

**PLANNING AND ACCESS COMMITTEE**

**MEETING: Monday 18<sup>th</sup> December 2017**

<b>SUBMITTED BY:</b>	<b>Director of Rural Development &amp; Planning</b>
<b>APPLICATION NUMBER:</b>	<b>2017/0270/DET</b>
<b>APPLICANT:</b>	<b>Mr Gabriel English, Vento Ludens Limited</b>
<b>LOCATION:</b>	<b>Ledard Farm, Aberfoyle</b>
<b>PROPOSAL:</b>	<b>Retention of 385m of permanent access track</b>

<b>NATIONAL PARK WARD:</b>	Ward 7 Trossachs and Teith
<b>COMMUNITY COUNCIL AREA:</b>	Strathard Community Council
<b>CASE OFFICER:</b>	Name: Alison Williamson Tel: 01389 722 610 E-mail: <a href="mailto:alison.williamson@lochlomond-trossachs.org">alison.williamson@lochlomond-trossachs.org</a>

**1 SUMMARY AND REASON FOR PRESENTATION**

1.1 This is an application for the retention of 385 metres of access track at Ledard Farm, Aberfoyle to allow a permanent vehicular access for the operation and maintenance of Ledard Hydro Scheme.

1.2 This application relates to land at Ledard Farm which is owned by Mr Fergus Wood a former National Park Board member. Whilst Mr Wood is no longer a Board member and is not the applicant nor the agent for this application, Mr Wood was the applicant for the planning permission which authorised the hydro scheme with which the proposed permanent access track is associated. Given his ongoing interest in this application as the land owner, it is therefore considered appropriate for this application to be determined by the Planning and Access Committee having regard to paragraph 6 of the National Park Authority's Scheme of Delegation relative to Planning.

**2 RECOMMENDATION**

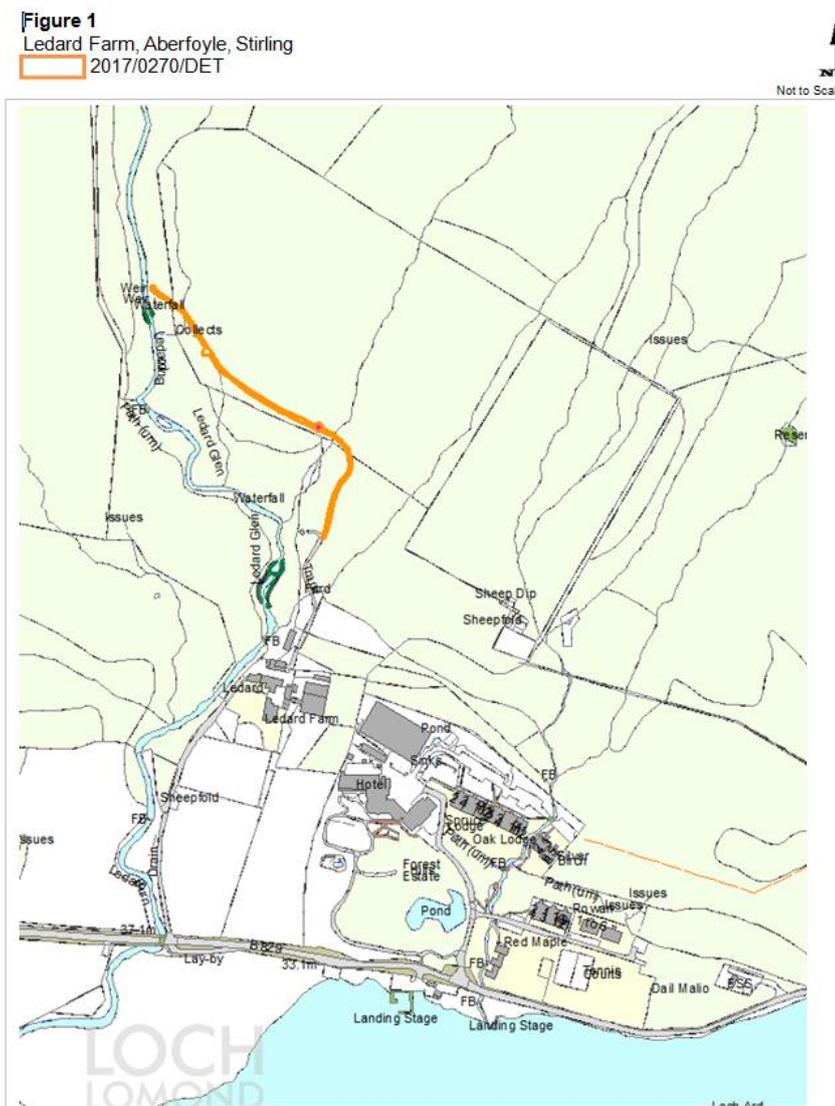
2.1 **That Members:**  
**APPROVE** the application subject to the conditions contained in Appendix 1 of the report.

