



Committee report

Development proposed:

Construction of sediment trap for flood alleviation works (in retrospect) at Allt Mhor / Gynack

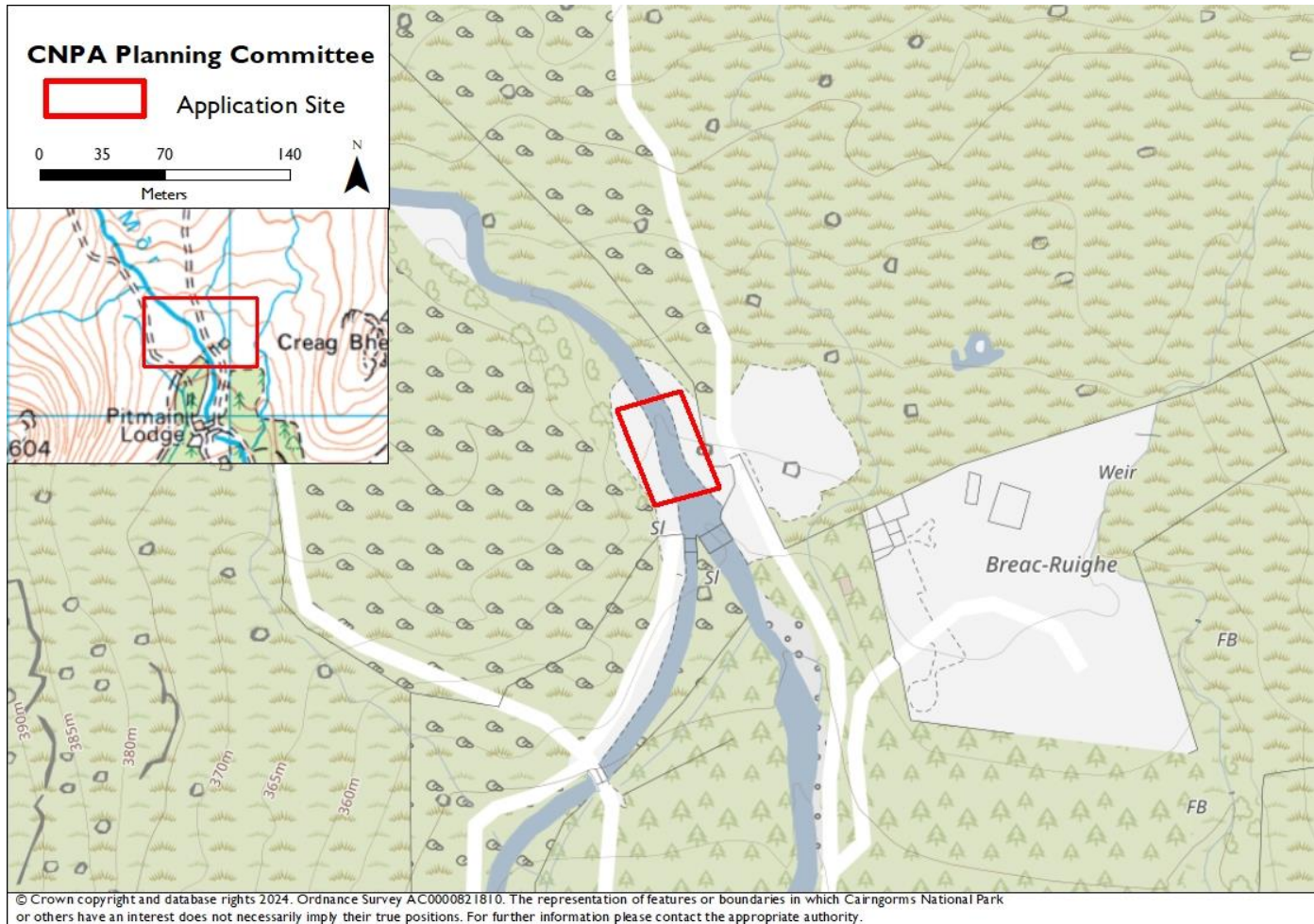
Reference: 2024/0036/DET

Applicant: Pitmain Estate

Date called-in: 26 February 2024

Recommendation: Approve subject to conditions

Case officer: Katherine Donnachie, Planning Officer



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Site description, proposal and history

