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*Delegated Report*

*Report of Handling*

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| **Application Number:** | 2013/0151/DET |
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| **Location:** | Upper Falloch Hydro Scheme Crianlarich |
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| **Proposal:** | Construction of 0.8km of permanent access track |
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| **Case Officer:** | Catherine Stewart |
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| **Target Decision Date:** | 26 Aug 2013 |
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| **Decision Level:** | Delegated Decision |

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|  | **Introduction:** |  |
|  | A hydro scheme is proposed to be located at the eastern end of Glen Falloch, close to Crianlarich. The site lies to the south of the A82 and to the south of the railway line. The intake is to be located on the upper part of the River Falloch, a powerful fast flowing river within a broad open U shaped glen below steep rocky crags. The route descends north west down the left bank of the River Falloch, a hillside which is rough, undulating boulder fields, with broadleaf scrub woodland along the river edge. The commercial coniferous forestry of Inverarden Forest comes down to the right bank of the River Falloch, although it is being felled in coupes. At the railway the River Falloch makes a sharp turn to the south, joining the main Strath of Glen Falloch.  It is proposed to extend the existing access road alongside the River Falloch a further 800 metres south to serve the intake as part of the proposed hydro scheme which was approved under section 36 by the Scottish Government Energy Consents Unit in April 2010. This scheme has yet to be constructed and the agent is seeking permission for this section of track to be retained permanently. The section 36 permission allowed construction of a temporary access track at this location. The proposed width of the retained track is to be 2.5 metres wide. | |
|  | **Relevant Planning History** | |
|  | 2009/0249/ECN - Section 36 applications for the Ben Glas, Derrydarroch, Allt Fionn and Upper Falloch Hydroelectric schemes. The National Park Authority was a consultee and responded with no objections on 19 November 2009. The application was approved by Scottish Ministers on 20 March 2010, subject to conditions. | |
|  | **Policy Context** |  |
|  | National Park Aims  The four statutory aims of the National Park are a material planning consideration. These are set out in Section 1 of the National Parks (Scotland) Act 2000 and are:   1. to conserve and enhance the natural and cultural heritage of the area, 2. to promote sustainable use of the natural resources of the area, 3. to promote the understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public and 4. to promote sustainable economic and social development of the area’s communities.   National Park Local Plan (Adopted 2011)  Relevant Policies:  NP1 Development in the National Park  L1 Conserving and Enhancing the Diversity and Quality of the Park’s Landscapes  REN2 Hydro Renewable Energy Projects  ENV4 Legally Protected Species  ENV10 Protecting the Water Environment  ED3 Economic Development in the Countryside  Other Material Considerations  National Park Partnership Plan (2012-2017)  Relevant Policies:  Con Policy 1: Conservation (Sandford) Principle  Con Policy 2: Natural Heritage  Con Policy 3: Landscapes  RD Policy 3: Rural Economy  RD Policy 5: Renewable Energy  SPG Renewable Energy (2013) | |
|  | **Consultations** |  |
|  | STC Roads (Strategy)  This Service has no objection to the proposal submitted and would confirm that there are no road conditions to be applied should you be minded to grant consent.  NP Access Team  1. The revised Construction Method Statement does not detail measures for ensuring the safety of members of the public who may encounter the site during the construction process.  2. Temporary changes to hill access conditions as a consequence of construction activities must not result in it being necessary for members of the public to interact with or cross over the railway either at the existing unregulated level crossing or otherwise.  3. Conditions laid out for the scheme as consented April 2010 are condition 14 ‘Public Access’ and condition 15 ‘Access Improvements’.  NP Ecology  Priority Species: As per the previous application, pre-commencement surveys for protected species should be carried out by their ECoW allowing for enough time for a protected species license to be obtained if necessary.  Micrositing: As there are only minor changes to the route of the track to minimise the landscape impact,  I do not foresee any major new ecological impact.  The ECoW should be involved in the site walkover to ensure that deep peat and other ecological features are avoided.  Construction Method Statement: The current submission needs more work before the original condition is discharged.  The overall ecological impacts from a permanent track rather than a temporary track for this scheme are minimal.  NP Landscape  The NP Landscape Adviser agrees with the findings for Upper Falloch within the Reassessed LVIA for Glen Falloch and considers that if the CMS is amended to ensure that the agreed micrositing and mitigation works are carried out under the supervision of a LCOW, monitored and successfully achieved, that the proposed new section of permanent track at Upper Falloch can be assimilated into the landscape without impact on the wild land buffer area nor indirectly impact on core wild land. | |
|  | **Summary of Representations** |  |
|  | None received. | |
|  | **Summary of Supporting Information** |  |
|  | An email was received from the applicant on 13 August 2013. This sets out the justification for the requirement for retention of the track, in summary:  It has become increasingly clear that the use of “green” tracks for regular access does not necessarily ensure the minimum impact on the ground.  There is inevitably an impact in wetter areas and recovery of the ground can be problematic.  The pressures on farming activities, with increased concerns about financial returns, animal welfare and available manpower, not to mention seemingly more frequent extremes of weather, all point towards the major benefit that improved access would bring.  The estate itself is increasing its deer cull in order to keep numbers under control in accordance with our commitments to our deer management groups and, again, it is clear to us that improved access would assist this.  On 17 September the agent submitted the following, as a result of a further information request from the case officer:   * Revised LVIA Report * Revised Construction Method Statement * Revised Scheme Layout * Revised Hill Photoset * Access Track Details * Scheme Layouts and Wild Land   Further amendments to the CMS and Scheme Layout were received on 3 October 2013. | |
|  | **Planning Assessment** | |
