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## CAIRNGORMS NATIONAL PARK AUTHORITY

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

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(PLANNING OFFICER,  
DEVELOPMENT MANAGEMENT)**

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**DEVELOPMENT PROPOSED:** Retrospective application for a pot ale lagoon | Mains Of Auchriachan Farm Tomintoul Moray

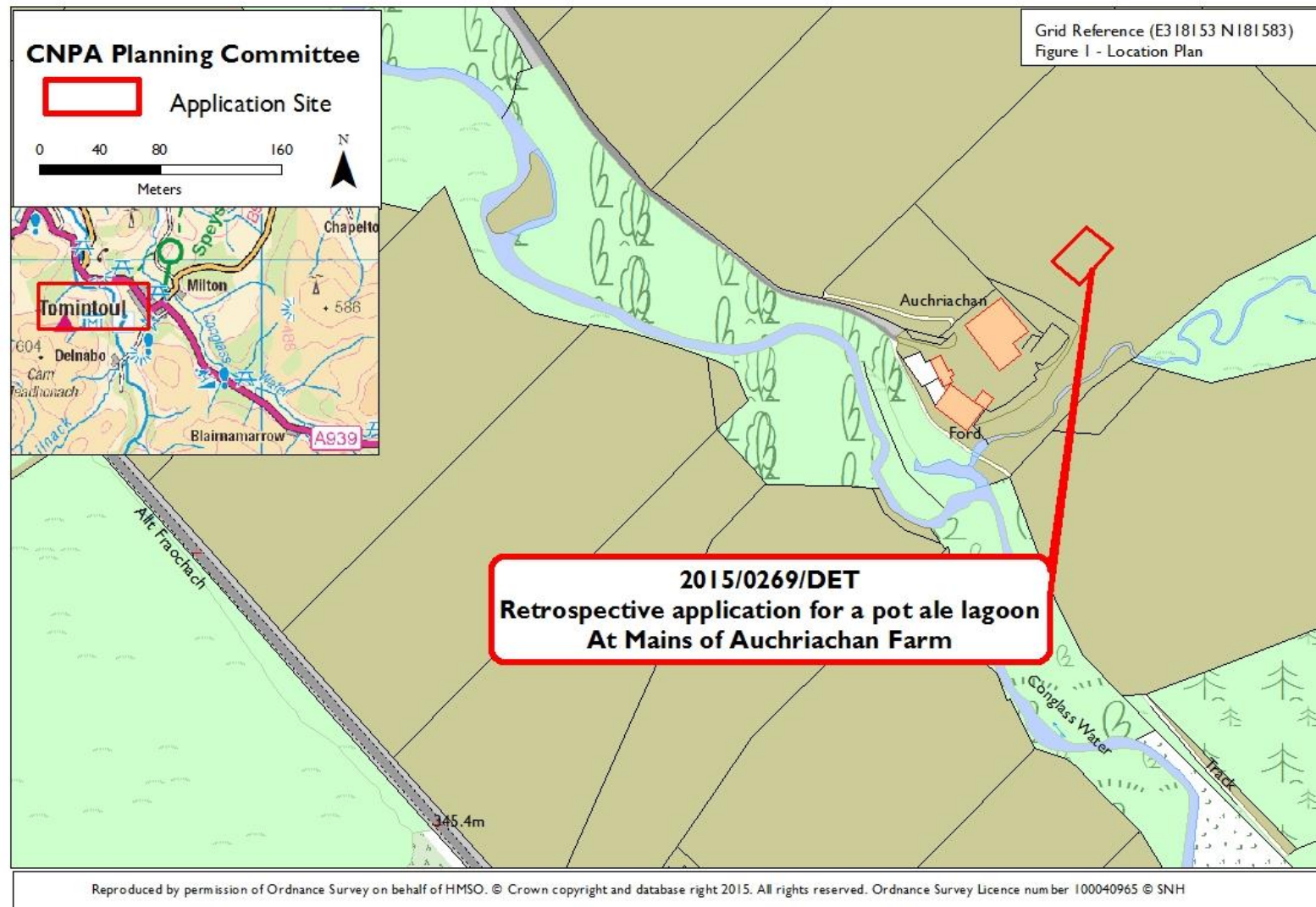
**REFERENCE:** 2015/0269/DET

**APPLICANT:** Andrew Duffus

**DATE CALLED-IN:** 24 August 2015

**REASONS FOR CALL IN:** The lagoon is located in close proximity to the Raebeg Burn feeding to Conglass Water being part of the River Spey SAC. It is considered that there is the potential for leakage or breach leading to contamination of the Spey SAC the safeguarding of which should be subject to CNPA assessment, therefore the development raises significant issues of consequence to the Park.

