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*Delegated Report*

*Report of Handling*

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| **Application Number:** | 2012/0344/DET |
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| **Location:** | Allt Fionn Hydro Scheme Near Inverarnan Arrochar G83 7DZ |
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| **Proposal:** | Formation of permanent access track |
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| **Case Officer:** | Catherine Stewart |
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| **Target Decision Date:** | 5 Jan 2013. **Revised target date:** 1 March 2013 |
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| **Decision Level:** | Delegated Decision |

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|  | **Introduction:** |  |
|  | The application site is to the west of the Allt Fionn Ghlinne burn located on the northwest side of the A82 at Glen Falloch, approximately 4-6 km to the north of Loch Lomond and 5-7km south west of Crianlarich. The West Highland Railway line, and beyond that the A82 trunk road, lie to the south of the site. The landscape is dominated by a broad valley which opens out at the bottom of the surrounding hills. The Allt Fionn burn flows down this glen before reaching the River Falloch on the south side of the A82.  On 20 March 2010 the Scottish Ministers (Scottish Government Energy Consents Unit) granted permission for the construction and operation of a 2.1MW hydro electric generating station at Allt Fionn, including:   * An intake on the Allt Fionn Ghlinne; * A powerhouse and short tailrace located in a flat area to the north of, and adjacent to, the A82; * Approximately 1.9 km of buried pipeline; * A pipe bridge across the overflow branch of the Allt Fionn Ghlinne; * A temporary access track to the intake along the pipeline route for maintenance purposes.   This scheme has been constructed and is operational, however the applicant now wishes to retain the access track to the intake as a permanent stoned track. This application is therefore partly retrospective as the path has been created for construction purposes and has not been restored. The proposals include reducing the width of the track, minimising the batters created and other landscape mitigation measures. The plans also show ancillary features which were not approved as part of the original consent including a pressure test block and storage shed at the intake. | |
|  | **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 | |
|  | **Consultations** |  |
|  | SEPA (East Kilbride)  SEPA note that the applicant already has consent for a temporary access track along the proposed route of the permanent access track and that the formation of a permanent access track would negate the need for a separate ATV track.  SEPA have already advised that we are satisfied with the proposed scheme by way of our response PCS/102295 dated 11 September 2009 and therefore we have no concerns regarding the proposal to make this route permanent. SEPA note that The Electricity Act 1989 consent for the scheme requires the submission of a construction method statement by way of condition. As this is already secured via that route we do not require a condition for the construction method statement with this planning consent.  STC Roads (Strategy)  No objections. | |
|  | **Summary of Representations** |  |
|  | None received. | |
|  | **Summary of Supporting Information** |  |
|  | The applicant submitted a covering letter with the application, a Construction Method Statement (CMS) and Remediation Detail document.  The covering letter sets out the background to the proposal. Planning permission has been granted for a temporary construction track and an all terrain vehicle (ATV) track. However since the hydro scheme has been constructed it would be more beneficial to the applicant to retain the temporary construction track as a permanent four wheel drive track to the intake. The retention of this track would remove the need for a new permanent ATV track over a different route to the intake. Furthermore the track (which would be properly landscaped and reduced in size from the original construction footprint) would benefit the maintenance of the hydro scheme by providing safe access to the main intake and much of the pipeline. Also with the increasing need to lock cattle in the hill park (as part of the estate’s work in delivering habitat management prescriptions) and deer management activities, these activities could constitute the majority of vehicle movements on the track.  The CMS describes the proposed works and provides detail on the following: how the materials will be moved, proposed drainage, slope protection/silt management, storage/compounds, type of vehicle, ECoW, specification of turves/geotextiles/grass-seed, establishment of vegetation and access management.  The remediation detail document includes photographs taken along the track, a description of the feature and proposed remediation methods. | |
|  | **Planning Assessment** | |
|  | The application is for the retention of an access track up to the intake for Allt Fionn hydro for maintenance purposes, but also for estate management purposes. Firstly the principle of the retention of such a track 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 access road as this was to be temporary and fully restored. For this application a LVIA was not requested as the track had already been created and site visits by the case officer, monitoring officer and NPA landscape architect were sufficient to ascertain the visual impact of the track. The proposed mitigation measures involve reducing the width of the track down to a minimum suitable for a four wheel drive vehicle such as a landrover. In addition to reducing the size of batters along the new track mitigation is proposed along a section of the existing track which has a greater visual impact to public receptors, including those on the railway line.  The retention of a permanent track in this upland area will have an adverse visual impact. However the proposed measures to reduce this impact, by softening or removing batters, filling in borrow pits, removing earth mounds created during construction and relocation of turves, should minimise this impact which will need to be weighed against the benefits of retention.  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. Any alterations to the access route for the purposes of mitigation will not impact on bryophytes, lichens or vascular plants.  There was a high incidence of otter activity across the study site and a condition should be placed on the consent for mitigation measures for otters which applied during the hydro construction phase to be continued for the proposed works to the access track.  In terms of the detail of the proposed works geotextiles proposed to aid regeneration of vegetation at the intake are considered to be acceptable. Likewise the lifting of whole turves for translocation where possible, and the use of turf divots where the turves break up should ensure speedier restoration of surrounding vegetation. The applicant has proposed that an ECoW is employed throughout the duration of the work in order to agree: proposed material transfer (in order to ensure that donor and recipient sites are compatible in terms of species mix), species for planting at the intake and any seed mix used for restoration.  In summary, if the construction methods and remediation proposed, together with mitigation measures for working close to otter habitat, and employment of an ECoW there should 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 pipeline.  Impact of the access track on the water environment  The CMS states that a drainage ditch will be established on the topside of the track and regular culverts will be installed to convey the water downhill. Any burn or minor stream crossings perpendicular to the access track will also be directed through culvert pipes. The CMS also outlines how silt traps will be installed at all the culverts and tributaries and left in place until vegetation is well established. This will ensure that silt does not run into the watercourse.  Cumulative impact  This application is one of four hydro electric schemes within Glen Falloch and the first to be constructed and commissioned. It is understood that further applications are likely to be received for approved temporary construction tracks to be retained as permanent access tracks to service the intakes and for estate management purposes. Other applications may therefore require a landscape and visual assessment which includes consideration of the cumulative sequential impact of these tracks.  In order to reduce the cumulative visual impact of the tracks from the four schemes best practice mitigation measures need to be employed. It is therefore proposed that this track should include at least three trial areas whereby the proposed central vegetated strip is backfilled using soil (as proposed in section 2.9 “Establishment of Vegetation” in the CMS) but also using whole turves in thin linear sections and finally using turf divots (where whole turves have broken up). These trial areas can be used to inform decision making about the best restoration techniques for other schemes and thereby reduce any cumulative visual impacts on the landscape.  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. However it will still have an adverse visual impact in this upland glen which was otherwise devoid of permanent features. The access track lies within a buffer area shown on the relative wildness map (Map 2 in the Park Partnership Plan). 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 retention of this track is justified.  The proposed mitigation measures should be required for the works to reduce the size of the track and address batters and other features alongside the track via the imposition of a condition. Also best practice techniques should be used and trial areas which may inform other access tracks shall be required by condition.  Therefore it is recommended that planning permission be granted subject to conditions. | |

