
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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DEVELOPMENT PROPOSED: FULL PLANNING PERMISSION FOR THE EXTRACTION AND PART PROCESSING OF AGGREGATE TO USE IN THE CONSTRUCTION OF UPGRADING AND NEW TRACKS FOR THE BEAULY-DENNY OVERHEAD LINE, ON LAND AT FEAGOUR FOREST, 1.1 KM SOUTHWEST OF FEAGOUR, KINLOCHLAGGAN.

REFERENCE: 09/116/CP

APPLICANT: SCOTTISH HYDRO ELECTRIC TRANSMISSION LTD., DUNKELD ROAD, PERTH.

DATE CALLED-IN: 1 MAY 2009

RECOMMENDATION : GRANT WITH CONDITIONS

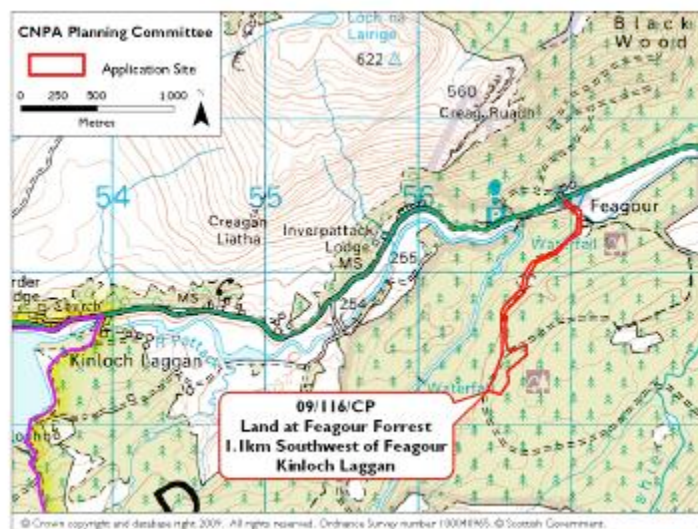


Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. Scottish Hydro Electric Transmission Ltd. (SHETL) are seeking full planning permission in this application for the extraction and part processing of aggregate on land at Feagour Forest in the south west of the national park. The material proposed for extraction is required in connection with the potential construction of upgrading and new tracks for the proposed Beauldy-Denny overhead line. The public inquiry into that application concluded in December 2007 and a decision on the matter is expected in the course of 2009. Despite the absence of a decision to date SHETL have chosen to submit planning applications aimed at facilitating potential future works, in an effort to avoid delays in the progression of the overhead transmission line project. In the event of the granting of planning permission for the proposed overhead transmission line between Beauldy and Denny, SHETL anticipate that the construction of access tracks would be one of the earliest site operations¹ and they have consequently decided to submit planning applications for a number of borrow pits. Planning permission is being sought at ten sites within the Highland area and of those, two are located within the boundaries of the Cairngorms National Park. In addition to this current application at Feagour, Kinlochlaggan, the CNPA have also recently called in a similar application on land at Crathie close to Spey Dam, to the west of Laggan.²
2. The proposed site is located in Feagour Forest, which is accessed via a forest track off the A86. The track extends for approximately 1.3 kilometres from the public road into the site. The proposed site area is broadly rectangular in shape and extends to approximately 3 hectares. The existing track which leads to the public road has also been included within the identified site boundaries. The Beauldy-Denny overhead transmission line is proposed to be located approximately 700 metres to the north.



Fig. 2 : Partial view of proposed site

¹ The application for the overhead transmission line included proposals for the development of several temporary access tracks throughout the project area, as well as making use of existing tracks, with many of the latter requiring upgrading.

² CNPA planning ref. no. 09/093/CP refers.