### 3 BACKGROUND

#### **Site Description:**

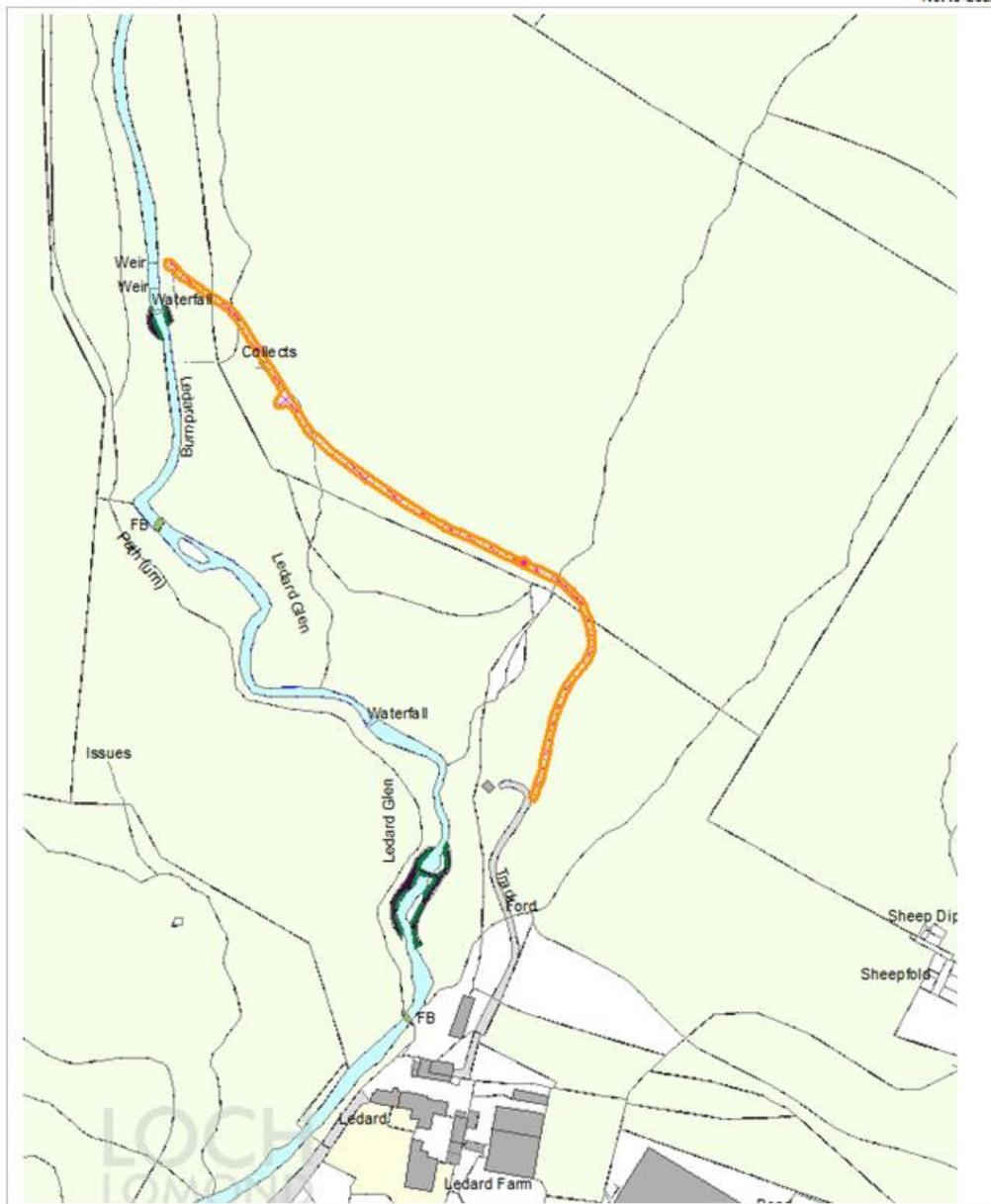
- 3.1 Ledard Farm is located approximately 6.5km to the west of Aberfoyle and about 0.5km to the east of Kinlochard. Ledard Burn travels south from the slopes of Creag a'Bhelaich, Beinn Chochan and Beinn Chreac and flows into Loch Ard. The farm buildings are located about 0.5km from the outfall of the burn into the Loch. The site itself lies to the north of the farm buildings where the hydro scheme is currently under construction. The application site follows the route of the hydro pipeline from the end of an existing access track at north of the Ledard Farm buildings travelling 385 metres up and across the hill to the intake of the hydro scheme.