|  | The application is to extend the existing access road alongside the River Falloch a further 800 metres south to serve the intake as part of the proposed hydro scheme. This would be used for the maintenance of the intake, but also for general estate management purposes. Also the proposal includes the permanent retention of access track around bridge 8 and bridge 9, close to the location of the powerhouse.  Firstly the principle of the retention of such tracks should be considered.  Principle  The main local plan policy for hydro proposals is REN2. This states that proposals for hydro energy generation will be supported where (a) ...access requirements and other support infrastructure do not generate a significant adverse impact on landscape, natural or cultural heritage or the water environment individually or cumulatively, including any protected species and habitats under statute;  (f) sufficient landscaping measures are included to integrate the proposal into the landscape setting ...;  Key considerations are therefore the impact of the access track on the landscape, natural or cultural heritage or water environment individually or cumulatively. Each of these will be looked at in turn:  Impact of the access track on the landscape.  The LVIA for the original application to the Consents Unit focussed on the landscape impact of the intake, pipeline and powerhouse. It did not focus on the additional temporary access roads as these were to be temporary and fully restored. An updated LVIA was requested from the applicant and a Landscape and Visual Reassessment was submitted. This was found to have some deficiencies and a further revised version was produced.  The LVIA states that mitigation is intended to be part of the ongoing design process and utilising onsite monitoring by the Landscape Architect (LCOW). Mitigation specific to the access tracks is proposed: limiting the extent of cut and fill, reinstatement of vegetation, following the natural contours of the land, minimising the width of the track and footprint for construction, and mitigation planting in appropriate locations. The LVIA recommends a Landscape Restoration Plan be prepared in association with the Landscape Architect and Ecologist. The NP Landscape Adviser agrees with these mitigation proposals, however notes that these are not borne out by key intervention points for the LCOW in the CMS. The setting out of the working corridor and micrositing of the track, its progressive restoration and mitigation as well as planting design will be crucial to ensure that impacts are reduced.  Impact of the access track on ‘Wild Land’  The revised LVIA states that the existing track falls within the ‘Wild Land’ buffer area and that the development of the 0.8km of new track will not significantly impact on the perception of terrain or time taken to walk into wild areas. It states that mitigation proposals will reduce impacts. The LVIA acknowledges that there will be a reduction in wildness attributes and vehicle movements which will affect tranquillity. The NP Landscape Adviser agrees with this assessment.  Conservation Policy 3: ‘Landscapes’ in the Partnership Plan states that the outstanding landscapes and special qualities of the Park should be protected where possible and enhanced. It goes on to say that the benefit of these landscapes for the economy of the Park should be understood. Priority is to be given to protecting the relative wildness of the National Park, specifically the core areas of wild land character, acknowledging the role of land management in maintaining these core areas. As the proposed track is not just to service the intake, but also for estate/land management purposes which will be for the benefit of the estate as a whole, it is considered that the permanent retention of the track is justified.  Impact of the access track on the natural heritage  The Environmental Statement for the original application considered the impact of the proposed scheme on the ecology of the site including habitats and mammals. The NPA Ecological Adviser states that as per the previous consent, pre-commencement surveys for protected species should be carried out by the ECoW allowing for enough time for a protected species license to be obtained if necessary.  It is also advised that an ECoW is appointed and involved inthe site walkover to ensure that deep peat and other ecological features are avoided. Additionally the CMS submitted requires more detail and this should be required by condition.  In summary, if a revised CMS is approved the construction methods, together with employment of an ECoW should ensure there will be no adverse impact on the natural heritage.  Impact of the access track on built heritage  There are no built heritage features along the route of the access track.  Impact of the access track on the water environment  The CMS states that cut-off drains will be re-established on the topside of the tracks and that this will not serve to transfer water horizontally for long distances or to concentrate run off where it did not exist before. Culverts under the tracks will be placed to preserve the continuity of the existing  Drainage. The CMS also outlines how silt traps and geotextile material will be installed ensure that silt does not run into the watercourse.  Cumulative impact  This application is one of four hydro electric schemes within Glen Falloch. An application has also been received for the retention of temporary tracks on the proposed adjacent scheme at Derrydarroch and a track has been retained at Allt Fionn.  The revised LVIA states that the tracks to the other new intakes have a low impact individually, however cumulatively they will reduce the sense of remoteness, impact on views and land cover. However these impacts can be reduced through mitigation. There is a positive impact with increased ease of access into the side glens. The proposed track stops short of the ‘upper glens’. The NP Landscape Adviser agrees with this assessment.  It is considered that the small extension to an existing access track at this location will have a minimal impact visually, especially as the track section will be close to the river which forms a more distinctive feature within the landscape.  Impact of access track on access and recreation  As outlined by the NP Access Officer’s response there are conditions on the original consent regarding retaining public access throughout the construction period. However he also notes temporary changes to hill access as a consequence of construction activities must not result in it being necessary for members of the public to interact with or cross over the railway either at the existing unregulated level crossing or otherwise. It is outwith the remit of this application to seek to ensure this – however this note can be added as an informative on the consent. The discharge of the access conditions on the original consent is the correct mechanism for ensuring this.  Summary and Conclusion  The proposed retention of the access track, its reduction in width and proposed restoration/mitigation measures will minimise the impact of the track within the landscape. As an extension to the existing track, located close to the river, its overall visual impact within the landscape will be minimised.  Proposed mitigation measures set out in the LVIA should be included within a revised CMS document by a condition placed on the consent. Also a Landscape Restoration Plan should be prepared prior to the commencement of development.  Therefore it is recommended that planning permission be granted subject to conditions. | |

