CAIRNGORMS NATIONAL PARK AUTHORITY

Title: **REPORT ON CALLED-IN PLANNING APPLICATION**

Prepared by: **ROBERT GRANT, PLANNING OFFICER (DEVELOPMENT MANAGEMENT)**

DEVELOPMENT PROPOSED:	**INSTALLATION OF 2 HYDROPOWER SCHEMES AND RECONSTRUCTION OF A DAM AT PITMAIN LODGE, KINGUSSIE**
REFERENCE:	**2011/0281/DET**
APPLICANT:	**PITMAIN ESTATE C/O ADRIAN LAYCOCK LTD**
DATE CALLED-IN:	**16 SEPTEMBER 2011**
RECOMMENDATION:	**APPROVE SUBJECT TO VOLUNTARY UNDERTAKING OF COMMUNITY HYDRO-SCHEME AND SUSPENSIVE CONDITIONS**

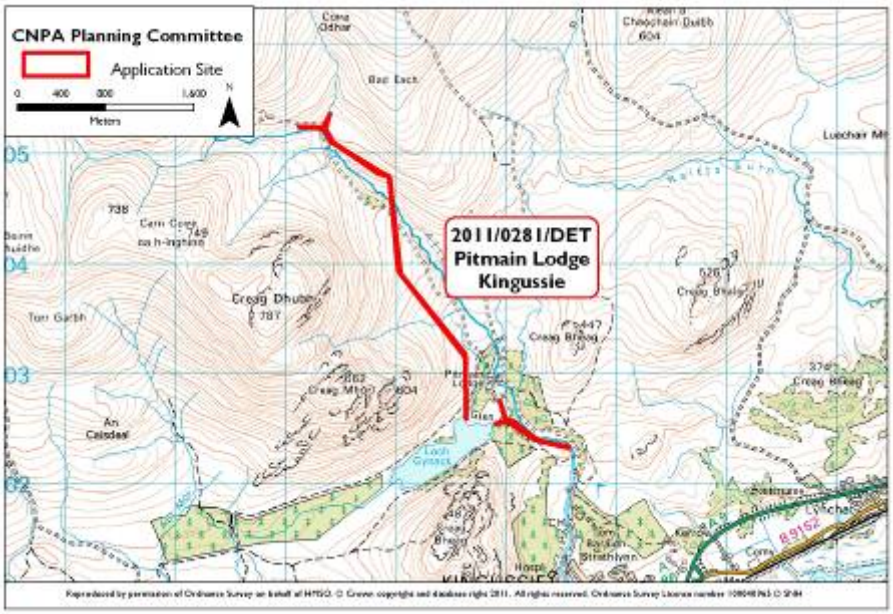

Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. The application site is located on the Pitmain Estate, to the north of Kingussie within the southern reaches of the Monadhliath Mountains (see fig. 2). It includes 2 linear sections through the estate. The first of these is within a remote upland area of open and undulating heather moorland, interspersed with a series of deeply cut valleys and the rounded hills of Creag Mhor and Creag Bheag. The Allt Mhor and its tributaries including the Allt Odhair, occupy these badly eroded valley channels, along with extensive deposits of boulders and rocks both within the watercourse and along their banks (see fig. 3-6 for site photos). The Allt Mhor falls downstream sharply in places before becoming artificially channelised close to Pitmain Lodge.

2. Pitmain Lodge and several associated buildings are located nearby at the head of Loch Gynack. An existing access track runs parallel with the Allt Mhor, and utilises several bridge crossings.

3. The second section includes an area by Loch Gynack and the Gynack Burn. This by contrast, is low-lying and enclosed by gentle slopes and dense woodland. The remains of a derelict dam and other historic hydropower structures are visible, including a dam, weir and old powerhouse.

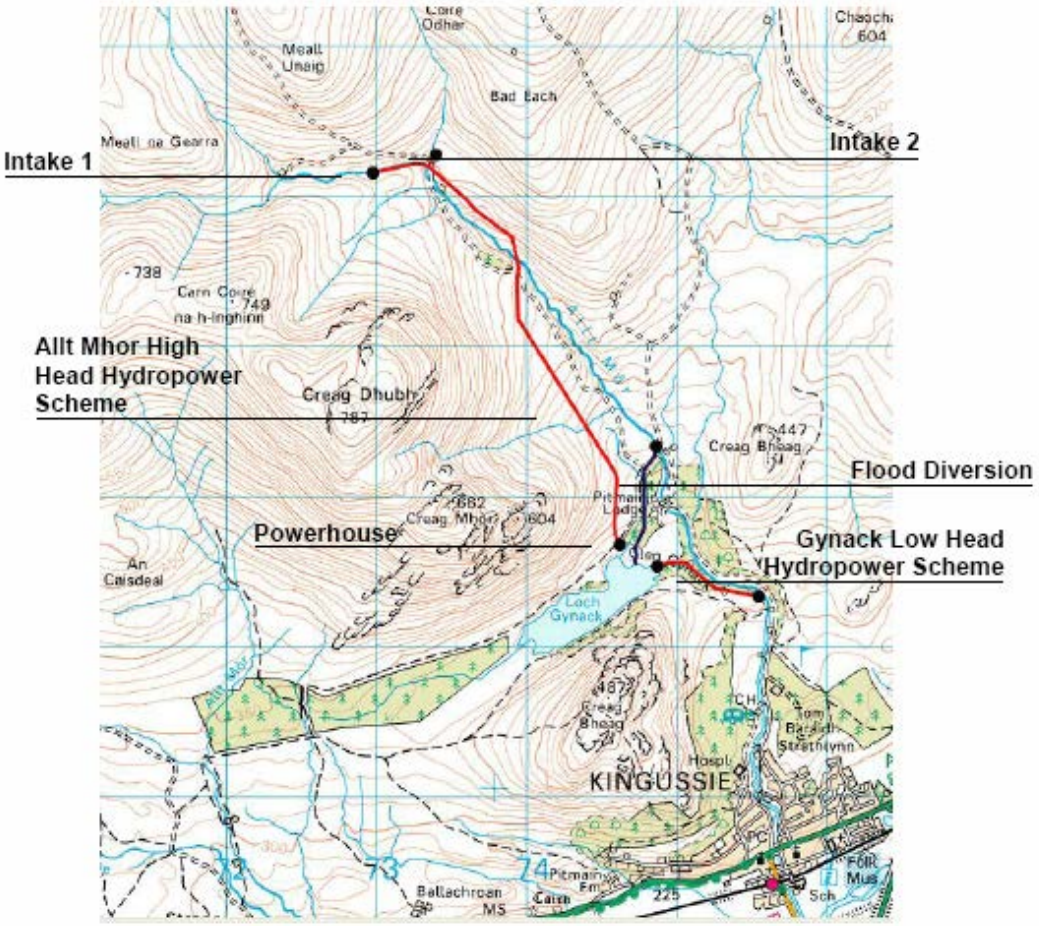

Fig. 2- Overview of site locations and components

4. Planning permission is sought for the construction of 2 'run of river' hydropower schemes estimated to produce 750kW of electricity along with the reconstruction of a dam on Loch Gynack. The mean annual energy output is estimated at 2,670 MWh (which equates to total electricity required to power 600 homes).