Figures 1 and 2 show the application site location and site boundary.



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**Figure 2**  
Ledard Farm, Aberfoyle, Stirling  
2017/0270/DET



### **Description of Proposal and Background to Application:**

- 3.2 Planning permission was approved for the construction of a hydro scheme and permanent access track at Ledard Farm in December 2014 (planning permission reference 2013/0267/DET). The permanent access track approved was to be located to the west of the Ledard Burn through neighbouring plantation forestry and would have connected to an existing forest track. This planning approval also included a temporary access track for construction of the hydro scheme which was to be located on the route of the pipeline.
- 3.3 This proposal is the permanent retention of 385 metres of temporary access track providing access for the operation and maintenance of the Ledard Burn hydro intake, penstock and turbine. The access track has been formed as part of the construction corridor associated with

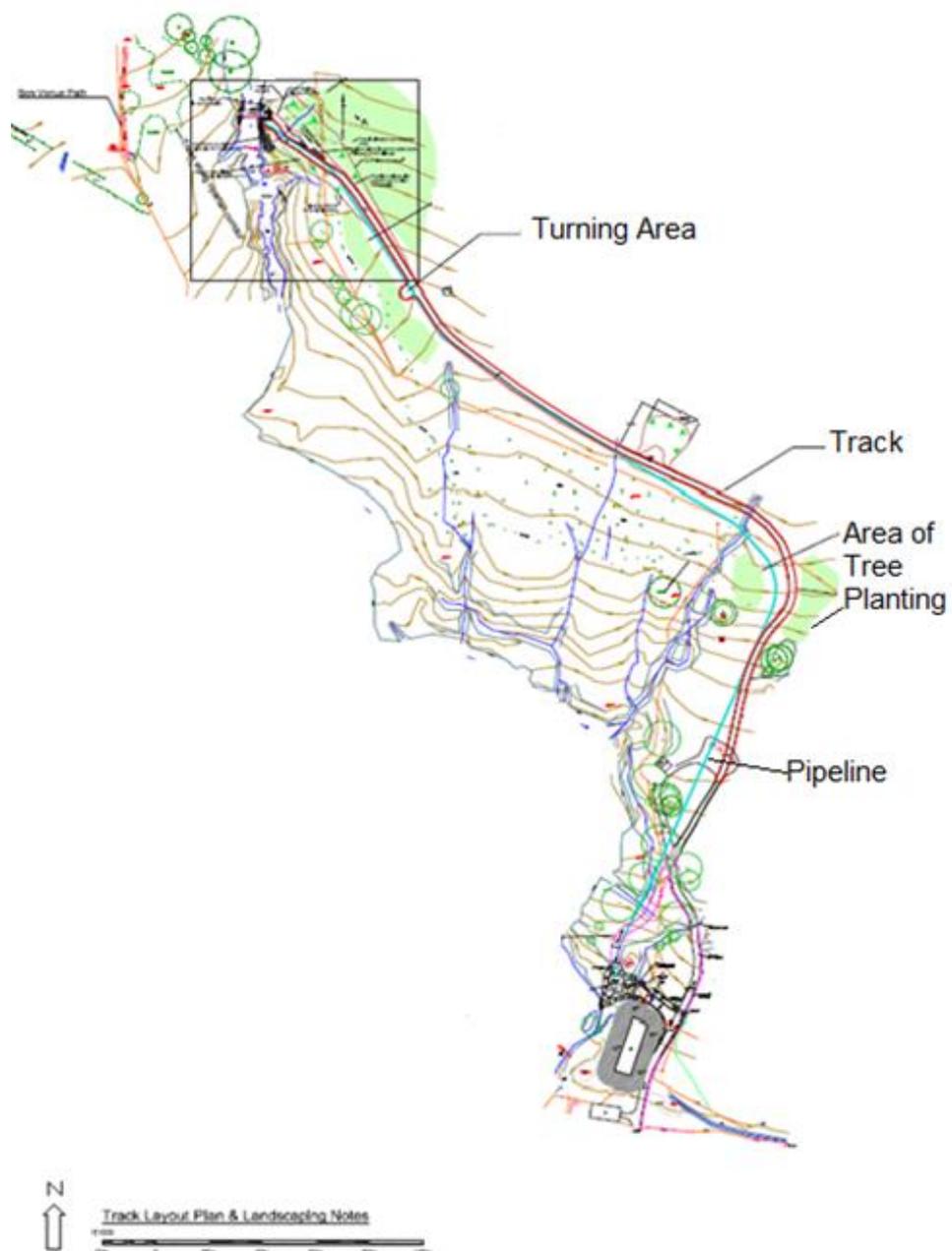
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the hydro scheme as permitted by permission 2013/0267/DET to allow vehicular access for the construction of the hydro plant including the intake dam structure and the laying of the pipeline. Construction of the hydro plant is almost complete however further works are required to complete and consolidate the track as proposed. The proposed permanent track would be 2 metres wide and 2.5 metres wide on corners and steep sections. It would be an uncapped gravel finish with drainage ditches adjacent to the track.