3. A former borrow pit exists in the northern tip of the subject site, in an area which is at the confluence of two forest access tracks. It is proposed to establish the site compound (consisting of a store and cabin) in this area, as well as locating the mobile plant for screening and crushing there. Excavation activity would extend into areas to the east and south west. The excavations and the area which is proposed for stockpiling would necessitate the felling of part of a commercial forestry plantation on the site, described in supporting documentation as being a “largely immature conifer plantation.”
4. The applicants estimate that approximately 31,300 cu.m. of aggregate forming material would be available for extraction from the proposed site. Tests have indicated that there is approximately 0.5 metres of clayey sand underlying the topsoil on the site. Beneath this is a layer of peat, followed by rockhead at depths of 1.5 – 2 metres. Extracted rock requires crushing and screening in order to produce the quality of aggregates required. The sand and gravel and other overburden would be set aside in separate stockpiles, with the intention of it being returned to the site area upon completion of the extraction. The aggregate forming material that would be extracted from the Feagour site is intended to be used in the construction of new temporary access tracks in the areas between the southern end of Corrieyairack and Garva Bridge, and within the area to the south of Glen Shirra, through to the east of Feagour. In addition to the aggregates, it is also estimated that additional ‘fines’ (sandy material) of approximately 7,715 cu.m. is likely to be generated. In the event that they are not required for access track construction, they would be returned to the excavated area upon completion of the extraction.
5. Blasting would be required at the site in order to excavate the below ground material, which may not be possible to remove with an excavator.
6. The applicants anticipate that the proposed excavation of material from the site and its processing would take 6-8 months to complete, based on the assumption that this would occur as a continuous operation, and also that there are no delays in the construction of the access track that the material would be used on. Suggested working hours have also been provided in the applicants submission – in the event of work being undertaken in the period between April and September, the suggested week day hours are 7am to 7pm, with weekend hours being 7am to 5pm. The proposed working hours during the period between October and March are 7.30am to 5pm (weekdays and weekends).
7. Details have also been provided to indicate the likely sequence of works at the site –
 - creation of any access requirements;
 - establishment of any perimeter fencing required to protect the site;
 - soil stripping where appropriate, and set aside for reinstatement;
 - excavation of any overburden, including setting aside for reinstatement;
 - extraction and processing of the mineral resource.

8. The information provided in support of this application includes two options for reinstatement. The first option is the creation of a landform as a result of the excavation of the site. As detailed previously the material is proposed to be extracted for use on a temporary basis on the creation of access tracks which would be required to assist in the overall construction process in the event of the proposed Beaully Denny overhead transmission line progressing. The applicants have suggested, in the event of landowners wishing to retain the tracks after this³ that the excavated material would not be returned to the site and the landform resulting from the excavations would remain. The second reinstatement option would involve the excavated material being returned back into the area after its use in temporary access tracks has ceased – with its period of use estimated to be approximately 4 years. Cross sections have been provided to demonstrate the two landforms.
9. The applicants have identified that there are three types of traffic likely to be associated with the proposed development – daily traffic generated by people employed at the site, delivery to the site of plant and the vehicle movements associated with the transportation of material from the site. Supporting information states that measures would be put in place to ensure that the public is aware of the presence of vehicular traffic associated with the proposed borrow pit, and that haul and other vehicle drivers associated with the operation of the borrow pit are aware that there may be public access in the area.
10. A construction method statement has also been provided as part of the information supporting this application. Issues covered in the method statement include timing and sequence of operations, stockpiling of aggregates, maintenance of the borrow pit site, pollution prevention,⁴ arrangements for maintaining public access routes, and site reinstatement.

DEVELOPMENT PLAN CONTEXT

National Policy

11. **SPP 4 – Planning for Minerals** is a national policy document which recognises minerals as being an important primary resource. While acknowledging that there is a continuing need for an adequate and steady supply of minerals for a variety of purposes, **SPP4** also recognises that all working must be fully reconciled with policies to protect local communities and the wider environment.
12. Paragraph 5 of the document alludes to the fact that the process of extraction can be disruptive and in the event that it is not regulated and managed appropriately can give rise to adverse environmental and community

³ Subject to obtaining planning permission for this.

⁴ Under the heading of 'pollution prevention' details have been provided of a water quality management plan, dust management plan and reference has also been made to contaminated land.

impacts. **SPP4** lists a number of objectives for mineral working, all of which are intended to encourage a sustainable approach to mineral extraction while reconciling the need for minerals with concern for the natural and built environment and the communities affected. Objectives include ensuring that an adequate and steady supply is maintained to meet the needs of society and the economy; encouraging sensitive working practices during extraction in order to minimise the environmental and transport impacts; ensuring sites are reclaimed to a high standard and where possible enhance the value of the wider environment; protecting international, national and locally designated areas of acknowledged natural or built heritage importance from adverse impacts; and minimising the potential adverse impact of mineral extraction on communities.