Hydropower scheme overview

The proposed development works incorporate several separate components including:

- Scheme 1 - a 'high head' (50m or over hydraulic fall) hydropower scheme (700kW) with two intake structures, located on the Allt Mhor and the Allt Odhair, both at an elevation of 546m and a partially undergrounded powerhouse;
- Scheme 2 - a 'low head' (5 – 25m fall) hydropower scheme (50kW) fed by Loch Gynack with an intake (nearby the reconstructed dam) at an elevation of 320m and a timber building powerhouse;
- The complete reconstruction of the dam on Loch Gynack (using a low earth-filled embankment profile structure);
- Two sections of new access track are also included in the proposal, a 4km section of undergrounded pipeline and cabling, and;
- In addition, temporary borrow bits, pipe assembly stations and a construction compound are required, alongside temporary diversionary dams and channels.




Fig. 3, 4, 5 & 6 – Various perspectives of the site area

Scheme 1 – 'High Head' 700kW Allt Mhor

5. This scheme would have 2 intake weirs and a powerhouse. The structures are envisaged as low weirs which would exclude any sediment but pass boulders and cobbles during floods without damage to the structure. The penstock (pipeline) would be 3.2km long, buried underground with a diameter of 500mm and at two locations the pipeline would require stream crossings (see further section on pipelines).

Fig. 7 & 8 - Typical intake plan (Allt Mhor) and photomontage

6. The powerhouse for the turbine within Hydropower Scheme 1 would be a concrete structure with stone cladding, partly built into the hillside. It is proposed to set the powerhouse partially underground, by Loch Gynack in order to limit its visual impact and provide natural sound insulation. A transformer would be located within this building. The grid connection cabling would be laid underground for a distance of 600m, and existing overhead power lines in the vicinity of the lodge would also be re-laid underground.

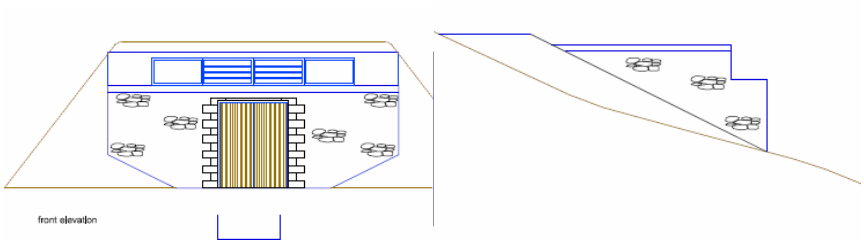

Fig. 9 - Scheme 1 Powerhouse elevations and photomontage

Scheme 2 'Low Head' 50kW Gynack Burn

7. This would replace an historic scheme which has been derelict for many years. The original powerhouse is situated some 220m downstream on the bank of the Gynack Burn. The scheme would generate up to 50 kW, which would supply most of the energy required for the lodge and surrounding buildings. This scheme would have 1 intake weir, adjacent to the reconstructed dam and a powerhouse, which would be clad in timber with a sloping slate roof.

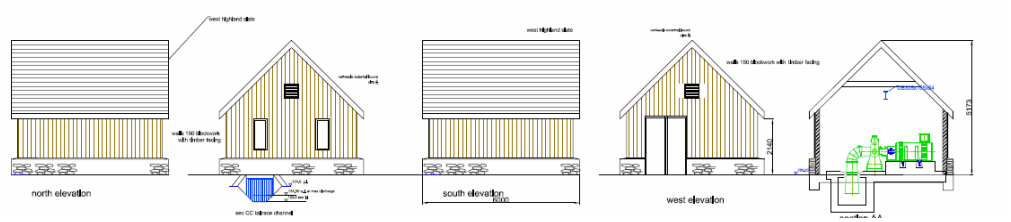

Fig. 10 & 11 - Scheme 2 Powerhouse elevations and photomontage

Gynack Dam reconstruction

8. The existing dam is located at the head of Loch Gynack and is in state of 'severe decay and is leaking profusely.' It is proposed to rebuild the dam to stop water levels from dropping significantly and to help alleviate flooding downstream. The design of the reconstructed dam would have a low earth-filled profile and the flanking embankment wings would be covered by a cellular grass-concrete layer. This is designed to allow the dam to blend in with the surrounding environment. A temporary 'coffer' dam would be installed to allow this work to take place.

Fig. 12- Reconstructed dam and spillway on Loch Gynack

Access tracks, pipeline and cable routes

9. A 4m wide, 750m long permanent (restored to a quad bike width) track running from Pitmain Lodge to the Gynack Scheme powerhouse is proposed, this would be along the line of a former access route which is still apparent. The material needed to build the track would be acquired from any excess taken from excavation of the pipe trench. A short gravel track would also be built from the current access route on the North bank of Loch Gynack to the High Head Scheme powerhouse. This spur would be approximately 40m in length. Works are scheduled through an accompanying Environmental Management Plan which states that helicopter airlifting would be used to avoid the need to significantly upgrade the existing tracks while traffic movements would be appropriately controlled to avoid disruption to Ardbroilach Road in Kingussie.

10. Two sections of buried penstock (HDPE plastic pipeline) would be required to convey water from the intakes to the turbine powerhouses; these would be 3.2km long for scheme 1 and 680m long for scheme 2 respectively, with a 500mm diameter and be buried 500mm below the surface. The trenches are temporarily excavated for pipe-laying and the turf and vegetation is then reinstated. Two watercourse crossings would also be required for scheme 1, one crossing would utilise an existing vehicle bridge and another would be located under the river bed. Some trees would need to be felled for scheme 2. Electricity cabling would be fully undergrounded (550m for scheme 1 and 470m for scheme 2 respectively), and connect with an existing overhead line supply that would also be moved below ground. Finally, several borrow pits, temporary compounds and pipe assembly stations are required but affected areas would be made good upon completion of the works.

Background information (including EIA)

11. The application was accompanied by an Environmental Statement which included landscape and visual impact, noise, water quality and other aspects of environmental assessment. This states that the scheme would only have a number of short term, temporary adverse environmental impacts (but only as far as minor adverse, most are negligible) in that soil disturbance and some tree-feeling is required. All impacts on water quality and ecology are negligible or minor adverse including pollution, reduced flows and temporary diversions. There is an expected CO2 saving of 1,250 tonnes per annum.