**Recommendation: Approve**

**Conditions**

1. **Revised Access Track Construction Method Statement:** Prior to Commencement of Development, a revised Construction Method Statement for the construction of the access tracks shall be submitted to, and approved in writing by, the Planning Authority. This revised Construction Method Statement shall detail the following matters in particular:

* scope of works, programme and timetable (including timing constraints such as the bird breeding season and in-stream works), site establishment, temporary works, sequence of operations, design specifications, method of construction, reinstatement works (including planting), progressive restoration, best practice, trial areas, monitoring and aftercare;
* avoid areas of peat greater than 0.5 metres deep;
* remit of Landscape Clerk of Works and Key Intervention points;
* remit of the Ecologic Clerk of Works and key Intervention points;
* Mitigation measures as outlined in the Landscape and Visual Impact Reassessment (2013);
* measures for ensuring the safety of members of the public who may encounter the site during the construction process.

Thereafter, the approved Construction Method Statement shall be complied with and implemented as part of the proposed Development unless revised to secure an equivalent or higher standard of protection/restoration with the prior written consent of the Planning Authority.

REASON: To minimise the impact of the construction phase on the surrounding environment and landscape and to comply with local plan policy L1 ‘Conserving and Enhancing the Diversity and Quality of the Park’s Landscapes’.

1. **Access Track Landscaping and Restoration Scheme:** Prior to commencement of the access track hereby approved, a landscaping and restoration scheme shall be submitted to, and approved in writing by, the Planning Authority. It shall include details of the mitigation measures set out in the Landscape and Visual Impact Reassessment (2013). Thereafter the approved Access Track Landscaping and Restoration Scheme and any subsequent revisions shall be implemented as approved. All approved landscape restoration works shall be completed in the first planting season following the commissioning of development and any plants that, within a period of 5 years thereafter, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar sizes and species.

REASON: To mitigate the landscape and visual impact of the access track into this sensitive area and to comply with local plan policy L1 ‘Conserving and Enhancing the Diversity and Quality of the Park’s Landscapes’.