13. **SPP4** discusses a number of locational considerations, one of which is the conservation of the natural and built heritage, and advises that planning permission should only be granted where there will not be a significant adverse effect on the special features and qualities of the area. The rural economy is also listed as another locational consideration, and although it is noted that mineral working can play an important role in supporting the economy of rural communities through employment creation, the case is also made that in many areas tourism and recreation likewise support local economies and also depend on the quality of the environment. **SPP4** advises that in such cases the likely long term or cumulative impact of mineral extraction on local economic activity will be a relevant material consideration.
14. The purpose of **PAN 50 – Controlling the Environmental Effects of Surface Mineral Workings** is to provide advice on the more significant environmental effects arising from mineral working operations. It is acknowledged that the main issues that give rise to concerns associated with surface mineral workings include the effects of road traffic; effects of blasting, noise and dust; visual and landscape effects; and the potential contamination of surface water discharges by solids. The advice contains a section entitled 'Proximity of mineral workings to communities' in which it is acknowledged that residents living in close proximity to proposed workings may be exposed to some of the effects. **PAN 50** advises that good practise for planning authorities is to consider the possible cumulative effect of proposals; encourage dialogue between operators and the community; and encourage effective monitoring, particularly of noise, dust and vibration.
- Highland Structure Plan**
15. Section 2.11 of the **Highland Structure Plan** on Minerals and Peat states that a key issue is integrating the commercial and socio-economic potential of mineral workings with the high environmental quality of the area. Mineral activity is identified as being an important rural activity and the Plan cites the example of providing aggregate and dimension stones for construction projects. In addition to outlining the benefits and indeed the need for mineral activity, the potential negative effects are also detailed including

environmental disruption with effects on landscape scenery, biodiversity and water quality, and also adverse impacts on the quality of life of residents in close proximity, as well as potential “negative economic impacts through damaging tourism and recreational resources.”

16. Section 2.11.6 of the Plan concedes that there is likely to be a continued requirement for small scale aggregate workings “because of the reduction in transport movements that the winning of a localised source provides.” However, it also warns that this has to be balanced against the disbenefit of opening up a new working, albeit temporarily, and the potential loss of custom to established quarries some distance away.”
17. The need to re-establish worked out sites to a future beneficial use is also promoted in section 2.11.8 of the Structure Plan. It is suggested that this can be achieved in a variety of forms, ranging from agriculture and woodlands to recreational facilities and habitats for nature conservation.
18. **Policy M2** of the **Highland Structure Plan** summaries the general policy on mineral extraction, stating that “applications for mineral extraction will be supported provided that they conform to General Strategic Policies and that there are no significant adverse environmental or socio-economic impacts.” It is also stated that approvals for mineral extraction should be for a temporary period only, “with conditions tied to a method statement and plan covering working procedure, phasing, environmental protection, restoration, after-use and after-care.” Where necessary, the seeking of a financial guarantee in respect of restoration and after-care is also advocated.
19. The **Highland Structure Plan** in its section on Nature Conservation advises that nature conservation interests are not confined to designated sites and that all development proposals should be evaluated for their implications on nature conservation, both direct and indirect. The Plan does however highlight the fact that “the existence of designations does not necessarily preclude development from taking place within or affecting the sites” provided they are compatible with maintaining the features for which the sites are designated. The general thrust of **Policy NI** on **Nature Conservation** is that new developments should seek to minimise the impact on the nature conservation resource and enhance it wherever possible.
20. **Policy L4** on **Landscape Character** refers to the need to have regard to the desirability of maintaining and enhancing present landscape character in the consideration of development proposals. **Policy G2** on **Design for Sustainability** states that proposed developments will be assessed on the extent to which they, amongst other things, make use of brownfield sites, existing buildings and recycled materials; are affected by safeguard zones where there is a significant risk of disturbance and hazard from industrial installations, including noise, dust, smells etc; impact on individual and community residential amenity; impact on resources such as habitats, species, landscape, scenery, cultural heritage, air quality and freshwater systems; and contribute to the economic and social development of the community. The

proposed site is located within the Loch Laggan - Ben Alder Area of Great Landscape Value (AGLV).

Badenoch and Strathspey Local Plan (1997)

21. The **Badenoch and Strathspey Local Plan** acknowledges that scope exists for mineral extraction and advises that the “suitability of specific sites will be subject to assessment of environmental impact, servicing and safety aspects, together with prospects for site rehabilitation.” Section 2.2.3 of the Plan also advises that worked out or abandoned sites adjacent to the main road network could be suitable for after-use.
22. In its section on **Conservation Objectives**, the Local Plan refers to the exceptional quality of the natural environment of the area, and states that it is the Council’s policy to “promote sustainable development of the area’s resources and ensure an acceptable balance between economic growth and safeguards for the outstanding heritage.”