12. A flood alleviation scheme represents an additional component of the project; however it is not included in the current planning application. It is expected to bring benefits to Kingussie which historically has encountered flood events. Various other background documents were submitted to accompany the application including a Ground Conditions NVC survey, Mammal/Fish Habitat Survey and a Hydrology Report.

13. It is expected that the scheme is capable of being authorised under SEPA's Controlled Activities Regulations (CAR) license requirements and it is expected that this would be granted shortly.

DEVELOPMENT PLAN CONTEXT

National policy

14. **Scottish Planning Policy**[1] **(SPP)** is the statement of the Scottish Government's policy on nationally important land use planning matters. It supersedes a variety of previous Scottish Planning Policy documents and National Planning Policy Guidance. Core Principles which the Scottish Government believe should underpin the modernised planning system are outlined at the outset of **SPP** and include:

- The constraints and requirements that planning imposes should be necessary and proportionate;
- The system should ……allow issues of contention and controversy to be identified and tackled quickly and smoothly; and
- There should be a clear focus on quality of outcomes, with due attention given to the sustainable use of land, good design and the protection and enhancement of the built and natural environment.

15. **SPP** emphasises the key part that development management plays in the planning system, highlighting that it should "operate in support of the Government's central purpose of increasing sustainable economic growth." Para. 33 focuses on the topic of Sustainable Economic Growth and advises that increasing sustainable economic growth is the overarching purpose of the Scottish Government. It is advised that "the planning system should proactively support development that would contribute to sustainable economic growth and to high quality sustainable places." Planning authorities are encouraged to take a positive approach to development, recognising and responding to economic and financial conditions in considering proposals that would contribute to economic growth.

16. Under the general heading of Sustainable Development, it is stated that the fundamental principle is that development integrates economic, social and environmental objectives, and that the "aim is to achieve the right development in the right place."

17. As a replacement for a variety of previous planning policy documents the new **Scottish Planning Policy** includes 'subject policies', of which many are applicable to the proposed development. Topics include rural development, and landscape and natural heritage. The following paragraphs provide a brief summary of the general thrust of each of the subject policies.

18. *Rural development*: Para. 92 of **Scottish Planning Policy** states in relation to rural development that the "aim should be to enable development in all rural areas which supports prosperous and sustainable communities whilst protecting and enhancing environmental quality." All new development is required to respond to the specific local character of the location, fit in the landscape and seek to achieve high design and environmental standards.

[1] February 2010

19. *Landscape and natural heritage*: The **Scottish Planning Policy** document recognises the value and importance of Scotland's landscape and natural heritage. It is accepted that landscape is constantly changing and the aim is to facilitate positive change whilst maintaining and enhancing distinctive character. As different landscapes have different capacities to accommodate new development, the siting and design of development should be informed by landscape character. There is also an acknowledgement that the protection of the landscape and natural heritage may sometimes impose constraints on development, but the potential for conflict can be minimised and the potential for enhancement maximised through careful siting and design.

20. *Renewable Energy*: The document sets out the Scottish Government's commitment to increase the amount of electricity generated from renewable resources as a vital part of the response to climate change. Paragraph 183 considers that there is potential for communities and small businesses in urban and rural areas to invest in ownership of renewable energy projects or to develop their own projects for local benefit. Planning Authorities should support communities and small businesses in developing such initiatives in an environmentally acceptable

21. **Scottish Planning Policy** concludes with a section entitled 'Outcomes' in which it is stated that the "planning system should be outcome focused, supporting the creation of high quality, accessible and sustainable places through new development, regeneration and the protection and enhancement of natural heritage and historic environmental assets." Planning authorities are required to be clear about the standard of development that is required. Quality of place not only refers to buildings, but also how the buildings work together as well as the relationships between buildings and spaces. Design is highlighted as an important consideration and planning permission may be refused solely on design grounds.[2] Finally it is stated that the planning system should be "judged by the extent to which it maintains and creates places where people want to live, work and spend time."

Strategic Policy

Cairngorms National Park Plan (2007)

22. The Cairngorms National Park Plan sets out the vision for the park for the next 25 years. The plan sets out the strategic aims that provide the long term framework for managing the National Park and working towards the 25 year vision. Under the heading of 'conserving and enhancing the special qualities' strategic objectives for landscape, built and historic environment include maintaining and enhancing the distinctive landscapes across the Park, ensuring that development complements and enhances the landscape character of the Park, and ensuring that new development in settlements and surrounding areas and the management of public spaces complements and

[2] Para. 256.

enhances the character, pattern and local identity of the built and historic environment.

23. Under the heading of 'Conserving and Enhancing' Strategic Objectives seek to ensure that all management and development in the Park should seek to make the most sustainable use of natural resources, including energy and water. Under 'Energy' objectives seek to contribute to national targets for greater renewable energy production. Strategic objective b) under 'Energy' seeks to help communities, businesses and households to obtain the information, expertise and support they need to reduce energy consumption and increase renewable generation. Strategic Objectives for water seek to maintain or where necessary enhance the existing high water quality and to encourage more sustainable patterns of water use.

Structure Plan Policy

Highland Council Structure Plan (2001)

24. **Highland Council Structure Plan** is founded on the principles of sustainable development, which are expressed as –

- Supporting the viability of communities;
- Developing a prosperous and vibrant local economy; and
- Safeguarding and enhancing the natural and built environment.

A variety of detailed policies emanate from the principles.

25. The following provides a brief summary of the policies applicable to a development of this nature. **Policy N1 – Nature Conservation** advises that new developments should seek to minimise their impact on the nature conservation resource and enhance it wherever possible. The Plan refers to the socio-economic benefits of the nature conservation resource and advises that it should be optimised by a high level and standard of interpretation and understanding wherever possible.

26. The Structure Plan also includes a section on biodiversity, defining it as "natural richness and diversity of nature – the range of habitats and species and the uniqueness of each and every organism." Biodiversity is not the same as natural heritage, but is one of the key functional components. As a key part of the natural heritage of an area it is important to protect, and where possible enhance biodiversity and to monitor any change.

27. Section 2.4 of the Plan concentrates on the subject of landscape, stating that "no other attribute of Highland arguably defines more the intrinsic character and nature of the area than its landscape." Similar to national policy guidance, there is recognition that landscape is not a static feature and that the protection and enhancement of landscape and scenery must be positively addressed.

28. **Policy L4 Landscape Character** states that "the Council would have regard to the desirability of maintaining and enhancing present landscape character in the consideration of development proposals."