**RECOMMENDATION:** APPROVAL SUBJECT TO CONDITIONS



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## SITE DESCRIPTION AND PROPOSAL

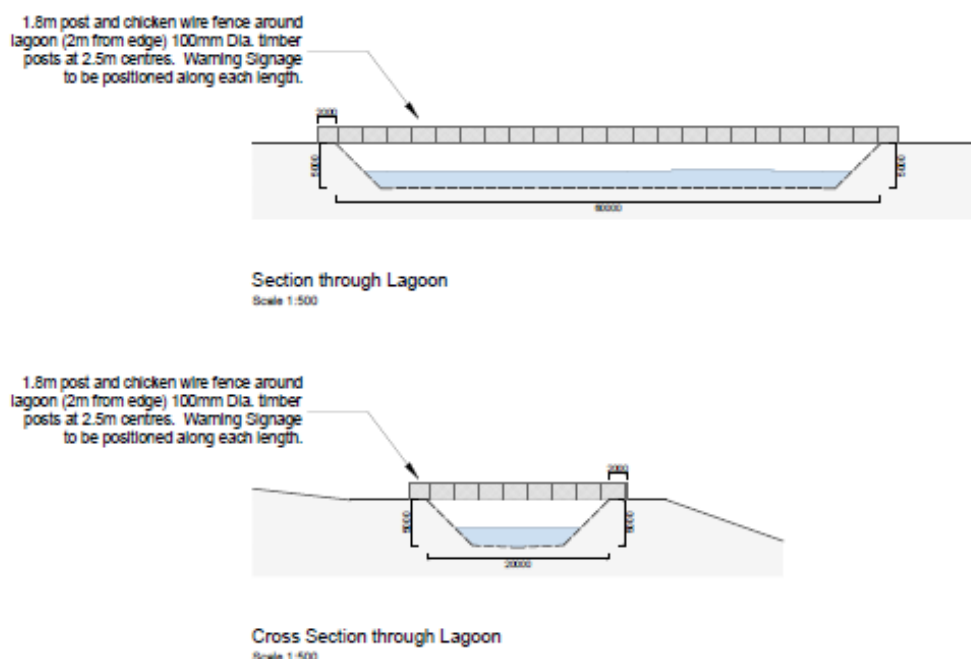
1. The drawings and documents associated with this application are listed below and are available on the Cairngorms National Park Authority website unless noted otherwise:

<http://www.eplanningcnpa.co.uk/online-applications/#searchApplications>

Title	Drawing Number	Date on Plan	Date Received
Location Plan, Site Plan and Elevations	1055582/PL01	July 15	
Landscape Plan	1055582/PL02	Oct 15	
Sustainable Design Statement by Savils		undated	
Installation of lined and covered slurry lagoons by Agri Environmental Limited	Gen/Agri 290615	29 June 15	

### Development Proposal

2. This retrospective application seeks full planning permission for the formation of a pot ale lagoon at Mains of Auchriachan Farm by Tomintoul. It is understood that work commenced on the construction of the lagoon earlier in the year as the applicant thought the works were permitted as agricultural operations. However the lagoon is not directly related to the purposes of agricultural and therefore planning consent is required. The current application was duly submitted for consideration and work on the lining and operation of the lagoon has ceased meantime.
3. The proposed development is to form an excavated lagoon measuring some 60 metres by 20 metres, depth of five metres with sloping sides, enclosed by 1.8 metre high post and chicken wire fence. This lagoon will be used to store pot ale (a high protein residue/by-product of the distilling industry) for use in spreading on the applicant's various farms as a fertiliser; the fields being copper deficient. The maximum storage capacity of the lagoon is 1250 tonnes and it will not be filled higher than 2 metres from the top of the excavated area. Pot ale will be delivered to the site from a nearby distillery and the resultant fertiliser will replace other forms of imported fertiliser. Around 1- 2 HGVs per day are anticipated. The lagoon will be lined with a synthetic membrane and there will be inspection, monitoring, leak detection and drainage systems installed. It will be filled from the western end by way of a concrete channel where pot ale from the lorries can be emptied into the lagoon. The proposed construction of the lagoon is shown in **Figure 2**.