**Recommendation: Approve**

**Conditions**

1. **Ecological Clerk of Works (ECoW)**: No works shall commence on the development hereby approved until a suitably qualified, independent, Ecological Clerk of Works (ECoW) has been appointed by the developer to carry out the works set out in the approved Construction Method Statement (section 2.6).

REASON: To ensure adequate ecological mitigation, as set out in the Construction Method Statement and Specific Remediation Detail document, is carried out and to accord with the first statutory aim of the National Park to conserve and enhance the natural heritage of the area.

2. **Compliance with Construction Method Statement and Remediation Detail:** The works and restoration must be carried out in accordance with approved Construction Method Statement and Specific Remediation Detail document, unless otherwise agreed in writing by the local planning authority.

REASON: To ensure adequate ecological mitigation, as set out in the Construction Method Statement and Specific Remediation Detail document, is carried out and to accord with the first statutory aim of the National Park to conserve and enhance the natural heritage of the area.

3. **Otter mitigation measures & Breeding Birds Protection:** The otter and breeding birds mitigation measures set out in the “Preconstruction Survey, Mitigation & Habitat Restoration Reports” by Nikki Dayton, Quadrat Scotland, May 2011 shall be implemented throughout the course of this development.

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

4. **Central Vegetated Strip and best practice trial areas**: 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. Three small trial zones shall be included at a minimum length of 5 metres each whereby (a) whole turves,(b) turf divots, and (c) soil, are used to backfill the central vegetated strip.

REASON: To inform decision making about the best restoration techniques for other schemes and thereby reduce any cumulative visual impacts on the landscape.

**Reason for Decision**

The proposal is considered to comply with local plan policy REN2 ‘Hydro Renewable Energy Projects’ as the proposed permanent track, and other additional ancillary features (pressure test block and storage shed at the intake) will not generate a significant adverse impact on natural or cultural heritage or the water environment individually or cumulatively, including any protected species and habitats under statute. 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 retention of this track is justified.

**List of Plans**

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| **Title** | **Reference** | **Date on Plan\*** | **Date Received** |
| Location Plan | 10106 ISSUE 2 | 02/10/12 | 06/11/12 |
| Plan  Scheme Access Tracks | 105 ISSUE 5 | 29/06/12 | 06/11/12 |
| Plan | 60001-1 REV 4 | 31/01/13 | 31/01/13 |
| Plan | 60001-2 REV 4 | 31/01/13 | 31/01/13 |
| General  Construction Method Statement |  | 30/01/13 | 31/01/13 |
| General  Remediation detail |  | 31/01/13 | 31/01/13 |
| \*Where no specific day of month has been provided on the plan, the system defaults to the 1st of the month. | | | |

**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 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.

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| Signed: CB Stewart  **Development Management Planner** | Dated: 28/02/2013 |