

SUBMISSION FROM THE JOHN MUIR TRUST

Background on the John Muir Trust

1. The John Muir Trust is a Scottish based charity whose aim is to conserve and protect wild places with their indigenous animals, plants and soils for the benefit of present and future generations. A major emphasis throughout all of our work is the recognition of the important role that local communities have in the management and care of their “wild landscapes”. The Trust owns eight areas of wild land and works in partnership with local communities on several other areas of wild land.
2. Whilst our overriding concern is the protection of wild places, we understand the need for many landscapes to evolve and change as technology and communities evolve and change. It is of critical importance that local communities have a real say in those changes – how they are managed, how to minimise any adverse impacts on the communities and whether adverse changes are actually necessary, taking into account both the national interest and the local one.
3. The Trust uses its experience with communities, and its involvement in site-specific planning issues, to inform its policies on national, strategic issues. The Trust’s aim to protect and enhance wild land has led to it gaining extensive experience on strategic energy and transmission issues, aided by advisors who are experts in this highly specific field.
4. The Trust is a member of Scottish Environment Link and is one of the signatories to the SE Link submission on the NPF2 and we completely support that submission. The points raised in this individual submission do not duplicate that submission but are additional, in areas of policy where the Trust has particular knowledge and expertise – either internally or through advisors.

National Developments – more significant than third party right of appeal?

5. Proposed National Developments are at very varied stages of the planning process. This means that, for some, there is not enough information to assess the need for that particular project. This is a critical issue since designation in the National Planning Framework is the mechanism for establishing the need for these developments and any subsequent examination of the detailed planning implications will not be concerned with the principle of the development. Therefore it is essential that Members of the Scottish Parliament assure themselves that the “need case” was proven.
6. It is critical that the National Planning Framework does not become a vehicle for fast-tracking controversial decisions, using the “national interest” argument to rule out any rigorous examination of the plan by all interested parties. This would be a dangerous erosion of democratic rights. This is of concern for a number of

the National Developments but the John Muir Trust response concentrates on the one on which we have considerable expertise – the grid infrastructure.

7. Our opposition to this proposal being included in the National Developments is despite the fact that the John Muir Trust is very much in favour of some of the grid development included - i.e. the North East Coast route - and has not formed particular views on most of them. The Trust opposes the inclusion of these many developments as a single National Development, for the following reasons.

Proposed National Development 10 - Electricity Grid Reinforcements

Need for development

8. The statement of the need for these ten developments in the NPF2 is, in its entirety –
“Need for development
These strategic grid reinforcements are essential to providing the transmission capacity necessary to realise the potential of Scotland’s renewable energy resources, maintain long-term security of electricity supply and support sustainable economic development.” However, this is a statement of the need for upgrading the grid in Scotland – not for doing it in this particular way.

Suitability of the candidate as a National Development

9. In the National Planning Framework 2 SEA Supplementary Assessment, the following criteria were listed as having been used to assess candidate National Developments as reasonable alternatives.
“1.11because they
 - a. raise significant planning issues that require to be addressed;*
 - b. are at an appropriate stage in the planning process (i.e. planning or equivalent consent has not already been granted);*
 - c. are transport, energy or environmental infrastructure projects, as opposed to more complex development proposals likely to involve multiple planning and other consents; and*
 - d. are sufficiently defined to allow for a meaningful environmental assessment.”*
10. Of these four criteria, the Energy Transmission Infrastructure fails to fulfil the third and fourth ones. The third criterion is that the projects *“are transport, energy or environmental infrastructure projects, as opposed to more complex development proposals likely to involve multiple planning and other consents”*.
11. **Although this is an energy infrastructure proposal, there are ten separate transmission projects throughout Scotland included in this “single” Candidate National Development.** Each of those is likely to involve several different planning/Section 37 of Electricity Act applications. This does not seem to fit with the description *“as opposed to more complex development proposals”*. Each one of the ten is a complex development proposal in itself.
12. The fourth criterion is that they *“are sufficiently defined to allow for a meaningful environmental assessment.”* The ten proposals included in this one are at

varying stages of development. However, the Scottish Government team doing this Strategic Environmental Assessment (SEA) agreed, in the consultation meetings, that there was not enough information for a comprehensive SEA to be done on these transmission proposals – unlike some other proposed National Developments. **The team also agreed that further work would need to be done before the SEA could be said to have adequately considered alternative routes** for each of these ten transmission routes. There is no evidence that this necessary assessment has been done.

13. This Candidate National Development is the odd one out in the proposed NPF2– it includes ten developments which are scattered throughout the country and which are not spatially defined. The equivalent for the road network would be to say “ road upgrades at the A9, the A96, the A1, the A90 and any associated ring roads” count as one National Development. In fact, each of these possible road developments is put forward as a spatially defined, individual, Candidate National Development and the Trust believes the transmission proposals each also need separate consideration.

Strategic Environmental Assessment

14. The assessment of the grid proposals in the Strategic Environmental Assessment is very fair and notes a fairly equal number of negative and positive effects. There is absolutely no record of those negative effects in the final document so **it is hard to see any indication that the SEA was considered or used to revise the final NPF2.**
15. There is a common misunderstanding that “grid upgrades” are not as significant for either landscape or local amenity as, say, a road. In fact, the scale and size of the infrastructure which is referred to, in the phrase “*Energy Transmission Infrastructure*”, is of a scale that has not been seen in Scotland, except in a few urban hubs. One difference from those urban sites is that some of these proposed projects are passing through some of Scotland’s most scenic areas, critical for tourism and our heritage.