**Figure 2 Proposed construction of lagoon**

4. The site is located to the rear (east) of the Mains of Auchriachan Farm complex, with access taken via an existing track through the farm yard. It is part of an agricultural field which sits above (to the north) of the Raebeg Burn which flows quickly into the Conglass River, part of the River Spey Special Area of Conservation. The burn lies at a lower level to the farm and there is an embankment leading up from the burn to the farm. The excavations from the lagoon to date have introduced further banking here which the applicant proposes to seed.
5. It is also proposed to carry out riparian planting along the burnside to the south of the application site on land within the applicant's control. It is understood that this is part of a wider proposal by the applicants under the Agri-environment climate change scheme for measures to enhance the Conglass Water, with planting of 75 trees proposed in the burnside area to the south of the lagoon. The applicant submits that this planting will be managed for riparian enhancement and will act as screening for the lagoon. The overall layout is shown in **Figure 3**.

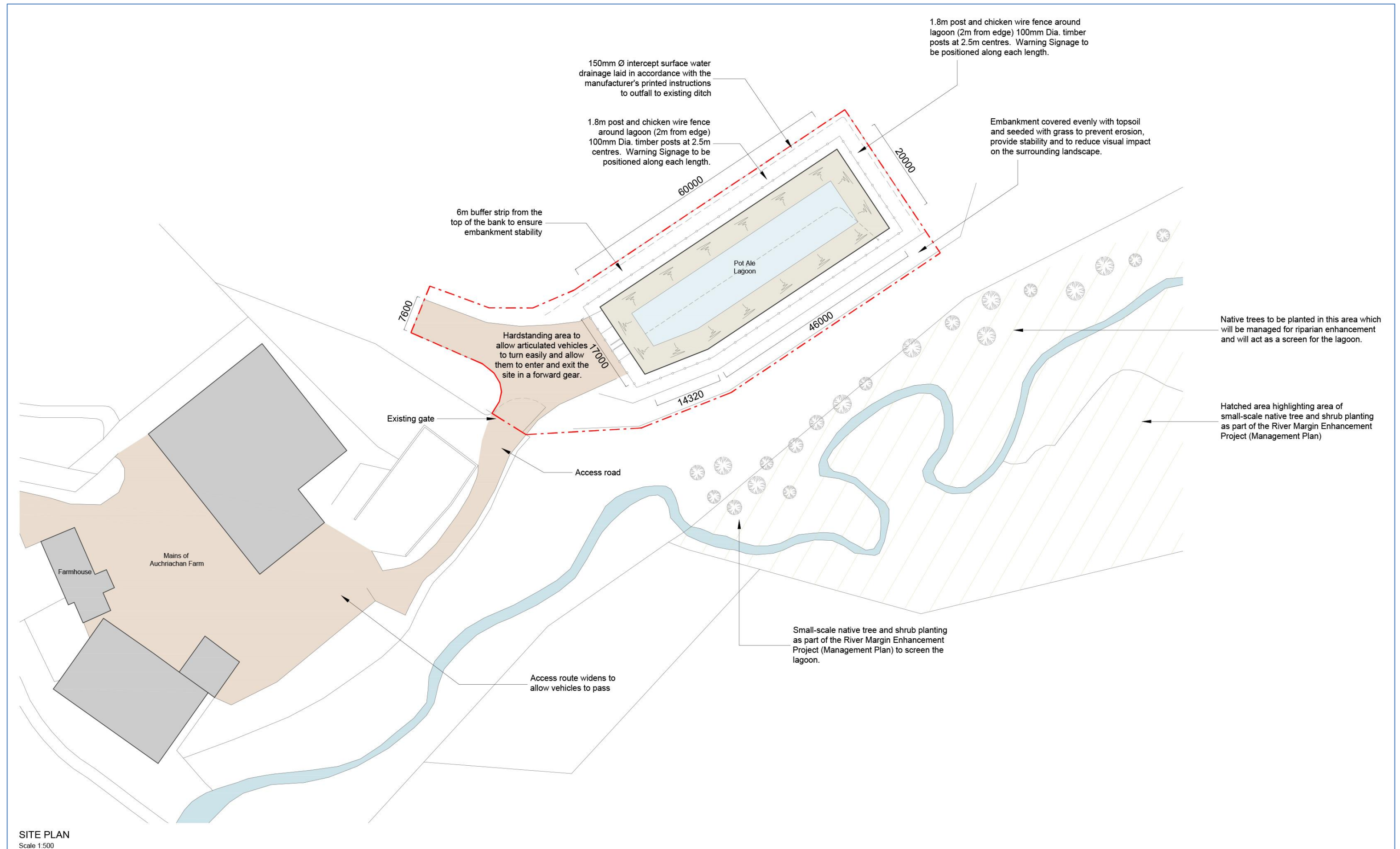
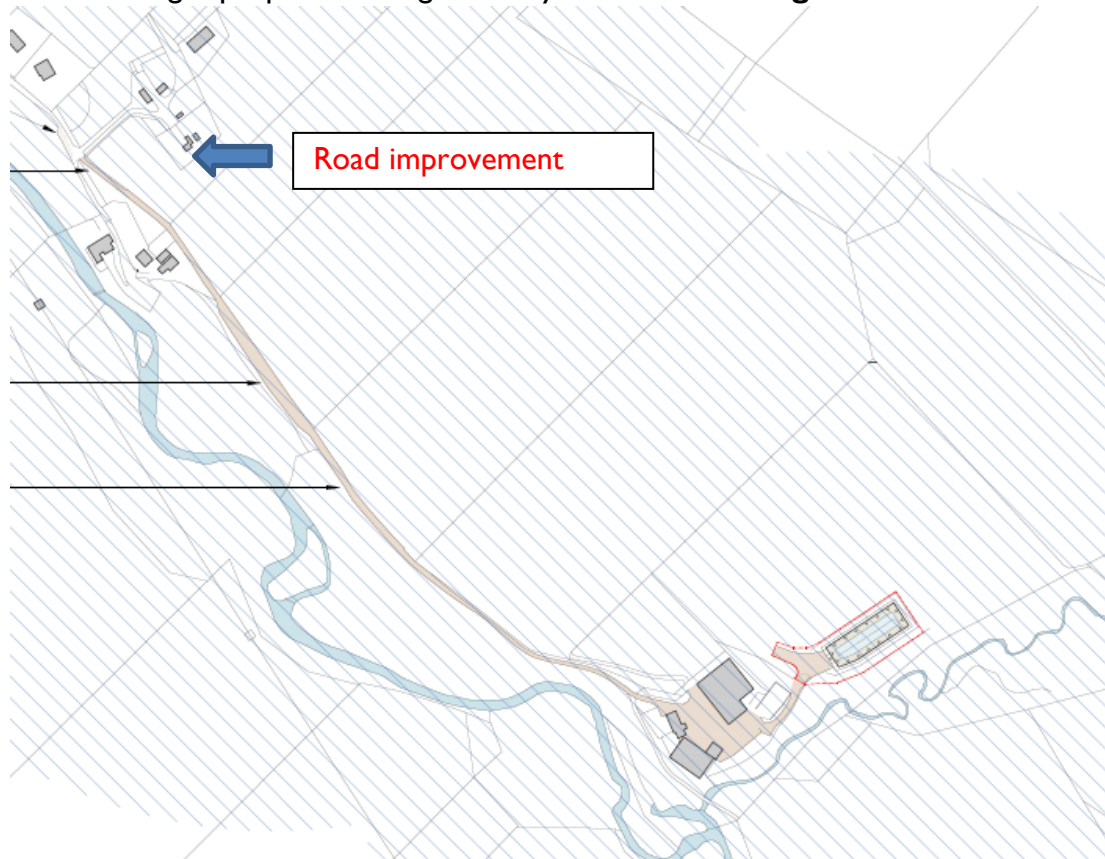


Figure 3: Site Layout and Planting



6. Mains of Auchriachan is located to the north east of Tomintoul and takes access off an unclassified public road leading onto the Tomintoul to Dufftown B9008 road. This unclassified road serves a number of other properties and stops short of the farm itself. At the junction of the farm track with this road layby/road widening is proposed. The general layout is shown in **Figure 4**



**Figure 4 Site Location**

7. The application is supported by a sustainable design statement explaining how the proposal has been designed to relate well to the existing farm complex, minimise visual impact, use on site materials for construction with all measures taken to protect the environment and minimise use of resources. Following discussion with the applicants further information on landscaping, lagoon and layby design were provided for consideration by consultees.