- 3.4 As part of this proposal to retain the route as a permanent access track the running surface would be reduced in width with verges and batters reinstated. Turves from the site would be utilised for reinstatement. The proposal also includes compensatory planting to ensure that the track integrates into the surrounding landscape including tree planting using native species, which would tie in with native woodland planting recently undertaken by the landowner further to the east of the site.

Figure 3 below shows the General Track Layout

**Figure 3**



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### **Environmental Impact Assessment (EIA):**

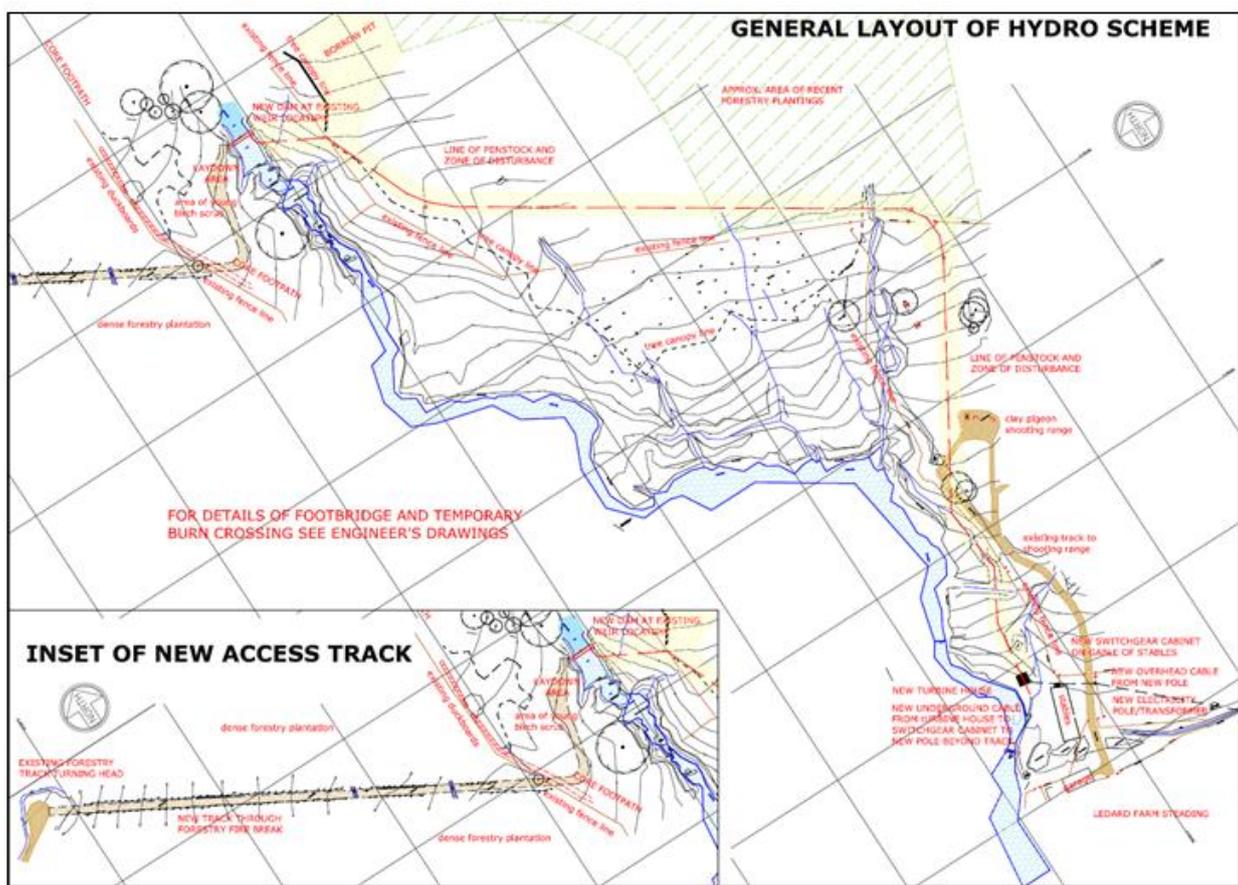
- 3.5 The National Park is identified as a 'Sensitive Area' within the Environmental Impact Assessment (Scotland) Regulations 2017. It should be noted that the development of the hydro scheme (planning application reference 2013/0267/DET) fell under Schedule 2 of the Regulations; a screening opinion was adopted and it was determined that an EIA was required. However as the current planning application forms a smaller element of the wider scheme it has been determined that an EIA is not required.