Site description

1. The proposed site is located on Pitmain Estate to the north of Kingussie, initially accessed by a long, tarred road from the village heading to the east of Pitmain Lodge. Tracks then continue north and northwest over bridges towards the application site which is accessed by a wider track network leading towards the hills beyond. There are a number of core paths in the area to the south at Pitmain, and there is a right of way running to the west.
2. The site is located in a sloping upland, moorland area on the Allt Mor watercourse. This runs south to feed into the River Gynack which is part of the River Spey Special Area of Conservation. To the north of the site is moorland. There is plantation woodland to the southeast, along with the grouping of buildings around Pitmain Lodge.
3. The site is located upstream of an existing offtake weir formed some years ago when planning consent was granted for a flood alleviation scheme here. That scheme was intended to divert overflow water at times of high-water flows from the Allt Mhor watercourse and direct it to Loch Gynack via a system of channels and wetland, partly following the route of an historic channel here. The site is located within an area identified on SEPA's flood maps as being at high risk of river flooding.

Proposal

4. 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/applicationDetails.do?activeTab=summary&keyVal=S2H06USI0CP00>



Title	Drawing Number	Date on Plan*	Date Received
Plan - General Plan	19	07/01/21	26/02/24
Plan - Location Plan	638847 001	01/11/23	26/02/24
Plan - Location site layout plan overview		07/01/21	26/02/24
Plan - Sediment Trap - Site plan (including location plan)	638847 PL003	01/11/23	26/02/24
Plan - Sediment Trap - Site plan	638847 PL003	01/11/23	26/02/24
Other - Construction Environment Management Plan		17/03/23	26/02/24
Other - Engineering Permit	CAR/S/5004899	04/05/23	26/02/24
Other - Design Method Statement		20/01/21	26/02/24
Sediment Management Plan		04/07/24	11/07/24

*Where no specific day of month has been provided on the plan, the system defaults to the 1st of the month.

5. Plans of the proposals are included in **Appendix 1**.
6. This is a retrospective application for what is effectively a “scooped out” area on the All Mhor watercourse to the north of a previously approved existing weir. The current application site area lies out with the original planning application site as outlined in red. The works were undertaken in order to create a sediment trap to capture excess coarse sediment generated in the upper catchment upstream of the weir. It is intended to help alleviate flooding issues downstream at Kingussie as result of this material coming down the river at the time of high rainfall/water flows. The works initially involved the removal of around 4, 100 cubic metres of material which was to be stored for use in the other ongoing works on the flood alleviation channel.
7. The sediment trap works involved recontouring the original ground here to create a deeper wider area to the north of the weir. It is understood that sediment/rocks trapped here will thereafter be removed periodically and used for works on the



estate and for translocation to downstream of the diversion weir to maintain sediment transport continuity.

8. The supporting material explains that following construction of the sediment trap the exposed embankments were to be reseeded with native grass species and any existing turf reinstated. These works have been undertaken.
9. No changes to servicing are proposed and the works have received a CAR license from SEPA. The submitted plans illustrate some works downstream of the weir area which have been approved previously during the conditions discharge process.
10. The application is supported by information including:
11. **Design Method Statement** which explains that engineers were commissioned to provide detailed designs to stabilise the approved diversion channel and restore the flood relief function. Other works such as re-sectioning parts of the channel and reforming rock armour protection were involved with the wider scheme in order to create suitable channel morphology for long term stability by reproducing a natural stable channel form. The document covers works downstream of the application site too. Sediment excavated from the application site was to be used in some of these works. This document also explains the sequence of works, detailing that the excavation of the sediment trap had to be undertaken first to reduce the risk of water flow and sediment to the design/diversion site during flood conditions – also because it would provide much of the fill sediment and boulders required for the wider site.
12. **Construction Environmental Management Plan** which provided further detail and was considered as part of the conditions discharge process for the original consent.
13. **Sediment Management Plan** – this plan has also been submitted to SEPA as part of the CAR licensing process. It relates to post construction photographic and topographic monitoring and ongoing management which is a condition of the SEPA licensing process. It explains that excessive volumes of coarse alluvial material are being generated in the upper Gynack/Allt Mhor catchment primarily from large