29. **Policy G2 (Design for Sustainability)** states that developments would be assessed on the extent to which they, amongst other things make use of brownfield sites, existing buildings and recycled materials; are accessible by public transport, cycling and walking as well as car; are compatible with service provision; demonstrate sensitive siting and high quality design in keeping with local character and historic and natural environments; and contribute to the economic and social development of the community.

30. **Policy G4 Community Benefit and Commitment** considers that the Council would expect developments to benefit the local community and contribute to the well-being of the Highlands, whilst recognising wider national interests.

31. **Policy E1 Distributed Renewable Energy Developments** considers that the Council supports the utilisation of the region's distributed renewable energy resource, including hydro, wind, wave and tidal stream power.

32. **Policy E4 Hydro Energy Developments** considers that the Council would support hydro energy developments which accord with strategic policies G2 and G4, provided that there is also satisfactory provision for discharge and monitoring of compensation flow.

Local Plan Policy

Cairngorms National Park Local Plan (2010)

33. The Cairngorms National Park Local Plan was formally adopted on 29th October 2010. The full text can be found at : http://www.cairngorms.co.uk/parkauthority/publications/results.php?publicationID=265

34. The Local Plan contains a range of policies dealing with particular interests or types of development. These provide detailed guidance on the best places for development and the best ways to develop. The policies follow the three key themes of the Park Plan to provide a detailed policy framework for planning decisions:
- Chapter 3 - Conserving and Enhancing the Park;
- Chapter 4 - Living and Working in the Park;
- Chapter 5 - Enjoying and Understanding the Park.

35. Policies are not cross referenced and applicants are expected to ensure that proposals comply with all policies that are relevant. The site-specific proposals of the Local Plan are provided on a settlement by settlement basis in Chapter 6. These proposals, when combined with other policies, are intended to meet the sustainable development needs of the Park for the Local Plan's lifetime. The following paragraphs list a range of policies that are

appropriate to consider in the assessment of the current development proposal.

36. *Policy 1 - Natura 2000 Sites*: development likely to have a significant effect on a Natura 2000 site would be subject to an appropriate assessment in accordance with the Conservation (Natural Habitats, &c.) Regulations 1994. Where an assessment is unable to ascertain that a development would not adversely affect the integrity of the site, the development would only be permitted where: a) there are no alternative solutions; and b) there are imperative reasons of overriding public interest, including those of a social or economic nature. Where the site has been designated for a European priority habitat or species, development would only be permitted where the reasons of overriding public interest relate to human health, public safety, beneficial consequences of primary importance for the environment or other reasons subject to the opinion of the European Commission (via Scottish Ministers).

37. *Policy 2 - National Natural Heritage Designations*: development that would adversely affect the Cairngorms National Park, a Site of Special Scientific Interest, National Nature Reserve or National Scenic Area would only be permitted where it has been demonstrated that: a) the objectives of designation and overall integrity of the designated area would not be compromised; or b) any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social or economic benefits of national importance and mitigated by the provision of features of commensurate or greater importance to those that are lost.

38. *Policy 4 - Protected Species*: development which would have an adverse effect on any European Protected Species would not be permitted unless there are imperative reasons of overriding interest, including public health or public safety; there is no satisfactory alternative solution; and the development would not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range. The policy is intended to ensure that the effects of development proposals on protected species are fully considered by the planning authority. Developers would be required to undertake any necessary surveys for species at their own cost and to the satisfaction of Scottish Natural Heritage and the planning authority.

39. *Policy 5 – Biodiversity*: development that would have an adverse effect on habitats and species identified in the Cairngorms Biodiversity Action Plan, UK Biodiversity Action Plan, or by Scottish Ministers through the Scottish Biodiversity List, would only be permitted where

    (a) The developer can demonstrate that the need and justification for the development outweighs the local, national and international contribution of the area of habitat or population of species; and
    (b) Significant harm or disturbance to the ecological functions, continuity and integrity of the habitats or species populations is avoided, or minimised where harm is unavoidable, and appropriate compensatory and / or

management measures are provided and new habitats of commensurate or greater nature conservation value are created as appropriate to the site.

40. *Policy 6 – Landscape*: there would be a presumption against any development that does not complement and enhance the landscape character of the Park, and in particular the setting of the proposed development. Exceptions would only be made where any significant adverse effects on the landscape are clearly outweighed by social or economic benefits of national importance and all of the adverse effects on the setting of the proposed development have been minimised and mitigated through appropriate siting, layout, scale, design and construction.

41. *Policy 8 – Archaeology*: requires that impacts on any archaeological resources be considered, including the need for submission of survey reports where considered necessary.

42. *Policy 12 - Water Resources (Part A Use of Resources)*: there would be a presumption against development which does not meet all of the following criteria: 1) minimises the use of treated and abstracted water; 2) does not result in the deterioration of the current or potential ecological status or prejudice the ability to restore water bodies to good ecological status; 3) treat surface water and foul water discharge separately and in accordance with SUDS Manual Ciria C697; 4) have no significant adverse impact on existing or private water supplies or wastewater treatment services. Part B of the policy relates to flooding and a presumption against development that does not meet criteria including being free from significant flood risk and not increasing the risk of flooding elsewhere.

43. *Policy 15 - Renewable Energy Generation*: developments for small scale renewable energy schemes which support the aims of the National Park and the National Park Plan Strategic Objective regarding energy production, would be favourably considered where they contribute positively to the minimisation of climate change, and where they complement the sustainability credentials of development. Development, including any ancillary works. Would be sited and designed to have no significant adverse visual or landscape impact, including any cumulative impact, caused as a result of energy generation, transmission or distribution measures, and would not have any adverse impact on the amenity of neighbouring properties or any unacceptable impact on the environment

44. *Policy 16 - Design Standards for New Development*: design of all development would seek where appropriate to: a) minimise effect on climate change; b) reflect and reinforce the traditional pattern and character of the surrounding area and reinforce the local vernacular and distinctiveness, whilst encouraging innovation in design and materials; c) use material and landscaping that would complement the setting of the development; d) demonstrate sustainable use of resources; e) enable storage and segregation of recyclable materials; f) reduce need to travel; g) protect neighbouring amenity; h) accord with

Sustainable Design Guide. All proposals to be accompanied by a design statement.

Supplementary Planning Guidance

45. *Water Resources SPG* sets out in more detail how the water resources of the Park would be taken into account in decision making. The context to the policy and other legislation and guidance in the form of the CAR Regulations is set out. Links are provided with the River Basin/Catchment Management Plans. In particular the guidance emphasises the need for construction method statements.

46. *Wildness SPG* requires development to respond sensitively to existing areas of wildness and ensure it is protected and enhanced throughout the National Park.