### **Planning History:**

- 3.6 Planning permission was approved for the construction of a hydro scheme and permanent access track at Ledard Farm in December 2014 (application reference 2013/0267/DET). The permanent access track approved was to be located to the west of the Ledard Burn through neighbouring plantation forestry and would have connected to an existing forest track. This planning approval also included a temporary access track for construction of the hydro scheme as referenced in the officer report to committee for application 2013/0267/DET. The temporary access track was to be located on the route of the pipeline.

Figure 4 below shows the permanent access track approved under planning permission 2013/0267/DET.

**Figure 4**



- 3.7 Prior to construction works commencing non-material variations were submitted and agreed to the consented scheme. These included the removal of the permanent access track on the west side of the Ledard Burn. Construction works on the hydro scheme started in May 2017 and are

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still underway. The temporary access track for construction was formed on site alongside the route of the pipeline, as approved. The developer then advised that they wished to retain the temporary access track as a permanent access to the intake and they were advised in June 2017 that a further planning application would therefore be required.

- 3.8 The access track that has been formed on the site for construction purposes is currently wider than the proposed permanent track. It is proposed to reduce the width of the existing track to form the proposed permanent access track, which would be 2m wide and 2.5m at corners, surfaced with compacted site won rock or type 1 and would have top soil verges re-instated with site won turves which have been stored directly adjacent to the track during construction.

## 4 CONSULTATIONS AND REPRESENTATIONS

### ***Responses to Consultations:***

- 4.1 No consultations were undertaken for this planning application.

### ***Summary of Representations Received:***

- 4.2 4 objections have been received. A summary of the material concerns raised and officer response/ comments are set out below and a copy of the representations, in full, are available for viewing in the public access website. The objections received have been grouped for clarity and officer response.

### 4.3 Necessity of Track and Impact on the Landscape:

- *The ground should be re-instated to what was there prior to the hydro scheme being built.*
- *This is an extremely popular glen for walkers heading up Ben Venue and should not be spoilt by unnecessary infrastructure.*
- *Tracks put in over 25 years ago on the Drumlean Estate are still a blot on the landscape of Strathard; I do not wish to see further spoiling of the local landscape.*
- *This large track is unnecessary and the maintenance work can be completed without this level of impact to the natural environment. It will detract from the nature of the area entirely.*

- 4.4 **Officer Response:** The proposed track is assessed to be reasonably necessary for the operation and maintenance of the hydro scheme and it is considered that with the mitigation measures proposed the track will not have a significant impact on the landscape, or on the amenity of walkers on the Core Path on the western side of the burn.

### 4.5 Objectors Review of Planning History:

- *I can find nothing in the application to suggest a track was needed to construct the pipeline and nothing to state that permission was given for a temporary construction track*
- *An earlier application for a track here was turned down by the Authority. Nothing has changed since to make a difference.*
- *When the Ledard Hydro application was originally made, the Park Landscape Adviser advised against a track on the east side of the Ledard Burn due to the landscape impact and the plans were as a consequence amended, with access being via the existing track through the forestry on the west side of the burn and an extension through to the intake.*
- *In 2016 a Non-Material Variation to remove the access track was submitted and approved. No alternative proposal for a track was made which strongly suggested, that none was needed. Vento Ludens created a construction track, without planning*

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*permission, on the west side of Ledard Burn and have now submitted a retrospective application to the Park to retain this permanently. This is contrary to the previous Planning Committee decision on this issue and, unless the applicant can show to the Planning Committee that the points made in the previous committee report were wrong this application should be rejected and the land restored.*

- 4.6 **Officer Response:** The planning permission for the hydro scheme (reference 2013/0267/DET) gave permission for a permanent track on the west side of Ledard Burn and a temporary access track (construction corridor) on the east side of the burn. The temporary track which has been formed on the east side of the burn is the subject of this planning application.