erosion scars believed to have been exacerbated by past land use and management. The sediment trap is designed to interrupt the longitudinal transport of sediment so reducing the volume of excess sediment reaching Kingussie. It explains that in the long-term erosion scar stabilisation works in the upper catchment will reduce sediment supply to near natural levels, but meantime ongoing management will be required.

14. This will involve repeat topographic surveys following on from the topographic survey undertaken immediately after the trap was constructed in July 2023 which provides baseline data. A further survey was conducted in October 2023 and the Plan recommends that surveys be carried out every six months and/or after major flood events. It recommends that the survey work continues at least until the point at which remediation works in the upper catchment have addressed the excess sediment issues. It also recommends installing a flow gauge at the sediment trap to help understand the relationship between stream discharge and bedload transport. This will help understand current and natural sediment transport rates and help determine the need for long term maintenance of the trap. It will also help determine how much sediment is required in the downstream reach of the Gynack for stability and explains that topographic and sedimentary data will need to be collected immediately downstream of the weir.

15. This data will then be used to inform sediment management, when to remove sediment from the trap and, if necessary, when to mitigate any loss of sediment downstream. Guidance is contained as to when and how to carry out any sediment removal works (e.g. at low flow conditions and out with the fish migration and spawning periods) along with notifying the Spey Fishery Board in advance of all in channel works. Pollution prevention measures are included. It is also noted that an experienced Geomorphologist will regularly be present to ensure that necessary environmental and ecological considerations are taken into account during works.

History

16. Planning consent was granted in June 2016 (reference 2016/0011/DET) for a flood alleviation scheme to divert water in extreme waterflows from the Allt Mhor watercourse to discharge into Loch Gynack to the south. This was intended to



alleviate flooding issues in the village and avoid flooding of the River Gynack. The works involved construction of a concrete diversion structure on the Allt Mhor watercourse, construction of open channel discharging to Loch Gynack, and maintaining existing track access over the channel at two locations.

17. As members are aware, the originally constructed flood alleviation channel did not function as intended. Following a redesign of the technical and engineering specifications of that scheme, the estate commissioned contractors to implement the remedial measures to the scheme during 2023 and CNPA officers have continued to monitor the redesign works which are now complete. Most of the redesigned scheme fell within the scope of the original planning consent, but the sediment trap above the scheme inlet was outside the terms of the original consent and officers sought a planning application for those works.
18. Consent was also granted previously for hydro power schemes at Allt Mhor and Loch Gynack which have been implemented. (2011/0281/DET.)

Habitats regulations appraisal

19. A Habitats Regulations Appraisal (HRA) has been undertaken to consider the potential effects of the development upon the conservation objectives of the Natura site listed within the HRA document which is attached as **Appendix 2**. The Natura site in this case is the River Spey Special Area of Conservation (SAC) which is designated for its otter, Atlantic salmon, sea lamprey and freshwater pearl mussel interests.
20. The HRA notes that a HRA was undertaken in 2016 for the original flood alleviation scheme here which concluded that there was no adverse effect on the site integrity of the River Spey SAC. These flood alleviation works have been completed. The current submission seeks retrospective consent for the sediment trap works which have been completed in accordance with a SEPA CAR license.
21. There are not considered to be any impacts on sea lamprey and freshwater pearl mussels which have not been recorded on the Allt Mhor or Gynack watercourses. With regard to Atlantic Salmon, the HRA notes that pollution from sediment release



could indirectly cause their distribution to change due to temporary changes in water temperature and smothering of habitats if significant amounts of sediment reached the watercourse. However, the Construction Environmental Management Plan includes mitigation measures to ensure no adverse impacts.