### **Site History**

8. In terms of planning history there have been no recent planning applications at Mains of Auchriachan itself. There have been a number of applications approved by the Moray Council for housing related development further down (west) the minor public road at Milton and Mill of Auchriachan. As noted earlier the applicant was advised by Moray Council that planning consent was required for the lagoon, with advice provided on the level and type of information required.

## DEVELOPMENT PLAN CONTEXT

### National policy

9. **Scottish Planning Policy** (SPP, revised 2014) sets out national planning policies that reflect Scottish Ministers priorities for the operation of the planning system and for the development and use of land. Under planning law, planning applications must be determined according to the development plan unless material considerations indicate otherwise. The content of SPP is a material consideration in planning decisions that carries significant weight. The SPP promotes consistency in the application of policy across Scotland while allowing sufficient flexibility to reflect local circumstances.
10. The SPP sits alongside four other Scottish Government planning policy documents:
  - 1) The National Planning Framework (NPF) which provides the statutory framework for Scotland's long term spatial development. The NPF sets out the Scottish Government's spatial development policies for the next 20 to 30 years;
  - 2) Creating Places, the policy statement on architecture and place, containing the Scottish Government's policies and guidance on the importance of architecture and design;
  - 3) Designing Streets, a policy statement putting street design at the centre of placemaking. It contains policies and guidance on the design of new or existing streets and their construction, adoption and maintenance; and
  - 4) Circulars, which contain policy on the implementation of legislation or procedures.

### Strategic Policy

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

11. The Cairngorms National Park Plan sets out the vision and overarching strategy for managing the Park and provides focus and priorities at a time of limited financial resources. The Plan also provides a strategic context for the Local Development Plan and shows how the four aims of the National Park can be achieved together. It sets out the strategic direction and priorities for the Park.
12. Three long term outcomes for the Park are set out as follows:
  - 1) A sustainable economy supporting thriving businesses and communities;
  - 2) A special place for people and nature with natural and cultural heritage enhanced; and
  - 3) People enjoying the park through outstanding visitor and learning experiences.

These outcomes address the interaction of the three main characteristics of the National Park these being that the Park is an internationally important area for

nature conservation; a fragile rural economy, and an internationally known tourism destination. Recognising the relationship of these outcomes is at the heart of the National Park. A series of work programmes to help deliver the outcomes is set out in the Plan

## Local Plan Policy

### Cairngorms National Park Local Development Plan (2015)

13. All new development proposals require to be assessed in relation to policies contained in the adopted Local Development Plan. The full wording of policies can be found at: <http://cairngorms.co.uk/park-authority/planning/local-development-plan>. Key policies relevant to the proposed development are summarised below:
14. *Policy 2.3 Other Economic Development* supports development which supports or extends the economy providing it meets other policies of the plan, is compatible with existing business activity in the area, and supports the vitality and viability of the local and broader economy of the Park.
15. *Policy 3.1 Sustainable Design* sets out the need for new development amongst other criteria, to be satisfactorily serviced, sympathetic to the character of the area, make sustainable use of resources, and create opportunities to further biodiversity and promote ecological interest.
16. *Policy 4.1 International and national designations* (in respect of potential impacts upon the River Spey Special Area of Conservation) *Policy 4.2 National Designations* (in respect of the National Park); and *Policy 4.5 Other Biodiversity and Policy 4.6 All Development*. These policies set out how any heritage interests should be considered, protected, mitigated and enhanced with the key objective of ensuring that all development conserves and enhances the outstanding natural heritage of the National Park, protecting against adverse development.
17. *Policy 5 Landscape* presumes against development which does not conserve and enhance the landscape character and special qualities of the National Park.
18. *Policy 10.1 Water Resources; Policy 10.2 Flooding and Policy 10.4 Waste Management and Minimisation* set out how new development should ensure the reduction in use of resources, ensure development is free from flood risk, and to ensure there is no deterioration in ecological status or unacceptable impacts on the water environment with appropriately sized buffer strips to be retained around water features.