47. *The Sustainable Design Guide* requires development in the National Park to be well designed, sustainable and wedded to its location in this special place. It requires the design of all development to minimise the effect of the development on climate change; reflect and reinforce the local vernacular and local distinctiveness, whilst encouraging innovation in design and use of materials; and demonstrate sustainable use of resources.

CONSULTATIONS

48. **Scottish Natural Heritage (SNH)** has looked at the proposal and considers that it is unlikely that the proposal would have a significant effect on the qualifying interest either directly or indirectly of the River Spey Special Area of Conservation (SAC). An appropriate assessment is therefore not required.

49. European Protected Species such as Atlantic Salmon are restricted from moving up through the Gynack by an existing waterfall, while the presence of Otters is recognised but works are unlikely to affect them.

50. **Scottish Environment Protection Agency (SEPA)** initially objected to the application due to lack of information on fish passage, location of built elements and compensation flows. However, additional information has been submitted and this allowed **SEPA** to withdraw this objection and confirm that the proposed development would not have any significant adverse impacts. **SEPA** also confirm that the proposal is likely to be consentable and that a CAR license should be granted shortly.

51. **The Spey Fisheries Board** were consulted but returned no comments. Informally they have intimated that they have no issues with the proposal.

52. **Kingussie and Vicinity Community Council** support this application and note that it would benefit Kingussie by decreasing the risk of flooding in the

town and its likely beneficial effects of the community micro hydro scheme. Some concern about traffic flows on Ardbroilach Road is highlighted.

53. **Highland Council Archaeology Team** has no objections but requires a walkover survey of the area is undertaken prior to any works commencing.

54. **CNPA Access Officer** comments that there is a claimed Right of Way (HB41) running through the site which is the main route to the popular Corbett of Carn na Fhreiceadain. Disruption should be kept to a minimum and diversions put in place as required.

55. The **CNPA Landscape Officer** has been consulted on the proposal and has no objection but sets out a range of conditions that would be required, to ensure satisfactory construction, reinstatement and restoration measures in helping the scheme to blend in with its surroundings. These requirements have been contained within the planning conditions at the end of the report.

56. The **CNPA Ecologist** has no objections and recommends various conditions for a construction method statement and restoration proposals, alongside the requirement for an Ecological Clerk of Works and a pre-construction mammal and red squirrel survey.

57. **CNPA Planning Gain Section** initially recommended that a Local Sustainability contribution be made per MW capacity (proposal: 750kW scheme) which required a lump sum or annual payments to improving energy efficiency or environmental improvements in the area. However, they welcome proposals for the local community hydro scheme to be delivered in lieu of this.

REPRESENTATIONS

58. The application was advertised in the Badenoch and Strathspey Herald and the Edinburgh Gazette. No representations have been received.

APPRAISAL

59. In determining this planning application regard is to be had to the development plan and the determination shall be made in accordance with the plan unless material considerations indicate otherwise.

60. This section of the report considers the principle of the development against the background of policy and then goes onto consider in more detail the design of the proposal and potential environmental impacts. The main issues to consider in this application relate to the nature of the proposal including its impact on the natural heritage of the area, its design and fit in to the landscape, and any other associated implications.

Principle of development

61. In planning policy terms there is much support, in principle, for the development of small scale renewable generation within the National Park, including hydro schemes and in this particular case there has historically been a hydro scheme at Pitmain Lodge. The policy support expressed in Policy 15 of the CNP Local Plan "Renewable Energy Generation" means that the principle of the scheme is not in question, providing there are no unacceptable impacts on the environment. It is considered that this hydropower scheme sits comfortably within the parameters of 'small-scale,' (in that it is under 1MW) that the policy explicitly states will be supported in the National Park. Further support from Scottish Planning Policy 2010 stresses the Scottish Government's commitment to renewables and Policy E4 Hydro Energy Developments of the Highland Council Structure Plan 2001 also adds voice to the supportive principle of hydro energy developments.

Environmental Impact Assessment

62. An Environmental Statement (ES) has been submitted with this planning application and has assessed the potential impacts during both construction and operational stages**.** The ES considered it likely that a number of short-term impacts (assessed as only minimal or negligible) would take place during construction and commissioning, however these would be minimised by appropriate mitigation measures, while in the longer term any impacts would be moderately beneficial in nature – in terms of reduced carbon emissions and renewable energy generation. None of the environmental impacts were assessed as being significant. The primary issues identified during the assessment were 'minor adverse' impacts (local scale effects only) to vegetation and soil profiles, limited tree feeling and the reduction in water flow on the Allt Mhor burn. The ES concludes that the effects would all be temporary in the main until restoration was complete, while the reduction in flow (and thus level) in the Allt Mhor would not alter the nature of its hydrological processes and character overall. Many of the impacts will be explored in more detail in this appraisal.

Natural Heritage

63. In assessing the proposed hydropower scheme and its impact on natural heritage, it should be noted that the site lies outwith sensitive designations including the River Spey Special Area of Conservation (SAC). The Allt Mhor and Gynack are however tributaries of the Spey. The SAC is a Natura designation and is covered by the requirements of the Habitats Regulations to ascertain what effects, if any, there may be on its qualifying interests.

64. The applicants have carried out a number of ecological surveys, including submitting a full ES with the application. These surveys made reference to a number of species including otter and salmon, and other protected species. An additional Electro fishing report was submitted which sets out how fish utilise the upstream areas and how this may be managed in tandem with this type of hydro proposal. The key species of international importance at the site and covered by Policy 4 'Protected Species' of the CNP Local Plan are otters and Atlantic salmon. It is noted that Otters are found throughout the area to be affected by this proposal and it is likely that they will move along

the watercourses and use the Allt Odhair, the Allt Mhor, Loch Gynack and the Gynack as part of either their natal or foraging territories. No signs were seen at either intake position, along the proposed route for pipeline 1 or in the vicinity of powerhouse 1. While only limited traces were found at the proposed pipeline and powerhouse for Scheme 2. A waterfall (at grid reference NH754011) is impassable to Atlantic salmon in most years and effectively prevents fish from moving into the upper catchment. **SNH** considers that the proposal would be unlikely to either directly or indirectly affect Atlantic salmon and otters as qualifying interests of the River Spey SAC. **SNH** confirm that an Appropriate Assessment is therefore not required.

65. The CNPA Ecologist has looked at the report and the response of SNH and makes limited additional comment. It is considered that the proposal is acceptable provided that appropriate mitigation measures are put in place. Consequently, the proposal complies with the natural heritage policies of the CNP Local Plan.

