuse S37 consent and deemed planning permission for the proposed OHL for the reason that significant additional information is needed and has not been supplied. In the absence of that information the precautionary

conclusion must be that the proposal is contrary to the relevant provisions of the Electricity Act in that insufficient mitigation has been provided and contrary to the Development Plan including NPF4 in that there is inadequate mitigation resulting in the significant adverse scheme specific and cumulative effects of the proposal not being outweighed by any asserted benefits.

The Case for a Comprehensive Public Local Inquiry

119. It is accepted that Ministers might not wish to move to a straight rejection of the proposal but might prefer to convene a PLI. Should that be the case the objector would support the holding of what should be a comprehensive PLI, addressing the larger project of grid upgrades in north Scotland as a whole, and would formally submit that the following process and procedure be applied.

120. The Inquiry should consist of four modules as below:

a. Consideration of need, including fit with the NESO Strategic Spatial Plan for Energy and any emerging North of Scotland Regional Strategic Plan (the Reporters will need technical assessors to assist in this aspect).

b. The Spittal – Loch Buidhe – Beauly section of the project including the integral Hub substation applications.

c. The Beauly – Peterhead section of the project including the integral Hub substation applications.

d. The Kintore – Tealing section of the project including the integral Hub substation applications.

121. However, the Reporters should be required to first hear the evidence on need and to then report to Ministers on that aspect for an initial Ministerial decision on the question of need. This is essential approach since, absent an independently verifiable need case, the other three modules will not be needed. And to proceed with them would potentially be an unreasonable and unnecessary expense for the objectors.

[END]

Submitted: by 12th October 2025

On behalf of Kilmorack Community Council

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