## Supplementary Guidance

19. The CNPA has prepared a suite of Supplementary Guidance (SG) which is part of the Local Development Plan and provides more detail about how to comply with the policies. There is also non-statutory Planning Guidance to help support the delivery of the Plan. Key topics in this case are guidance on Natural Heritage, Resources and Landscape



## CONSULTATIONS

20. **Scottish Environment Protection Agency (SEPA)** originally advised that they had no objection to the development providing planning conditions were attached requiring:
- a) Detail of the drainage provision for the associated yard to be provided and approved
  - b) Risk assessment of the location , including an assessment of the sensitivity of the location in terms of permeability of soil and risk to groundwater, details of selected liner construction and installation including permeability of the liner and details of method of construction of inlet/outlet pipes to be approved and implemented
  - c) Submission of details of the monitoring and inspection of the lagoon including a system for leak detection.
21. SEPA also advised that the proposal was considered to be potentially consentable by the Agency, and recommended that the lagoon edge be amended to ensure minimum distances from watercourses were achieved. The plans show a chamfered edge.
22. Following submission of further information on lagoon design SEPA has advised that this demonstrates a suitable standard is proposed. They do however wish conditions to be imposed requiring the applicant ensure that the development is constructed in accordance with these details and that details of the drainage of the yard/vehicle hardstanding/off-loading area to the west of the lagoon are agreed.
23. **Scottish Natural Heritage (SNH)** notes that the development is located close to the Raebeg Burn which quickly flows into the Conglass Water which provides good habitat supporting Atlantic Salmon. It is therefore important that the watercourses are not at risk of pollution as a result of the installation and operation of the lagoon. In this regard SNH note that SEPA have responded requesting the application of planning conditions to any consent; these conditions being specifically aimed at avoiding pollution risks. If SEPA's requirements can be met then SNH advise that the lagoon system should not pose any risk to the Special Area of Conservation.
24. **The Moray Council Contaminated Land Officer** has no concerns regarding historical land contamination noting that any pollution issues would be a matter for SEPA.
25. **The Moray Council Environmental Health Manager** has no objections.
26. **The Moray Council Flood Risk Management Team** has no objections.
27. **The Moray Council Transportation Manager** has no objections subject to a planning condition being attached requiring that within 3 months of the date of any consent, full details of the widening of the end of the public road (U129H Auchriachan road) shall be submitted and approved to show the provision of

verges to the rear of the widened area, levels and drainage details, all works to be to Moray Council's standards and specifications. The road widening once approved to be constructed in accordance with the approved details within 9 months of granting consent.

28. **CNPA Ecology Advisor** has noted that the key impacts from the lagoon relate to: (1) potential for accidental spillages and leaks given the high nutrient and copper content of pot ale, and (2) sediment run off arising from construction and embankments. These risks may be addressed by the specification for the lagoon which includes a leak detection system and maintenance regime together with drainage measures to capture run-off. In respect of sedimentation this may be addressed by sowing and stabilizing the embankment and providing strategic tree planting to act as a natural filter for sediments.
29. It is therefore recommended that a planting plan be provided to identify areas to be planted, planting of native trees and shrubs, to be strategic to ensure run off is intercepted and a buffer strip therefore provided for the Conglass Water. This will also benefit otter in the area. Also in drawing up a landscape plan consideration should be given to ensuring no negative impacts for breeding wading birds.
30. Following on from this advice the applicant provided an indicative landscape scheme which the Advisor considers to represent a satisfactory approach. However, it is recommended that in developing a more detailed plan that a three metre margin of tree planting be provided between the bottom of the slope and the burn to help any sediment from the slopes reaching the burn.
31. **CNPA Landscape Advisor** notes that this farm sits above the river terrace and is prominent in views from the A939 with the lagoon construction prominent in this sweeping open landform. This impact will reduce over time as grass establishes on the banking. This impact could be further reduced by softening the regular profile of the earthworks and planting trees in the vicinity to break up even outlines. A landscape scheme should be provided to show this together with a visualisation from the A939.
32. As noted above the applicant has provided an indicative landscape scheme and the Advisor considered this to be satisfactory in principle in terms of location and species. The final scheme should provide details of species, plant specification, spacing, protection, maintenance and long term management with the species selection to reflect those likely to occur naturally in the area and in a waters' edge/river terrace environment.
33. **Glenlivet Community Council** has provided no response to date.