22. With regard to otter, it is considered that disturbance would be temporary during construction and could be mitigated by the measures included in the submitted Construction Environmental Management Plan. Their habitats would not be permanently disturbed and the mitigation measures for Atlantic Salmon would reduce the risk of their prey species being affected.

23. The HRA concludes that the conservation objectives of the designated sites will not be undermined, and the development will not hinder or prevent the condition or conservation status of the qualifying interests of the SAC, and so this conservation objective would be met.

24. Nature Scot was consulted on the HRA and initially highlighted that they had concerns regarding the long-term effects of removing sediment from the burn and the impacts this may have upon suitable habitats for Atlantic Salmon. They wished to understand how the sediment to be removed was to be managed and whether it would be replaced into the system. On receipt of the Sediment Management Plan NatureScot has confirmed they are now satisfied with the HRA and have no objection.

Development plan context

Policies

National Policy	National Planning Framework 4 (NPF4) Scotland 2045	
POLICY 1	Tackling the Climate and Nature Crises	
POLICY 2	Climate Mitigation and Adaptation	
POLICY 3	Biodiversity	
POLICY 4	Natural Places	



POLICY 5	Soils	
POLICY 12	Zero Waste	
POLICY 13	Sustainable Transport	
POLICY 14	Design, Quality and Place	
POLICY 22	Flood Risk and Water Management	
POLICY 23	Health and Safety	
POLICY 29	Rural Development	

Strategic Policy	Cairngorms National Park Partnership Plan 2022 – 2027	
Local Plan Policy	Cairngorms National Park Local Development Plan (2021) Those policies relevant to the assessment of this application are marked with a cross	
POLICY 1	NEW HOUSING DEVELOPMENT	
POLICY 2	SUPPORTING ECONOMIC GROWTH	
POLICY 3	DESIGN AND PLACEMAKING	X
POLICY 4	NATURAL HERITAGE	X
POLICY 5	LANDSCAPE	X
POLICY 6	THE SITING AND DESIGN OF DIGITAL COMMUNICATIONS EQUIPMENT	
POLICY 7	RENEWABLE ENERGY	
POLICY 8	OPEN SPACE, SPORT AND RECREATION	
POLICY 9	CULTURAL HERITAGE	
POLICY 10	RESOURCES	X
POLICY 11	DEVELOPER OBLIGATIONS	

25. All new development proposals require to be assessed in relation to policies contained in the adopted Development Plan which comprises National Planning Framework 4 (NPF4) and the Cairngorms National Park Local Development Plan 2021. The full wording of policies can be found at:

<https://www.gov.scot/publications/national-planning-framework-4/documents/>

and at:

<https://cairngorms.co.uk/wp-content/uploads/2021/03/CNPA-LDP-2021-web.pdf>



Planning Guidance

26. Supplementary guidance also forms part of the Local Development Plan and provides more details about how to comply with the policies. Guidance that is relevant to this application is marked with a cross.

Policy 1	Housing Supplementary Guidance	
Policy 2	Supporting Economic Growth Non-Statutory Guidance	
Policy 3	Design and Placemaking Non-Statutory Guidance	x
Policy 4	Natural Heritage Non-Statutory Guidance	x
Policy 5	Landscape Non-Statutory Guidance	x
Policy 7	Renewable Energy Non-Statutory Guidance	
Policy 8	Open Space, Sport and Recreation Non-Statutory Guidance	
Policy 9	Cultural Heritage Non-Statutory Guidance	
Policy 10	Resources Non-Statutory Guidance	x
Policy 11	Developer Obligations Supplementary Guidance	

Consultations

27. A summary of the main issues raised by consultees now follows:

28. **SEPA** has no objections. They confirm that the works have been licensed by them under their Controlled Activities Regulations (CAR) and are the same works at those currently being applied for retrospectively.