The previous proposal for an access track on the east side of the burn which is referenced by the objector above was made under an earlier application which was withdrawn (reference 2013/0026/DET). The proposed route of this track was different from the current proposal under consideration. It was located further to the east and its proposed alignment was very angular involving a number of right angled turns as it traversed the hill rather than the current proposed track which has a more natural alignment, utilises a section of existing track close to the farm buildings and provides a more direct access route to the intake of the hydro scheme.

The track that has been formed as part of the pipeline working corridor has not been constructed without planning permission. Permission was granted under application 2013/0267/DET for a temporary access track in this location and this application now seeks the permanent retention of this track.

The planning committee decision to approve the proposed hydro scheme (planning permission 2013/0267/DET) included the approval of a temporary access track as above. As explained above, the points made in the officer report to committee at that time related to a different proposed access track which would have had been further east and would have had a much more angular and intrusive route.

It should be noted that the objector's reference to a track being constructed on the west side of the burn is incorrect. No tracks have been formed on the west side of the burn. This application is for the retention of the track to the east side of the burn.

## 5 POLICY CONTEXT

### ***National Park Aims:***

- 5.1 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:
- (a) to conserve and enhance the natural and cultural heritage of the area;
  - (b) to promote sustainable use of the natural resources of the area;
  - (c) to promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public; and
  - (d) to promote sustainable economic and social development of the area's communities.
- 5.2 Section 9 of the Act then states that these aims should be achieved collectively. However, if in relation to any matter it appears to the National Park Authority that there is a conflict between the first aim, and the other National Park aims, greater weight must be given to the conservation and enhancement of the natural and cultural heritage of the area.

### ***Local Development Plan:***

- 5.3 National Park Local Development Plan (2012-2017)

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### Relevant Policies:

OP1 - Overarching Policy 1: Strategic Principles

OP2 - Overarching Policy 2: Development Requirements

TP3 - Transport Policy 3: Impact Assessment and Design Standards of New Development

NEP1 - Natural Environment Policy 1: National Park Landscapes, seascape and visual impact

NEP6 - Natural Environment Policy 6: Enhancing Biodiversity

HEP3- Historic Environment Policy 3: Wider Built Environment and Cultural Heritage

REP1- Renewable Energy Policy 1: Renewable Energy within the National Park

### ***Other Material Considerations:***

#### 5.4 National Park Partnership Plan (2012-2017)

All planning decisions within the National Park require to be guided by the policies of the Partnership Plan, where they are considered to be material, in order to ensure that they are consistent with the Park's statutory aims. In this respect the following policies are relevant:

Con Policy 2: Natural Heritage

Con Policy 3: Landscapes

VE Policy 3: Recreation and Access

RD Policy 3: Rural Economy

RD Policy 4: Climate Change

RD Policy 5: Renewable Energy

RD Policy 7: Sustainable Design and Construction

#### 5.5 Planning Guidance (draft)

Renewable Energy

## 6 **SUMMARY OF SUPPORTING INFORMATION**

6.1 A supporting statement was submitted with the planning application setting out the requirement for a permanent track and the design and specifications of the proposed permanent access track.

6.2 Following correspondence with the agent during the assessment of the planning application a "Methodology for the Reinstatement of Batters" was submitted dated 16 October 2017. A Landscape Appraisal was also requested from the applicant and a Landscape Report was submitted on 30 October 2017. Following this a Restoration Method Statement and Intake Restoration Photos were submitted on 30 November 2017.

## 7 **PLANNING ASSESSMENT**

7.1 Section 25 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006, requires that: "Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise, to be made in accordance with that plan".

7.2 The key issues for determination of this application are:

- the principle of development
- siting and design of the proposed permanent access track
- landscape

### **Principle of Development**

7.3 The principle of the development is supported as the track is necessary to support the future management of an existing run-of-river hydro scheme (as approved 2013/0267/DET) which is

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supported by Renewable Energy Policy 1 of the Local Development Plan. The specified purpose of a track is to allow quad, all-terrain vehicle (ATV) or light 4x4 access to maintain and operate the intake structure associated with the Ledard Hydro scheme. It is accepted that such access is reasonably necessary.

- 7.4 As explained in section 3.7 the previously approved permanent access to the intake from the west was deleted from the proposal through a non-material variation. The previously approved permanent access from the west of the burn would have crossed a core path and its route would have been through an area of forestry plantation.
- 7.5 Without a permanent track to the intake it is highly likely that all-terrain vehicles or quad bikes would be used for maintenance and would cause multiple routes to be taken to the intake, often damaging vegetation and creating a wider visual scar on the landscape. Throughout the lifespan of the hydro scheme, such unstructured access has high potential of resulting in greater environmental damage and thus greater man-made visual impacts on this sensitive area.
- 7.6 The existing temporary track alongside the route of the pipeline was formed for the construction of the hydro scheme, as approved under application 2013/0267/DET. It is considered that the proposal to utilise the existing track to form a permanent track, constructed at 2–2.5m width, with a central vegetated strip, has the potential to have lesser residual impact than the alternative option of no permanent track to the intake. In addition the design and landscape mitigation measures for the permanent track can be controlled by the Planning Authority. The main issue therefore is whether the siting and design of the track is considered appropriate in the context of the landscape.