## **REPRESENTATIONS**

34. The application was advertised and no representations have been received.

35. The applicant has requested the opportunity to be **heard** at Committee.

## **APPRAISAL**

### **Principle**

36. The basis of this application is to use a locally sourced by product of the distilling industry as a fertiliser on the applicant's land holding by way of storing it in a lagoon which will also be constructed from locally sourced on-site materials with excavated materials used in the construction. This is considered to be a sustainable approach, avoiding the use of manufactured fertilisers and new resources, and supporting the applicant's farming business. As such it is considered in principle to accord with Local Development Plan Policy 2 Economic Development and Policy 3 Sustainable Design.
37. It is noted that work commenced in advance of planning permission being granted for the reasons outlined earlier in the report. However, this should not affect the consideration of the planning merits of the case. Key amongst these considerations is the impacts on landscape, environment and servicing as now discussed.

### **Landscape Impacts**

38. The site is well located in relation to the existing farm complex at Mains of Auchriachan with which it forms a natural grouping and is similar in visual terms to regular agricultural operations. However, it is prominent from the Tomintoul to Lecht road where it sits above the Raebeg Burn, with the current excavated embankment clearly visible, creating a rather "stark" appearance. This impact will reduce once grass seeding, as proposed by the applicant, becomes established. Riparian planting proposed by the river bank will then help create an improved setting for the development and farm.
39. Accordingly, it is considered that the proposed development will, over time, complement and enhance the landscape as required by Policy 5 Landscape. However, a detailed landscape scheme is required in order to ensure the detailing and future maintenance is satisfactory. A planning condition is recommended to this end in the event of the application being supported.

### **Environmental Impacts**

40. As the site is located close to the Raebeg burn (which feeds into the River Spey SAC) it is essential to ensure that there are no adverse impacts on this designated site. Both SEPA and SNH are satisfied with the development including the proposals for lining the lagoon and ensuring there is no potential for pollution. Proposals for planting beside the burn will also help ensure there are no environmental impacts. The planting will also secure a potential environmental enhancement in terms of improving biodiversity opportunities along the burnside and an improved habitat for fish. Consequently the application is considered to comply with Policy 4 Natural Heritage and 10 Resources, subject to appropriate planning conditions being imposed to (1)

secure implementation of a landscape scheme, (2) ensure that the development is constructed in accordance with the submitted plans and supporting details, and (3) ensure details of drainage for the yard are agreed.

### **Servicing**

41. The site uses existing servicing arrangements in terms of access with proposals included to secure an improvement to the road serving the site given the increase in traffic arising. These proposals are considered to be satisfactory in principle to the Moray Council Roads Service subject to planning conditions being attached to any consent issued to secure details of the road widening/layby provision. On this basis it is considered that the development complies with Policy 3 Sustainable Design.

### **Amenity Impacts**

42. The site is considered to be sufficiently far from other residences so as to ensure no adverse impacts. Potential impacts from increased traffic to the farm have been addressed by the road improvements sought by Moray Council Roads Service as noted above.

### **CONCLUSION**

43. The proposed development facilitates a sustainable approach for farming using a by-product of the distilling industry. The development has been assessed for any impacts upon the landscape, environment and servicing and found to comply fully with planning policies. As such approval is recommended subject to appropriate planning conditions.

### **IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK**

#### **Conserve and Enhance the Natural and Cultural Heritage of the Area**

44. Subject to planning conditions being attached to ensure there are no adverse impacts on the environment and with opportunities for enhancement via riparian riverside planting secured, the application supports this aim.

#### **Promote Sustainable Use of Natural Resources**

45. The development readily supports this aim by reusing a locally sourced industry by product in a productive manner for agricultural purposes. Natural materials to create the development are also locally sourced.