1. **Landscape Clerk of Works**: Prior to Commencement of Development, a suitably qualified site landscape architect shall be appointed, and approved by the Planning Authority, to oversee the setting out, construction and restoration of all the access tracks including working corridors hereby permitted, including:

* Setting out of working corridors
* Micro-siting of track and detailed design of mitigation measures, such as placing of boulders;
* Location and design of tracks and their subsequent restoration; and
* Restoration of any disturbed vegetation and landform.

REASON: To enable the access track to fit with its landscape setting and to minimise visual intrusion to reflect the first aim of the National Park and to comply with local plan policy L1 ‘Conserving and Enhancing the Diversity and Quality of the Park’s Landscapes’.

1. **Ecological Clerk of Works:** Prior to Commencement of Development, a suitably qualified Ecological Clerk of Works (ECoW) or Site Ecologist shall be appointed and a document containing the scope of works to be overseen by the ECoW shall be submitted to the Planning Authority for approval, in consultation with SNH. The ECoW shall be appointed for the duration of the site layout, construction and restoration and will:

* Attend a pre-start meeting between the planning authority and the project manager which should include a site walk over to highlight the key issues to be protected, exclusion zones and effective setting out.
* Provide Advice in relation to micro-siting project elements to avoid important habitats, including blanket bog and areas of deep peat;
* Undertake pre-construction checks for protected species (mammals, fish and birds);
* Ensure compliance with all wildlife legislation;
* Give ecological toolbox talks and emergency procedures to follow if protected species are identified within or close to the construction areas;
* Have a watching brief over key stages within the construction schedule of the development; and
* Submit regular follow up reports, in accordance with condition 5 below.

REASON: To ensure the proposed works are not carried out in a manner liable to contravene Nature Conservation laws relating to a protected species and to accord with the first statutory aim of the National Park to conserve and enhance the natural heritage of the area.

1. **Monitoring reports during construction**: The applicant shall submit a monitoring report to the Planning Authority setting out how the requirements of the Construction Method Statement and all other conditions of the permission are being adhered to on the site, and any issues arising, at the following intervals during the construction phase:

* every month for the first 6 months (taken from the start date given in the Notice of Initiation – see Informative no. 1), and
* every two months for the remaining period of construction,

Unless otherwise agreed in writing by the Planning Authority. The monitoring reports shall include an update on construction progress, photographs, and an update from both the Landscape Clerk of Works and the Ecological Clerk of Works.

REASON: To ensure that all mitigation required by the above planning conditions is followed during construction.

**Reason for Decision**

The proposal is considered to comply with local plan policy REN2 ‘Hydro Renewable Energy Projects’ as the proposed permanent track will not generate a significant adverse impact on natural or cultural heritage or the water environment individually or cumulatively. The proposal will have an adverse landscape impact, however the mitigation measures proposed will minimise this. As the proposed track is not just to service the intake, but also for estate/land management purposes which will be for the benefit of the estate as a whole, it is considered that the permanent retention of this track is justified.

**List of Plans**

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| **Title** | **Reference** | **Date Received** |
| Site Plan | 10405 | 27/06/13 |
| Plan  Access Track Details | 10111 r2 | 03/10/13 |
| Plan  Scheme Layout | 10401 r7 | 03/10/13 |

**Informatives**

1 Notification of Initiation of Development - Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. We recommend this is submitted 2 weeks prior to the start of work. A failure to submit the notice, included in the decision pack, would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.

2 Notification of Completion of Development - As soon as practicable after the development is complete, the person who completes the development is required by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give written notice to the planning authority of the completion of the building works. As before, there is notice for you to complete for this purpose included in the decision pack. In larger, phased developments, a notice of completion is to be submitted as soon as practicable after each phase is finished by the person carrying out the development.

3 Duration of permission - In accordance with section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), this permission lapses on the expiration of 3 years beginning from the date of this permission, unless the development to which this permission relates is begun before that expiration.

4 Protected species in vicinity – Otters and Bats are known to be in the vicinity of the proposed development. Please be aware that they are fully protected, and it is an offence to deliberately, capture, injure or kill them or to damage, destroy or obstruct their breeding or resting places. It is also an offence to disturb them in their breeding or resting places.

5 Safety in relation to the railway line - Temporary changes to hill access conditions as a consequence of construction activities must not result in it being necessary for members of the public to interact with or cross over the railway either at the existing unregulated level crossing or otherwise.

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| Signed: CB Stewart  **Development Management Planner** | Dated: 30/10/2013 |