Impact on the Water Environment

66. The ES highlights that under normal conditions (ie not flood or in spate) very little water would be removed from the Allt Mhor. The overall impact on its hydrological processes is expected to be negligible. Water in the Allt Mhor and Gynack outflow burn would need to be diverted during construction of the weirs and reconstruction of the dam. This will have only a direct, albeit temporary, short term hydrological impact. The significance of the effect on the hydrological resource is minor adverse. During the operational phase, the intake weirs are not designed for the storage of water and are too small to cause any perceptible impacts to the magnitude, timing and duration of stream flows. They are designed to pass sediment and bedload with minimal obstruction. The ES confirms that the impact to river morphology caused by the weirs is expected to be negligible.

67. Policy 12 'Water Resources' requires that proposals do not result in the deterioration of the current or potential ecological status. Given the existing ecological condition of the Gynack, taken together with the response of consultees, there is no evidence that the proposal would, in any way, be contrary to Policy 12. It is important to note that the scheme has been assessed by **SEPA** under the Controlled Activities Regulations, and a license is likely to be issued.

68. **SEPA** have modelled the alterations of the flow on the Allt Mhor and the Gynack outflow burn and considered any cumulative effects of these two schemes and the Kingussie Community Development Company Archimedes Screw installation. **SEPA** have concluded that there will be no cumulative effect and the change in the flow regime downstream within the site is unlikely to affect either directly or indirectly on any of the qualifying interests of the River Spey SAC.

Flood Risk

69. The proposed flood diversion structure (not part of this application and would come forward in future) and the flood relief channel into Loch Gynack

would be a reconstruction of an earlier facility that was built around the same time as the dam on Loch Gynack but is now derelict. The ES highlights that 'medium non-damaging floods will be partially diverted into Loch Gynack and ameliorated after routing through the loch, with a proportion up to about 66% passed on down the Allt Mhor channel. Major floods up to a 200 year return period can be reduced to a less damaging level. Predicted reductions in flood peaks in the Gynack Burn due to operation of the flood alleviation scheme, would have significant benefits to the Kingussie community, primarily a reduction in property damage.'

Landscape and visual amenity

70. The CNPA Landscape Officer had some initial concerns about the nature of a hydropower scheme at this location, due to an increasing awareness of the issues surrounding reinstatement and restoration and the dynamic nature of the watercourses. This was in part because of the limited information supplied with the application detailing this, however CNPA and the applicant have worked hard to overcome this and a number of additional aspects are considered sufficient to deal with by way of conditions, in the event that planning permission is granted.

71. The proposal would result in changes to the local landscape, in and around the immediate vicinity of the Allt Mhor and Odhair burns, and the area around Loch Gynack and its burn. CNP Local Plan Policy 6 'Landscape' requires that proposals complement and enhance the landscape character. It is considered that the proposed hydropower scheme is unlikely to have any significant impact on the wider landscape due to the discrete and sensitive siting of the various built components, the use of an existing and well established access track and bridge crossings with only a limited need for small access spurs, alongside recognition by the applicant that sensitive and sympathetic restoration works are required.

72. The intake weirs are of concrete construction, diverting water into the buried penstocks. Locally sourced boulders and material would be used to form the wings to protect the banks of the attenuated area behind the weir. Due to their relatively small scale and discrete locations it is considered that the proposed structures are satisfactory. However, further information is required showing additional construction and reinstatement details to ensure that they may be as closely fitted with the existing landforms as is possible.

73. The turbine powerhouses are generally thought to be good quality, sensitive buildings, with sympathetic material finishes. The 700kW scheme building would be constructed into the slope of a hill by Loch Gynack to ensure this generally large structure (it includes both a large turbine and electricity transformer) has a minimal impact on the visual appearance of the area. The frontage of this building would appear as a modern yet fairly typical ancillary estate structure (such as a larder, ice house or water supply housing). An existing plantation is located nearby, some additional broadleaved planting is recommended to further reduce the visibility of the building. The 50kW scheme powerhouse would be more of a conventional building, with a slate roof and faced in stained timber boarding. The proposal would result in a

visual change in the wooded area by introducing a fairly simple, functional but traditional structure. However, the setting for the proposal is relatively discrete and would continue to be generally enclosed, measures to reduce tree loss and replacements are recommended.

74. It is noted that the existing estate track would not require significant upgrading; while the use of airlifting by helicopter ensures construction traffic and disturbance would be reduced. The approach tracks to the weirs and powerhouses are limited in size and width to allow for construction access and would be narrowed for maintenance purposes thereafter. The pipe work would be underground resulting in no visual intrusion provided the working corridor is suitably reinstated. A number of conditions requiring careful land restoration and after care around all the works are recommended.

Design, construction and reinstatement

75. The proposed 'run of river' scheme diverts water from the Allt Mhor and the Gynack into 3 intake structures, via buried penstocks and into 2 turbines, before being returned via tailraces further downstream. The construction of these components requires temporary disruptions to several sensitive areas including moorland, watercourses and their banks and a small wooded area. This in part requires, instream works, the temporary excavation of ground for pipe laying and woodland disturbance. It is considered that the mitigation and measures set out in the Environmental Management Statement, along with the requirement for detailed method and restoration statements, and a dedicated Landscape/Ecological Clerk of Works would ensure that appropriate steps are taken to reduce the impact of the development during and after construction.

76. During the construction phase, vehicle movements to and from the site would increase by 10 to 20 movements per day. The two main roads that would be utilised, the A86 and the A9, are substantial A roads used to coping with a moderate volume of daily traffic. However, all vehicles moving to and from the site would use the Ardbroilach Road, which runs north from Kingussie to Pitmain Estate. This small road is accustomed to low volumes of daily traffic. The additional daily vehicle movements associated with the construction operations would be temporary and have only limited potential to impede some local users of this road. To reduce this impact, wherever possible, vehicle movements to and from the site would be kept to a minimum. Traffic movements would also be timed to avoid peak hours.

Other issues

77. There are no amenity concerns as there are no neighbouring properties nearby aside from Pitmain Lodge itself. The scheme has been designed to eliminate any visual and noise impacts to this building.

78. Lastly, following discussions, the applicant has agreed to undertake the construction of the Kingussie Development Company Archimedes screw previously granted by CNPA (10/424/CP) further down the Gynack Burn in lieu of the requirement for formal developer contributions. It considered that a voluntary undertaking would be sufficient to ensure this given Pitmain

Estates linkages with the local community and ensures a legal agreement is not required in this instance.

Conclusion

79. In considering this application, it is evident that the development of this hydropower scheme would bring renewable energy generation back to Pitmain Estate and Kingussie as a whole. There are no significant impacts on natural heritage or the water environment. Various measures set out within conditions would ensure that any landscape impacts are minimised.

