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Mark Ashton
Consents Manager
Energy Consents Unit
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Dear Mr Ashton,

THE ELECTRICITY WORKS (ENVIRONMENTAL IMPLACT ASSESSMENT) (SCOTLAND) REGULATIONS 2017

ELECTRICITY ACT 1989 SECTION 36 AND SCHEDULE 8: APPLICATION FOR THE PROPOSED KIRKAN WIND FARM IN THE PLANNING AUTHORITY AREA OF THE HIGHLAND COUNCIL

That you for your emailed letter of 23 April 2019 inviting a response to this application. We gratefully acknowledge the additional time granted to submit our response.

The National Catalogue of Rights of Way (CROW) shows that right of way HR46 is affected by the area outlined in red, shown as the *Site Boundary* on *Figure 1.1 - Site Location Plan*. A map is enclosed showing right of way HR46 highlighted in orange. As there is no definitive record of rights of way in Scotland, there may be other routes that meet the criteria to be rights of way but have not been recorded as they have not yet come to our notice.

Right of way HR46, which starts on the A835 at Loch Glascarnoch, is known as the *Fish Road* and promoted by the *Heritage Paths* project for its historic interest. The route is also described in our popular publication *Scottish Hill Tracks* largely following the line of the right of way but with a slight variation at its northern end to head more directly towards the Aultguish Inn. For clarity this variant is highlighted in pink on the enclosed map.

You will no doubt be aware, there may now be general access rights over any property under the terms of the Land Reform (Scotland) Act 2003. We note that the Core Paths Plan, prepared by Highland Council's access staff as part of their duties under this Act, has been consulted in the preparation of this application.

Throughout the application right of way HR46 is variously referred to as *following the route of a former drove road, fish road* and referred to as the Ullapool to Contin former drovers' road (NDA36), there appears to be no mention that the route is promoted as a Scottish Hill Track.

The applicant should be aware that this route is recorded as a right of way and should be recognised as such. It appears that the access track will use part of the right of way, although it is unclear what length: NTS P9 plans to *upgrade 860km section of the drovers road* whereas EIA 5.7.4 a *490 m-long section of NDA36 is proposed to be upgraded*. The EIA 5.7.5 states that *during construction, access along this footpath and historic drovers route will not be permitted, leading to a temporary loss of public access and recreational amenity*. The Society can find no provision for a diversion of right of way HR46 during the construction period, if we have inadvertently overlooked this we would welcome information from the applicant. We would expect that any diversion would be in place prior to

construction work commencing and recommend that this is done in consultation with the access team at Highland Council.

While the application considers *Recreational Routes* and notes two routes promoted as Heritage Paths it does not consider rights of way within the study area, core paths are however referred to within the text EIA 4.3.18. The corresponding *Figure 4.4 Transportation Routes, Recreational Routes and Summits* shows coloured lines drawn on the map but the legend gives no detail as to what these are - there is no note of rights of ways or core paths and no explanation of 01 or what RC20.01- 04 refer to. Our records indicate that there are recorded rights of way, Heritage Paths and Scottish Hill Track routes within the study area shown. Figure 4.4 therefore does not accurately show the extent of recreational routes within that study area - the recreational baseline is incomplete.

Although we understand that there is very little guidance regarding the siting of turbines in relation to established paths and rights of way, we would like to draw your attention to the following:

Extract from the Welsh Assembly Government's Technical Advice Note on Renewable Energy (TAN 8)

Proximity to Highways and Railways

2.25 It is advisable to set back all wind turbines a minimum distance, equivalent to the height of the blade tip, from the edge of any public highway (road or other public right of way) or railway line.

In light of the above advice note the Society is concerned about the separation distance between turbines 10 and 13 and right of way HR46. We would welcome confirmation of the minimum separation distance of the turbines from this route.

We are aware of several wind farm developments, at different stages in the planning process, in the local area. We ask that the cumulative impact of these proposed, and any consented, developments is taken into account when considering this application.

Given that applicant has not fully considered public access, the recreational baseline established in Figure 4.4 is incomplete and it appears that the developer proposes to block public access along a right of way during the construction period, the Society **objects** to this application.

I hope the information provided is useful to you. Please do not hesitate to contact me if you need more detail or if you have any queries.

Yours sincerely,

Lynda L Grant
Access Assistant

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