29. **Spey Fishery Board** was consulted and have not provided any comments to date.

30. **Highland Council Flood Risk Management Team** has no objections and are content that the application complies with NPF4. They note this type of work is classed as a water compatible use by SEPA and can be located in an area at risk of flooding. It is also noted that SEPA has granted consent for the works in the watercourse.



31. The Team considers that works which help reduce the sediment load that is passed downstream to Kingussie will be of benefit to the village, noting that there are a number of bridges which are sensitive to sediment deposition in the village which results in reduction of flow capacity with the Highland Council and Network Rail both having to remove sediment from the River Gynack after flood events.
32. **Cairngorms National Park Authority Ecology Officer** notes that the proposal is retrospective involving minor alterations to previously consented works. The works have been undertaken under a CAR license from SEPA and have had to comply with standard best practise under this license. No further assessment of natural heritage interests is considered necessary.
33. **Kingussie and Vicinity Community Council** was consulted and have not provided any comments to date.

Representations

34. The application was advertised in the local press and no representations have been received.

Appraisal

35. Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the Development Plan. This now comprises the Cairngorms National Park Local Development Plan 2021, and the National Planning Framework 4. Where there is conflict between policies, NPF4 policies will be used.
36. The main planning considerations in this case are the principle of development, the impact upon landscape and environmental impacts, in particular upon the water environment. These are considered below.

Principle

37. **NPF4 Policy 29: Rural Development** seeks to support development proposals that contribute to the viability, sustainability and diversity of rural communities and the local rural economy. It explains that proposals in rural areas should be suitably



scaled, sited and designed to be in keeping with the character of the area. **NPF4 Policy 22: Flood Risk and Water Management** sets out that development proposals within a flood risk area will only be supported where they involve one of a series of exceptions including for essential infrastructure where the location is required for operational reasons and water compatible uses. The policy outlines requirements to be met, including the need to understand flood risk, ensure the development is safe and operational during floods and that there is no reduction in flood plain capacity. The intent of the policy is to strengthen resilience to flood risk.

38. Similarly **Policy 3: Design and Placemaking** of the Cairngorms Local Development Plan also seeks to ensure that development is sympathetic to the character of the surrounding area, whilst **Policy 10: Resources** seeks to ensure that there are no unacceptable detrimental impacts on the water environment, with all development to be free from the risk of flooding, not increase the risk of flooding elsewhere and not add to the area of land requiring flood prevention measures or affect the ability of the functional floodplain to store or move flood waters.
39. Set against this background this development - which is intended to trap sediment to ensure the proper functioning of the approved flood alleviation scheme here and alleviate downstream flooding which may arise during extreme weather conditions - is welcomed in principle. It is the detail of the development and any landscape and environmental impacts that require to be considered more fully.

Environmental Issues

40. **NPF4 Policy 3: Biodiversity** requires that development proposals contribute to enhancement of biodiversity including where relevant restoring degraded habitats and building and strengthening nature networks and the connections between them. They should also integrate nature-based solutions where possible, and include appropriate measures to conserve, restore and enhance biodiversity proportionate to the scale of the development. **NPF4 Policy 4: Natural Places** does not support development which will have an unacceptable impact on the natural environment, or which will have a significant effect on European Site designations which include Special Areas of Conservation and Sites of Special Scientific Interest.



