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*Delegated Report*

*Report of Handling*

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| **Application Number:** | 2013/0153/DET |
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| **Location:** | Derrydarroch Hydro Scheme Crianlarich FK20 8RL |
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| **Proposal:** | Construction of 6km 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:** |  |
|  | The area proposed for “Derrydarroch” hydro scheme, as approved under section 36 by the Scottish Government Energy Consents Unit in April 2010, is located centrally in Glen Falloch, crossing both the A82 and railway line. This proposed scheme would involve five intake weirs in total - built on the Allt Andoran, Eas Eonan and Allt A’Chuilinn burns with a powerhouse located close to Derrydarroch between the River Falloch and the A82.  Eas Eonan (intake 2) is a small fast flowing burn on the north side of Glen Falloch cutting a narrow steep sided rocky gorge through the base of a broad open valley with attractive small waterfalls and rocky gorges. The burn is crossed by the railway and A82 before reaching the River Falloch.  Allt Andoran (intake 3) is a small steep burn within a steep sided gorge on the south side of Glen Falloch. It is located within a high open glen between Sron Gharbh and Stob Glas.  The Allt A’Chuilinn burn (intakes 4, 4a and 4b) is fast flowing, in a steep sided open valley bottom below Beinn Chabhair and An Caisteal also on the south side of Glen Falloch.  The section 36 permission allows construction of temporary access tracks for construction of the pipeline and intakes. The track to intake 2 was to be completely restored as there is an existing argo track in the area. The tracks along Allt Andoran and Allt A’Chuilinn were to be restored as ‘green tracks’.  This scheme has yet to be constructed and the agent is seeking permission for three main sections of track to the intakes to be retained permanently. | |
|  | **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 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.  In relation to ES habitat information it should be highlighted that the large intact area of blanket bog adjacent to intake 2 should be avoided (see habitat map below) and areas of deep peat should be avoided along the intake 4 route which goes through degraded blanket bog.  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 Reassessed LVIA for Glen Falloch covering the Derrydarroch part of the scheme states that the wild land character will remain despite the introduction of the tracks into the estate and that mitigation will address the cumulative impacts.  However it should be made clear that there is a very real risk of erosion of the quality of wildness due to the extent of the tracks in this landscape and that the developer should:   * fully involve an LCOW, and ECOW from inception to completion and clarify all aspects of role; design, interventions etc.; * provide a more detailed CMS in terms of scope of works, sequence of operations and methodology ensuring successful restoration and mitigation is achieved; and * conduct early liason and communication between all parties to achieve successful monitoring and intervention when required to achieve the long term integration of these tracks.   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. The West Highland Way (or an agreed diversion) must remain accessible at all times.  3. Conditions laid out for the scheme as consented April 2010 are Condition 14 ‘Public Access’. | |
|  | **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.  Specific comments relate to intake 2 (Eas Eonan) and intake 3 (Allt Andoran):   * The regularly used existing track which would serve intake 2 (Eas Eonan) is showing signs of use and it is clear that more frequent use of the green track would adversely affect this part of the hill. * Intake 3, is located in the centre of farming activities on the east side of the road and the track here would be consequently strategically important for the farming activities.  Currently not many deer are taken from that area, in part because of lack of easy options for abstracting carcases, it could be useful in opening up more ground.   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 LC Photoset * Revised Hill Photoset * Access Track Details * Scheme Layouts and Wild Land | |
|  | **Planning Assessment** | |
|  | The application is to allow the retention of temporary construction accesses to serve the intakes at Derrydarroch proposed hydro scheme. The tracks would be used for the maintenance of the intakes, but also for general estate management purposes. During the processing of this application the length of the track to serve intakes 4, 4a and 4b was reduced in order to minimise landscape impact and impact on the special qualities/ quality of wild land.  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 or restored to green track. 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.  