### **Siting and Design**

- 7.7 The access track is located to the north of Ledard Farm. The track route is through a section of woodland and grassland, which has historically been used for hill farming. Native woodland planting has taken place across ground to the east of the site.
- 7.8 The existing temporary access track follows the line of the pipeline north east of the Ledard Farm building group and then curving to the north west to the intake structure. The track route sits within the natural contours of the site and has a meandering alignment. The proposed permanent access track would have exactly the same alignment as the existing temporary track however it would be reduced in width to 2 metres, and 2.5 metres on corners with the verges reinstated with vegetation.
- 7.9 The permanent track surface would be compacted site won rock or Type 1 sitting on a sub-base with top soil verges. A turning area of 4 metres by 4 metres approximately three quarters of the way up the access track will be retained.
- 7.10 The natural curving alignment of the track is acceptable rather than straight angular lines which appear unnatural in the landscape. Renewable Energy Planning Guidance states that if new permanent tracks are needed, care should be taken to reflect local character such as following field boundaries and using appropriate surface materials, keeping width to a minimum. Where tracks are to be retained they should be restored from the specification required for construction vehicles and be reduced in width to the minimum required for ongoing access. It is therefore considered that the siting and design of the proposed permanent access track and the proposed reduction in the width of the track would accord with the requirements of Renewable Energy Policy 1.

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### Landscape

- 7.11 The track is located within a partly wooded area to the north of Ledard Farm. The track route is through a section of ancient acidic oak woodland, along with areas of improved grassland, bracken and wet heath/acid grassland mosaic. Removal of approximately 40 native mature trees within the woodland was agreed as part of planning permission 2013/0267/DET to accommodate the route of the pipeline. No further tree removal is required. Whilst the access track is located to the east of Ledard Burn, the footpath leading to the summit of Ben Venue is on the west side of Ledard Burn and passes close to the intake. In addition the Forest Hills Hotel is located immediately to the east of Ledard Farm. This area is therefore particularly sensitive for visitor and recreational experience of the landscape.
- 7.12 The Track Layout and Landscaping Plan submitted as part of this planning application shows proposed areas of tree planting to screen the track and integrate the track into the landscape. During the consideration of this planning application the applicant was advised that the proposed compensatory planting and landscape mitigation measures would need to be increased with additional tree and shrub planting. To ensure that the compensatory planting and landscape mitigation measures are appropriate a number of conditions have been added to require the submission of further details to be approved by the Planning Authority.
- 7.13 Overarching Policy 1 of the Local Development Plan sets out that developments should relate well to the landscape context and setting; respect the important landscape features of the site and surrounding area and incorporate appropriate soft and hard landscaping, a planting scheme and measures to protect landscape features. More specifically Renewable Energy Policy 1 of the Local Development Plan advises that access requirements for Hydro Energy developments should not generate significant adverse impact and requires that sufficient landscape measures are included to integrate the proposal into the landscape setting and reinstatement measures are taken to restore the physical conditions of the site when construction is complete.
- 7.14 The use of site won materials for the surface of the track helps to integrate the track into the landscape as the track surface will be of a similar colour and texture to other features within the landscape.
- 7.15 Batters are the constructed earth slopes that connect the track surface to the contour of the surrounding land. As the track runs across a slope it has a cut "batter" on the upslope and a fill "batter" on the down slope. Once a track is constructed the batters are bare earth surfaces that can stand out in the landscape. In order to reduce their visual impact batters must be graded so that re-vegetation can occur. The methodology for the reinstatement of batters will be agreed with the applicant prior to restoration works commencing on site to ensure that it is appropriate to the site and in accordance with best practice. This has been covered by condition.
- 7.16 As part of the Landscape Appraisal submitted by the applicant, photographs from viewpoints at a number of key areas from which the proposed permanent track may be visible were provided. These viewpoints were used to assess the visual impact of the track and to advise on the required landscape mitigation measures. The submission of similar photographs from agreed viewpoints will be required during the restoration phase to monitor the integration of the track into the landscape and the agreed mitigation measures.
- 7.17 It is considered that the proposed permanent access track would accord with the requirements of both Overarching Policy 1 and Renewable Energy Policy 1 as landscape mitigation measures proposed together with the details required by condition will ensure that the permanent access track would integrate into the landscape without adversely impacting on the landscape setting. The National Park Landscape Adviser is satisfied that the track can be well integrated into the local landscape with the mitigation of compensatory planting and landscaping.