#### **Promote Understanding and Enjoyment of the Area**

46. The proposals do not directly relate to this aim although by ensuring the development is suitably laid out and landscaped this should help ensure there is no loss of enjoyment for visitors and residents in terms of landscape impacts.

**Promote Sustainable Economic and Social Development of the Area**

47. The proposed development supports this aim, by assisting and supporting local businesses (distilling and farming).

**RECOMMENDATION**

**That Members of the Committee support a recommendation to GRANT FULL PLANNING PERMISSION for retrospective application for a pot ale lagoon at Mains Of Auchriachan Farm, Tomintoul subject to the following conditions:**

1. No pot ale shall be stored in the lagoon until a detailed landscape scheme (based upon the principles of the indicative landscape scheme) has been submitted to and approved by the Cairngorms National Park Authority acting as Planning Authority. This plan shall include details of species, plant specification, spacing, protection, maintenance and long term management, and details of seeding and preparation of the embankment. The species selection should reflect those likely to occur naturally in the area (and in a waters' edge/river terrace environment) and the scheme should also reflect the need to provide a three metre tree planting margin between the bottom of the slope and the Raebeg burn. The landscape plan shall thereafter be implemented in strict accordance with the approved details within the first planting season following this approval and maintained thereafter in strict accordance with those approved details.

Reason: To ensure the development complements the landscape and to ensure that there are no adverse impacts upon the watercourse which feeds into the River Spey Special Area of Conservation, in accordance with Local Development Plan Policy 4 Natural Heritage and 5 Landscape.

2. No pot ale shall be stored in the lagoon until a detailed plan of the proposed widening at the junction of the site access and the U129H Auchriachan road has been submitted to and approved by the Cairngorms National Park Authority (acting as Planning Authority) in consultation with the Moray Council Roads Service. This plan shall include details of provision of verges to rear of the widened area, levels and drainage details. The widening shall thereafter be constructed in strict accordance with the approved details before any pot ale is stored in the lagoon, unless otherwise agreed in writing with Cairngorms National Park Authority (acting as Planning Authority).

Reason: To ensure that the development is satisfactorily accessed by suitable roads infrastructure, in accordance with Local Development Plan Policy 3 Sustainable Design.



3. No pot ale shall be stored in the lagoon until details of the drainage provision for the associated yard to the west of the lagoon have been submitted to and approved by the Cairngorms National Park Authority (acting as Planning Authority) in consultation with SEPA. The yard shall thereafter be constructed in strict accordance with the approved details before any pot ale is stored in the lagoon, unless otherwise agreed in writing with Cairngorms National Park Authority (acting as Planning Authority).

Reason: To ensure that there are no adverse impacts upon the watercourse (which feeds into the River Spey Special Area of Conservation) and upon the surrounding environment, in accordance with Local Development Plan Policy 10 Resources and 5 Landscape.

4. No pot ale shall be stored in the lagoon until it is constructed, fenced off and lined in accordance with the approved plans and the document entitled "Installation of lined and covered slurry lagoons" by Agri Environmental Limited.

Reason: To ensure that there are no adverse impacts upon the watercourse (which feeds into the River Spey Special Area of Conservation) and upon the surrounding environment, in accordance with Local Development Plan Policy 10 Resources and 5 Landscape.

**Informatives:**

1. The developer should note that they are required to obtain approval from SEPA and should contact the Agency in this regard at their local office in Elgin.
2. The developer should also note the need to obtain construction consent, and road opening permit from the Moray Council Roads Service. Please refer to comments from Roads service available on Cairngorms National Park website.

**Officer Name: Katherine Donnachie**

**[planning@cairngorms.co.uk](mailto:planning@cairngorms.co.uk)**

**Date: 30 October 2015**

The map on the first page of this report has been produced to aid in the statutory process of dealing with planning applications. The map is to help identify the site and its surroundings and to aid Planning Officers, Committee Members and the Public in the determination of the proposal. Maps shown in the Planning Committee Report can only be used for the purposes of the Planning Committee. Any other use risks infringing Crown Copyright and may lead to prosecution or civil proceedings. Maps produced within this Planning Committee Report can only be reproduced with the express permission of the Cairngorms National Park Authority and other Copyright holders. This permission must be granted in advance.