Track for intake 2  For the track to intake 2 the LVIA states that the Intake and upper section of track and pipe route is within wild land areas. It goes on to say that the development of a new track and piperoute will impact on the perception of naturalness of landcover, man-made artefacts, rugged nature and remoteness. It concludes that wild land character will be reduced but wild land character will remain. However the LLTNP wildness policy in the Partnership Plan seeks to protect areas of core wild land from extensive or intrusive man-made development. This track and its construction will impact on a core wildness area as it will introduce a man-made element to this area. The track to intake 2, will cut straight into the slope, require benching in and several bends over a constrained area of slope and then onto a more open shoulder to the intake. The track will be very visible if constructed unsympathetically and over-engineered. Without attention to the detail and mitigation utilising existing topography the track will be intrusive and certainly add man-made development to the hillside reducing core wildness.  It is likely that a permanent track will erode the perception of wildness of this open hill slope; in particular the upper section in core wildness area and the point at which the track approaches the intake and the upper glen where there is intervisibility with Ben Dubcraig. Here the perception of wildness is more apparent and any extensive or adverse development will add to the cumulative impacts of the Glen Falloch schemes.  In order to reduce the likely intrusion that will potentially erode wildness it is crucial that the setting out, design, micrositing and mitigation, including rock placement and planting of the riparian and track alignment where required, involves input and constant supervision from an LCoW from site start to completion. This will ensure the narrowest working corridor and ultimately the minimum width of track through attention to detail, progressive restoration and landscape mitigation and enhancement and result in minimum intrusion in the landscape. The track is proposed to be reduced to 2.5m with a central strip, appearing as two tyre tracks. Although it would be preferable to reduce this further, it is acknowledged that for this terrain 2.5 metres is a realistic minimum width for a four wheel drive vehicle.  Track for Intake 3  The revised LVIA states that the track would be within a buffer area, partially overlooked by An Caisteal, with foreground views of Stob Garbh, and is unlikely to impact on Core areas of wildland. The role of the LCoW should ensure that the working corridor and ultimate track width are kept to a minimum and that attention to detail, mitigation and enhancements are achieved to assimilate this track and reduce impacts on the buffer wildness zone.  Track for Intake 4  As stated above the length of proposed permanent track here was reduced during consideration of the application. This will significantly reduce the impacts on wild land. Use of a green track to each of the intakes will reduce impacts on wild land.  In order to reduce the likely intrusion that will potentially erode wildness it is crucial that the setting out, design, micrositing and mitigation, including rock placement and planting of the riparian and track alignment where required, involves input and constant supervision from an LCOW from site start to completion. This will ensure the narrowest working corridor and ultimately the minimum width of track through attention to detail, progressive restoration and landscape mitigation and enhancement and result in minimum intrusion in the landscape. The track is proposed to be reduced to 2.5m with a central strip, appearing as two tyre tracks. Although it would be preferable to reduce this further, it is acknowledged that for this terrain 2.5 metres is a realistic minimum width for a four wheel drive vehicle.  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 their 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 tracks. Archaeology is considered under the main application for the hydro scheme.  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; 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 Upper Falloch and a track has been retained at Allt Fionn. As this is the central scheme within the glen, with 5 intakes and three main pipeline routes the impact of the permanent access tracks will have a greater impact than for the adjacent schemes. However the use of green tracks could lead to further degradation of a wider area over time, and the retention of these tracks to serve the intakes is considered to be acceptable, also bearing in mind the economic benefits for farming and deer abstraction.  Summary and Conclusion  The proposals to reduce the width of the proposed permanent track, and the restoration/mitigation measures proposed will minimise the impact of the track within the landscape. The track to intake 2 will enter core wild land, however due to the erosion from argo tracks already evident, it would be preferable to have one small well-designed and integrated stone track to service the intake, rather than increase the environmental damage more widely across the hillside. The track to intakes 4, 4a and 4b has been reduced in length as a result of officer concern and this retains more of the wild land and special qualities character further into the glen.  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.  As the proposed tracks are 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 these tracks is justified.  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.

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 | 10308 R 1 | 03/10/13 |
| Plan  Revised Scheme Layout | 101 REV 15 | 17/09/13 |
| Plan  Access Track Details | 10309 R2 | 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.

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