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### **8 CONCLUSION**

- 8.1 The principle of development has been established as the track is necessary to support the ongoing management of an existing run-of-river hydro scheme (as approved 2013/0267/DET) which is supported by Renewable Energy Policy 1 of the Local Development Plan. It is considered that a permanent track constructed at 2–2.5m width, with a central vegetated strip, would have less residual impact over the long term than the alternative option of no permanent track to the intake. The track can be well integrated into the local landscape with the mitigation of compensatory planting and landscaping. Subject to conditions, it is considered that the proposal will have no significant adverse impacts on the landscape.

**Background** <http://www.lochlomond-trossachs.org/planning/>

**Documents:** **Click on Applications, View an Application or Decision, Planning Search and then enter the search criteria as “2017/0270/DET”.**

**List of**

**Appendices: Appendix 1 Conditions and Informatives**

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### Appendix 1: Conditions and Informatives

#### Conditions:

1. Landscape Mitigation: Prior to the commencement of any further works to the track, a landscape plan for the area surrounding the access track shall be submitted to, and approved in writing by, the planning authority. The landscape plan shall include the following:
  - a) Planting details including existing and proposed planting; and
  - b) Detailed planting specification, species, height and number of trees; and
  - c) Details of the maintenance regime for the planting; and
  - d) Method for reinstatement of batters

REASON: To ensure the landscape impacts on the landscape from the retention of the access track are suitably mitigated.

2. Landscape Implementation: All approved new planting, shall be completed in the first planting season following the commissioning of the hydro scheme (ref: 2013/0267/DET). Any trees 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 ensure the landscape proposals as approved in accordance with Condition 1 are implemented as soon as possible following completion of the development.

3. Completion of Landscape Works: On completion of the approved planting and landscape mitigation works a validation report (including photographs) confirming the works have been carried out shall be submitted to and approved in writing by the Planning Authority.

REASON: To ensure that planting and landscape mitigation measures are undertaken to enhance and protect the environment.

4. Appointment of LCOW: Prior to the commencement of any further works to the track, a suitably qualified site landscape architect shall be appointed, and approved by the Planning Authority, to oversee the restoration of the access track, including:
  - Detailed design of mitigation measures,
  - Restoration of any disturbed vegetation and landform,
  - Submission of monitoring reports to the Planning Authority.

REASON: To ensure that the landscape mitigation is followed and to minimise the landscape and visual intrusion from the development.

5. Monitoring Reports: The appointed LCOW shall submit a monitoring report to the Planning Authority containing fixed point photographs from agreed viewpoints and a written record of how the landscape reinstatement and restoration are being adhered to on the site, and any issues arising, at the following intervals during and after the landscape restoration phase:
  - a) 6 months from the initiation of the restoration/remediation works; and
  - b) Every 12 months following completion of the landscape restoration works (taken from the date provided to the Planning Authority in accordance with the Notice of Completion of Development - see Informative No. 2 of this decision notice) for a period of 5 years thereafter.

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Any additional works or measures deemed necessary by the Planning Authority shall be undertaken within an agreed timescale.

REASON: To ensure that all mitigation approved and to be approved is followed during development and that the restoration and reinstatement works have been successful, and to address any matters that require additional remediation, in order to accord with the terms of Renewable Energy Policy 1 of the National Park Local Development Plan.

6. Permanent Access Track: Prior to the commencement of any work to make the access track permanent, a 20-30 metre section of typical permanent track shall be constructed for inspection by, and thereafter approved in writing by the Planning Authority. The remaining length of track shall thereafter be constructed in accordance with the approved section. Notwithstanding the approved plans and for the avoidance of doubt the track shall be reduced to a width of between 2, and 2.5 metres (at essential turning areas), (to be agreed in writing by the Planning Authority).

REASON: To mitigate the landscape and visual impact of the access track into this sensitive area and to comply with National Park Local Development Plan Renewable Energy Policy 1.

7. Central Vegetated Strip: Along the length of the track hereby approved, the centre of the track shall be broken and soil shall be placed on the centre of the track at the end of the works in order to encourage the establishment of a central vegetated strip.

REASON: To reduce the visual impacts on the landscape.

### List of Plans

Title	Reference	Date Received
Track layout and landscape plan	19-07 Rev A	4 December 2017
Site Plan	19-08	22 August 2017

### Informatives

1. 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.
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.