The separate roles of Ofgem and the planning system

16. One significant reason for not including the grid infrastructure in bulk as a single National Development is because each major proposal in that group, should be assessed as a planning application, as and when they come forward. These proposals have been included in the draft NPF2 because the transmission regulator, Ofgem, has considered there is a valid case for them. However, Ofgem’s role is to consider the commercial case for any proposed development which is placed before them, including the cost to the consumer - taking into account the electricity security standards (GBSQSS). Ofgem are on record as saying that they are “the judge, not the presenting solicitor” i.e. they can only assess the proposal before them, not look to see whether there is a better way. **It is the planning system’s role, not that of Ofgem, to assess whether the development can go ahead** - after considering all aspects relevant to the planning system, including the environmental effects and better alternatives if they are put forward.

Radical departure from current procedure

17. Until now, throughout the UK, the system has been that Ofgem provisionally approve a development, having properly had regard to the technical and commercial case, but the public could still make the case at Public Inquiry that the line should not go ahead – for instance, if the environmental case was too detrimental. Then it would be open for a new, possibly but not necessarily more costly, solution to be explored by the relevant Parties. Ofgem cannot and makes no attempt to weigh up these planning matters which are entirely outwith their regulatory role. For instance, with regard to the Beaulieu Denny line, Ofgem specifically said that it had not assessed environmental considerations, having left them to the planning system. Under the current proposal, a similar application could not be halted for major environmental, or even economic, reasons, even if an alternative was possible – because that alternative could not be considered in the planning process.
18. Ofgem, in their role as the regulator for the electricity consumer, has agreed to proposals put before it - with the expectation that these are the cheapest options. If the proposal goes through, there will be no occasion when that is balanced against other Planning concerns, e.g. environmental degradation. The democratic right for these options to be explored is removed. This Scottish Parliament consideration is the only occasion where the case against any one of the developments in this single proposed National Development can be heard.

Diminished role for planning

19. Although such a development will still be open to Public Inquiry, it will not be on the substantive issue of whether the development goes ahead or not. When this issue was raised at one of the NPF2 consultation meetings, it was suggested that alternatives had been considered whilst the NPF2 was being drafted, in the Assessment of Strategic Alternatives. However, questions to the SEA team confirmed that this has not been done for the grid options, due to lack of information and time. It is not possible, or appropriate, to assess such alternatives for ten grid developments throughout the country, as part of preparing the NPF2. This needs to be done on a site specific basis. This is why it is particularly inappropriate to include the grid options on the same basis as the other site-specific National Developments – the basis that the need for the development is now proven, since it clearly has not been.

Re-assessment of proposals in light of changing circumstance

20. In view of the long timescale which the NPF is looking at, these proposals should still be assessed for “need” at the time they are submitted - because the economic and technical case changes all the time, as we have seen with the recent economic upheavals. Of particular relevance is the advancing technology for sub-sea cabling, changes in costs and maturing of offshore energy technologies. These all affect the case for building these transmission projects onshore, as opposed to using subsea routes or different overhead routes. For instance, the assessment needs to be made in the context of recent Scottish Government policy announcements regarding prioritising subsea grid developments.

21. In the worst case scenario, Ofgem might say, “yes, there is a commercial case”; the NPF2 includes the development; several years later, the transmission company applies for planning permission and it is automatically assumed that the development must go ahead because it is in the NPF2. The economics and technology could have changed radically but there will be no ability for this to be considered or for the public to make representation on this absolutely fundamental aspect.
22. Indeed, some of these difficulties have already been seen. Although the first National Planning Framework did not have the same status as the NPF2 will have, the fact that it included the Beaulieu Denny transmission line was suggested as indicative that the Scottish Executive had decreed that the line had to go ahead. This was despite the fact that Beaulieu Denny had not had strategic alternatives examined – it not being Ofgem’s role to do that. (In fact, the Inquiry could not have gone ahead as it did if this had been the case). The long-term nature of the NPF means that it must not be used to embed commercial proposals, with no way for them to be re-examined in the light of new circumstances.

Prejudicial effect of NPF2 on Beaulieu Denny decision?

23. The NPF2 Consultation Draft states that the inclusion of the ten itemised grid developments does not pre-judge, and will not influence, the outcome of the Beaulieu Denny 400kV transmission line Public Local Inquiry - despite the fact that three of the proposed grid upgrades feed into Beaulieu and that any electricity brought along these upgrades would require additional capacity to be built. This appears to be a difficult argument to sustain, although ultimately one which might be settled at **Judicial Review**.

Conclusion

24. If Scotland had a **National Energy Strategy** then the Scottish population would have had a say in the strategic shape of energy development around them – whether they wish, in certain key areas, a, possibly more costly, option - subsea routes, to be used to protect their natural heritage and economic interests. In the absence of such a strategy, and with a privately run energy sector, there needs to be an opportunity for competing alternatives for energy development to be assessed – something which in the past would have been done by the state-run electricity sector. Otherwise, each transmission operator will propose what is best for their company’s profit and there will be no forum for strategic analysis. This has the potential to lead to stranded assets and an unnecessarily damaged landscape, with the economic consequences those bring.
25. Whilst the National Planning Framework 2 has included many worthy aspirations in its overview, and the scope of its aspirations are to be commended, inclusion of this particular National Development would be undemocratic and threaten to have the opposite effect to that which is hoped for, from such a document. These issues are of absolutely fundamental importance – both for democracy and our natural heritage.

26. The Trust submits that this Candidate National Development is not suitable for inclusion in the NPF2.

Helen
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