41. **Policy 4: Natural Heritage** of the Cairngorms Local Development Plan similarly requires new development to have no adverse effects on the integrity of designated sites, the National Park or on protected species or habitats.
42. In this regard the proposed development does not have any particular adverse impacts on the natural environment with no loss of habitat or particular impacts on protected species. As noted earlier the works are retrospective, carried out in accordance with SEPA's requirements. The development also may have potential to enhance biodiversity by avoiding excess sediment being washed down the watercourse in extreme flood events.
43. In terms of designated sites, as set out earlier in this report, the impacts on the NATURA site have been fully considered during the HRA process (refer to **Appendix 2**) which has concluded that there will not be an adverse effect on the integrity of the designated site and that the conservation objectives will be met based upon the information provided with the application.
44. In terms of the water environment, as noted earlier, **NPF4 Policy 22: Flood Risk and Water Management** sets out that development proposals within a flood risk area will only be supported where they involve one of a series of exceptions, whilst **Policy 10: Resources** seeks to ensure that there are no unacceptable detrimental impacts on the water environment.
45. In this regard the intent of this development was to help alleviate flood risk by reducing sediment flow down the River Gynack. The technical consultees (SEPA and the Highland Council Flood Risk Management Team) have no objections to the development which has been consented by SEPA in terms of their regulatory regime which considers impacts on the water environment. SEPA will continue to regulate the site in terms of ongoing sediment management too.
46. In addition, the Flood Risk Management Team has expressly noted that the proposal to reduce the sediment load which is passed downstream to Kingussie will be of benefit to the village. The Team has also highlighted that the development itself is considered to be a water compatible use under SEPA's flood risk and lands use vulnerability guidance and can therefore be located in an area at risk of flooding.



47. In these overall circumstances the proposed development is considered to comply with NPF4 and Local Development Plan policies subject to appropriate conditions being attached regarding continued adherence to the Sediment Management Plan.

Impacts on Landscape and Special Landscape Qualities

48. **NPF4 Policy 4: Natural Places** sets out that development proposals which affect a National Park will only be supported where the objectives of designation and the overall integrity of the area will not be compromised and any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance.

49. **Policy 5: Landscape** of the Cairngorms Local Development Plan sets out that there will be a presumption against any development that does not conserve or enhance the landscape character or special landscape qualities of the Cairngorms National Park, with development that does not achieve this again only to be permitted where any significant effects are clearly outweighed by social, environmental or economic benefits of national importance and all adverse effects on the setting have been minimised and mitigated.

50. In this case there are little landscape impacts as a result of this development which has effectively deepened and widened an existing area of water upstream of a diversion weir constructed under a previously consented scheme. The sides of the works have been hydro-seeded and over time should blend in satisfactorily with the surrounding area. There are not considered to be any particular impacts on the landscape or special landscape qualities given the small scale of these works.

51. As such the development is considered to comply with NPF4 and Local Development Plan policies.

52. In terms of the design itself, **NPF4 Policy 14: Design, quality and place** states development proposals should improve the quality of an area and be consistent with the six qualities of successful places. It also sets out that proposals which are poorly designed and detrimental to the amenity of the area will not be supported. This



echoes the requirements of **Policy 3: Design and Placemaking** of the Cairngorms Local Development Plan which also sets out principles of sustainable design to be met with new development including requirements to ensure that new development is sympathetic to the traditional pattern and character of the surrounding area and using materials and landscaping to complement the setting of development.

53. In this case there are no particular design issues as the works do not involve new build, but rather involved recontouring with the ground now currently reinstating satisfactorily. Consequently, there is not considered to be any conflict with policies.

Transport issues

54. **NPF4 Policy 13: Sustainable Transport** supports new development where it is demonstrated that the transport requirements generated have been considered in line with the sustainable transport and investment hierarchies and where appropriate meet a number of criteria including the need to adequately mitigate any impact on local public access routes. **Policy 3: Design and Placemaking** of the Cairngorms Local Development Plan also requires development to have an appropriate means of access, parking and promote sustainable transport methods and active travel. It also requires new development to maintain and maximise all opportunities for responsible outdoor access including links into the existing path network and ensuring consistency with the Cairngorms National Park Core Paths Plan.

55. In this regard the development does not generate any transport issues other than any future maintenance needs which will be part of the existing flood alleviation scheme in any event so no additional traffic should be generated. It is also served by existing access tracks. There is no adverse impact upon the existing path network in the area which is not affected by the development.