80. Overall, this is a positive scheme that accords with the policies of the CNP Local Plan and assists in achieving the aims of the Park. The project would provide a clean, low-impact hydro development, also resulting in spin-off benefits to the local community in delivering flood alleviation and enabling a community-owned scheme to be directly constructed. Consequently, the application is recommended for approval subject to the conditions set out below.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

81. The proposal protects the natural heritage of the area and in part involves the reinstatement of an older hydropower and flood alleviation scheme at the site (albeit in a different form) therefore adding to the cultural relationship between Kingussie and the use of hydro resources.

Promote Sustainable Use of Natural Resources

82. The proposal performs strongly against this aim by providing power in an environmentally friendly manner at a scale that is appropriate to the location.

Promote Understanding and Enjoyment of the Area

83. While the proposal would effect a change in the landscape, this would be both sensitive and sympathetic, while the new built structures would add an additional feature of interest for both local people and visitors to the area. The Claimed Right of Way would not be affected.

Promote Sustainable Economic and Social Development of the Area

84. Again, the scheme performs strongly against this aim and would provide an opportunity to reduce flood events in Kingussie and would be of benefit to the community scheme proposed.

RECOMMENDATION

85. **That Members of the Committee support a recommendation to GRANT PLANNING PERMISSON for the Installation of 2 hydropower schemes and reconstruction of a dam at Pitmain Lodge, Kingussie, subject to the following:**

A. Confirmation that the applicant has entered into a Voluntary Undertaking with the Kingussie Community Development Company to ensure that the community micro-hydro scheme on the lower reaches of the Gynack Burn is implemented and completed to the satisfaction of all parties, and:

B. the following conditions:

1. The development to which this permission relates must be begun within three years from the date of this permission.

Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended).

Construction Methods

2. The development hereby approved, must be carried out in accordance with the approved plans and the measures and mitigation set out in the Environmental Statement, Environmental Management Plan and Survey and Assessment for Protected Mammals, unless otherwise provided for by planning conditions.

Reason: To ensure that the site is developed in an appropriate manner that protects the environment at and around the site.

3. Prior to commencement of construction of the development hereby approved, a detailed Construction Method Statement (CMS), which sets out how the construction phases of the development will be managed, shall be submitted to, and approved in writing by the CNPA acting as Planning Authority. In particular, the CMS shall cover the following:

a. Detailed construction methods for all aspects of the scheme (temporary access tracks, upgrade of existing tracks, site compounds, borrow pits, intakes, pipeline, powerhouses, tailrace, outfall and diversion channels and dams – including working depths, soil storage measures and restoration methods and profiles).
b. Pollution prevention and site waste minimisation measures,
c. Location, nature and restorative enhancement proposals for borrow pits, pipe lay-down stations and other temporary works,
d. Construction site facilities including the location of construction site compounds, huts, vehicle equipment, and materials storage,
e. Duration, timing and phasing of works,

f. The width of the working corridor that construction works will be confined to (shown on a plan detailing access, all operations, soil and vegetation types (including profiles) and restoration and reinstatement proposals),
g. Detailed landscape mitigation and restoration techniques,
h. Detailed habitat mitigation and restoration targets,
i. Drainage proposals including methods for working in or near deep peat,
j. Methods to protect trees in the vicinity of powerhouse 2,
k. Otter mitigation,
l. Other mammal mitigation,
m. Public access management proposals - to ensure public access is maintained and disruption minimised,
n. Traffic management proposals - to minimise any conflict between construction vehicles and other road users,
o. Proposed methods to avoid any archaeological sites identified

Unless otherwise agreed in writing by the CNPA acting as Planning Authority, all works shall be carried out in accordance with the approved Construction Method Statement.

Reason: To ensure the construction phase is carefully managed to avoid any adverse effect on the integrity of the River Spey SAC, to minimise landscape impacts and to mitigate impacts on ecology, archaeology, access, and the public.

4. No development shall commence on site until a suitably qualified Ecology/Landscape Clerk of Works or On-site Appropriate Qualified Environmental Specialist has been appointed to oversee the setting out, construction and restoration of all project elements likely to have a landscape or ecological impact. The CNPA shall be notified of the appointment and details made available.

Reason: To ensure that the landscape mitigation agreed in the detailed Construction Method Statement is followed during construction and to minimise landscape and visual intrusion from the development.

5. Prior to appointing the Ecology/Landscape Clerk of Works or On-site Specialist, the scope of works and responsibilities for that person shall be submitted to, and approved in writing by the CNPA acting as Planning Authority. As a minimum, they shall oversee the following:

a. The marking-out of the extent of the construction corridor, the extent of the site compound/pipe lay-down areas, and the extent of the borrow-pits,
b. Micro-siting of intakes and detailed design of mitigation measures, such as placing of boulders;
c. Detailed routing of pipeline and location of infrastructure such as pipe crossings;

d. Location and design of temporary tracks and their subsequent restoration (to quad bike track width);
e. Removal to storage area, maintenance of stored materials, restoration and reinstatement of all disturbed vegetation and landform.
f. Thereafter, all works shall be carried out in accordance with the agreed Scope of Works.

Reason: To ensure that the landscape mitigation agreed in the detailed Construction Method Statement is followed during construction and to minimise the landscape and visual intrusion from the development.

6. Prior to commencement of the development hereby approved, detailed micro-siting drawings including layout plans (plan views), elevations and cross-sections of each intake and powerhouse, any valve or scour points, headwalls and culvert and tailrace (and any temporary elements) shall be submitted to, and approved in writing by the CNPA acting as Planning Authority. These drawings shall detail all measures to ensure the intakes show a good fit with existing landforms, restoration proposals and any associated structures such as railings, wing walls, plunge pools, and boulders in concrete, and indicate all materials and finishes (and avoidance of springs or other features). Thereafter, the intakes shall be constructed in accordance with the approved drawings.

Reason: All intakes, pipelines, powerhouses and associated structures shall be constructed in accordance with the approved designs.

7. Prior to commencement of the development hereby approved, details and cross-sections of any works to river terraces, slopes or burn crossings shall be submitted to, and approved in writing by the CNPA acting as planning authority. These shall include measures showing an alignment for the pipeline construction that will not destabilise landforms and adversely affect the achievement of a final landform and vegetation character typical of adjoining undisturbed areas. This information will include detailed engineering drawings informed by geotechnical survey and sections showing site-specific restoration and reinstatement proposals. Thereafter the development shall be carried out in accordance with the agreed details.

Reason: To ensure the proposed works do not affect adjacent landforms.

8. No works shall commence on the construction of any of the permanent structures (including the powerhouses or intakes and tailraces), unless samples or details of the final materials and colour to be used to construct all aspects of the structures, has been submitted to, and approved in writing by the CNPA acting as panning authority. Thereafter, all structures shall be constructed in accordance with the approved details.

Reason: To ensure that all structures blend in with the landscape setting and to minimise visual intrusion.

Replacement planting, restoration and reinstatement

9. Prior to the commencement of development hereby approved the development shall be landscaped and maintained in accordance with a Landscape Restoration Plan which shall be submitted to and approved by the CNPA acting as Planning Authority. The plan shall detail proposals for the management of disruption, restoration and reinstatement and management of all areas of the scheme, including areas of grass seed/turf and indications of all existing areas of trees on the land, and details of any to be retained, together with measures for their protection in the course of the development and shall include a phasing programme for the implementation of replacement and additional trees and a plan showing the siting, numbers, species and heights (at the time of planting) of all trees to be planted (including around both powerhouses), and shall ensure:-

a. Completion of the scheme during the planting season next following the completion of the development, or such other date as may be agreed in writing with the Planning Authority.

b. The maintenance of the landscaped areas in perpetuity in accordance with the detailed maintenance schedule/table. Any trees or shrubs removed, or which in the opinion of the CNPA acting as Planning Authority, are dying, being severely damaged or becoming seriously diseased within three years of planting, shall be replaced by trees or shrubs of similar size and species to those originally required to be planted.

Reason: To minimise the landscape and visual impact of the scheme by ensuring that the ground is restored as quickly as possible post-construction.

10. The applicant shall submit an interim construction monitoring report (following 1st seasons work) and post-construction maintenance review (following 1st growing season) to the CNPA acting as Planning Authority setting out how the requirements of the CMS and all other conditions of the planning permission are being adhered to on the site, and any issues arising from and following the construction and commissioning phase. The monitoring report shall include an update on restoration and reinstatement progress, photographs, and an update from the Ecology/Landscape Clerk of Works. Remedial actions and responsibilities should also be set out and undertaken unless otherwise agreed in writing by the CNPA.

Reason: To ensure that all mitigation required by the planning conditions is followed during and after construction.

Archaeology

11. Prior to the commencement of development, a programme of archaeological work for the preservation and recording of any archaeological features affected by the proposed development, including a timetable for investigation, all in accordance with the attached specification, shall be submitted to and require the approval of the CNPA acting as planning authority. All arrangements thereby approved shall be implemented by the developer at his expense in accordance with the approved timetable for investigation.

Reason: In order to preserve the archaeological and historical interest of the site.

Ecology

12. No construction works shall take place anywhere on the site between 1 April and 31 July unless a Breeding Bird Protection Plan has been submitted to, and approved in writing by the CNPA acting as Planning Authority. The plan shall set out measures to protect breeding birds from construction, including:

    a. How and when the Landscape/Ecological Clerk of Works will check the construction corridor for signs of breeding bird activity,

    b. How site personnel will be briefed to alert them to wildlife legislation and signs of breeding birds, and

    c. The procedures to be followed in the event that a nest is found within the construction corridor.

    All construction works carried out between 1 April and 31 July shall be implemented in accordance with the agreed Breeding Bird Protection Plan.

    Reason: To avoid disturbing nesting birds during bird-breeding season and to ensure the proposed works do not contravene Nature Conservation laws relating to the protection of any wild bird nest while in use or being built.

13. Prior to the commencement of any development, a repeat survey of the site shall be undertaken to monitor and establish the presence and location of mammals including otter, water vole and in trees to be felled, red squirrel and bats and a copy of the report shall be submitted to and approved by the CNPA acting as planning authority, including measures for protection within and around the proposed site.

    Reason: In the interests of minimising disturbance to natural heritage interests in the area.

Decommissioning

14. Unless otherwise agreed in writing with the CNPA acting as Planning Authority, in the event of the scheme no longer generating electricity for a continuous period of 24 months and with no realistic expectation of resumption in the foreseeable future, the site shall be reinstated within a period of 18 months following the expiry of such period of cessation or within such timescales as agreed in writing with the CNPA. Reinstatement shall comprise the removal of all infrastructure, and restoration of the natural water regime to normal flows and restoration of the disturbed soils and vegetation to the habitat restoration targets as detailed in a Restoration Plan to be submitted to and agreed with the CNPA acting as planning authority. All reinstatement works shall be carried out to the reasonable satisfaction of the CNPA acting as Planning Authority.

Reason: To ensure that the decommissioning and restoration works are carried out in a manner satisfactory.

Planning Gain

15. In the event that the voluntary undertaking to implement and complete the community hydro-scheme development is not, for any reason, done to the satisfaction of all parties, including the CNPA acting as planning authority, and within a period of two years from the completion of the development hereby approved, then alternative planning gain contributions will be sought to provide for local sustainability measures as per the Planning Gain memorandum dated 4 October 2011.

Reason: To ensure that developer contributions, whether in cash or kind are collected and that any contribution is utilised for the benefit of the community and local sustainability.

Interpretation

16. Prior to the commencement of development hereby approved, interpretation and information is to be put in place on site during the works to provide the public about the scope and nature of the works and what measures are in place to protect access and the environment.

Reason: To inform the public on the construction works.

ADVICE NOTE

Protected Species

1. The applicant is advised that it is a criminal offence under the Conservation (Natural Habitats Etc.) Regulations 1994 to deliberately or recklessly capture, injure or kill a European protected species of wild animal (including birds) or to deliberately or recklessly (i) harass an animal or group of animals; (ii) disturb an animal while it's occupying a structure or place used for shelter or protection; (iii) disturb an animal while it's rearing or caring for its young; (iv) obstruct access to a breeding site or resting place; (v) disturb an animal in a manner that is likely to significantly affect the local distribution or abundance of the species to which it belongs; (vi) disturb an animal in an manner that is likely to impair its ability to survive, breed or reproduce, or rear or otherwise care for their young; (vii) disturb an animal while it is migrating or hibernating.

2. Where it is proposed to carry out works which would affect European Protected Species or their shelter/breeding places, whether or not they are present in these refuges, a licence is required from the Scottish Government (Scottish Natural Heritage). Should otter be seen on the site during works work should stop immediately and SNH should be contacted immediately.

Controlled Activities Registration

3. The applicant's attention is drawn to the above application for a CAR Licence. Notwithstanding grant of the planning permission, the CAR Licence must be granted before the development may proceed. Both the conditions of

planning permission and the terms of the CAR licence must be met in full. You are referred to SEPA Guidelines on working in and around watercourses (sepa.org.uk)

4. The applicant is encouraged to investigate measures and mitigation to address or minimise the ongoing active landslips and instability within the local area such as those included in any forthcoming catchment restoration plan that may come forward.

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22 February 2012

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