56. As such the development is considered to comply with NPF4 and Local Development Plan policies.



Waste Issues

57. NPF4 recognises the need to minimise waste with **Policy 12: Zero Waste** seeking to encourage, promote and facilitate development that is consistent with the waste hierarchy. Similarly, **Policy 3: Design and Placemaking** of the Cairngorms Local Development Plan 2021 also requires new development to make sustainable use of resources including minimisation of waste and energy usage. **Policy 10: Resources** of the Cairngorms Local Development Plan 2021 also seeks to ensure minimisation of waste during construction and life of developments. Associated with these above objectives to minimise waste **NPF4 Policy 5: Soils** states that development proposals will only be supported where they minimise the amount of disturbance to soils on undeveloped land and is undertaken in a manner that protects soils from damage including compaction and erosion.
58. The development involved alterations to the ground levels here to create a sediment trap upstream of the diversion weir with the submitted Construction Environmental Management Plan explaining that sediment excavated to achieve this would be used downstream in the other channel works involved with the creating the wider flood alleviation scheme, with any other material used in works on the estate. As such there should have been no waste associated with the development. The agent has also confirmed that any sediment removed from the sediment trap in future will be reused on the estate too or in the watercourse as per the Sediment Management Plan.
59. In these circumstances the development is considered to comply with NPF4 and Local Development Plan policies.

Amenity Issues

60. **NPF4 Policy 23: Health and Safety** has requirements with regards to noise and air quality. The policy explains that development proposals which will have an adverse effect on health will not be supported. **Policy 3: Design and Placemaking** of the Cairngorms Local Development Plan sets also out that new development must protect the amenity enjoyed by residents including minimisation of disturbance caused by access to the development site.



61. Due to its relatively remote location, small scale, and the nature of the development itself it does not raise any issues in this regard and there are no conflicts with policy.

Conclusion

62. This application seeks retrospective consent for works to create a sediment trap in relation to the operation of a previously approved flood alleviation scheme. There are no servicing issues with the development, nor any particular landscape or environmental impacts. The technical consultee (Flood Risk Management Team) has advised that a development to help reduce the sediment load will be of benefit to Kingussie and the development has been licensed by SEPA.

63. In these circumstances the development is considered to comply with NPF4 and LDP policies subject to conditions and approval is recommended.

Recommendation

That Members of the Committee support a recommendation to APPROVE the Construction of sediment trap for flood alleviation works (in retrospect) at Allt Mhor / Gynack subject to the following conditions:

Conditions

Those conditions listed below in bold text are suspensive conditions, which require to be discharged prior to implementation of the development.

- 1. The development hereby approved shall be managed and monitored in accordance with the approved Sediment Management Plan.**

Reason: To ensure that the development is satisfactorily managed and monitored in order to ensure that there are no adverse effects on the natural heritage of the National Park, and specifically the NATURA interests in terms of the River Spey Special Area of Conservation, or any pollution of watercourses in accordance with Policy 3: Biodiversity, Policy 4: Natural Places, Policy 12: Zero Waste, and Policy 22: Flood Risk and Water Management of the National Planning Framework 4 and Policy



4: Natural Heritage, Policy 3: Design and Placemaking and Policy 10: Resources of the Cairngorms National Park Authority Local Development Plan

Informatives

1. Following completion of the development, a notification of completion shall, as soon as practicable, be given to the Planning Authority. Attached to this decision notice is a Notice of Completion of Development for completion and submission. Submission of this form will assist the Cairngorms National Park Authority Monitoring and Enforcement Officer in making a final inspection and checking compliance with the approved drawings and conditions. If the development hereby approved is to be carried out in phases, then a notice of completion should be submitted at the completion of each phase.
2. Any management/monitoring work (including the loading/unloading of delivery vehicles, plant or other machinery) should not take place outwith the hours of 0800 hours to 1900 hours Mondays to Fridays, 0800 hours to 1300 hours on Saturdays or at any time or Bank Holidays to minimise disturbance to residents in the area.
3. The person undertaking the development should ensure that they adhere to all guidance and licensing requirements of SEPA.