Cairngorms National Park Plan (2007)

23. The Cairngorms National Park Plan sets out a number of strategic objectives under three broad headings – conserving and enhancing the Park; living and working in the Park; and enjoying and understanding the Park. In terms of natural heritage, section 5.1.2 of the Plan advises that all new development and management of the landscapes and settlements within the Park should be based on a sound understanding of the natural and cultural heritage. Strategic objectives to achieve the vision of conserving and enhancing the Park include maintaining and enhancing the distinctive landscapes of the Park; and ensuring development complements and enhances the landscape character of the Park.
24. Under another of the broad headings of ‘Living and Working in the Park’ one of the strategic objectives for economy and employment is to promote opportunities for economic diversification across all areas of the Park and it is noted that the Park currently has a relatively narrow economic base which is dependant upon a few key sectors for employment.

CONSULTATIONS

25. **Scottish Natural Heritage** assessed the proposal and note at the outset of the response that the comments follow the role set out in the casework agreement between SNH and the CNPA.⁵ The proposed site is outwith any site designated for nature conservation. The proposed borrow pit would be located 2.5 kilometres south of the River Spey Special Area of Conservation and Site of Special Scientific Interest, as well as being over 4.5 kilometres south of the Creag Meagaidh Special Protection Area, SAC and SSSI. The

⁵ In accordance with the casework agreement, advice provided by SNH concentrates on matters concerning European Protected Sites, Sites of Special Scientific Interest, National Nature Reserves, European Protected Species and wider biodiversity interests where they occur within and are an integral part of a designated site.

proposed borrow pit is not therefore considered to either directly or indirectly affect the qualifying interests and notified natural features of the designated sites.

26. **SNH** also comment in the response that the ecological surveys of the area which were provided as supporting information did not indicate the presence of any European Protected Species, with the exception of a single wild cat scat. **SNH** has no further to comment to make on this, other than stating that the protection afforded to wildcats as an EPS relates to the protection of den sites, and no evidence of a den was found.
27. **SEPA** has no objection to the proposal but requests that a number of conditions are included in the event of the granting of planning permission. Conditions include requiring the submission of a Surface Water Management Plan, and also the submission of a detailed site specific work method statement, both of which are to be approved by the planning authority, in consultation with **SEPA**.
28. **Transport Scotland** as the Trunk Roads Authority considered the proposal and recommended that a condition regarding the achievement of visibility splays be attached in the event of the granting of planning permission.
29. Highland Council's **Environmental Health Section** stated in a response that the main concern in an application of this nature is in relation to the loss of amenity from dust and noise at the nearest sensitive properties. In the case of the current proposal, there is no objection provided that the applicant adheres to the various PAN guidance which has been detailed in the application documentation. It is also recommended that details of dust suppression measures are supplied.
30. **Laggan Community Association** object to the proposal on the basis that "it is premature in advance of a decision being made by Scottish Ministers on the Beaully-Denny 400kV Overhead Electricity Transmission Line application."
31. The proposal has been considered by the Access Officer attached to the CNPA's **Visitor Services and Recreation Group**. The principle concern from an access perspective is the level of traffic on the existing forest road, as the road forms part of a circular route to the abandoned village at Druim an Aird.⁶ The route is promoted by Laggan Forest Trust. The access officer considers that the level of traffic that would result from the proposed development would have an impact on access provision in the area. As a promoted route for access in the area, it is considered that there is a need for measures additional to the current proposals to provide signage on the actual track. The access officer suggests the provision of advisory signage / notices at a variety of locations in the wider area, including Laggan Stores, Laggan Wolftrax, at the Pattack Falls car park and also at Druim an Aird, with

⁶ The abandoned village at Druim an Aird is located approximately 620 metres to the east of the proposed site.

the signage informing the public of the operations and likely disturbance. The provision of advance signage is intended to ensure that those planning to visit the area are informed and aware of operations in advance of embarking on their walk. The **Visitor Services and Recreation Group** is willing to provide advice on the nature of the text that would be required in such signage.

32. In a response from the CNPA's **Heritage and Land Management Group** the proposed development has been considered from an ecological and landscape perspective. Addressing ecological issues firstly, it is noted in terms of habitat that blocks of woodland would be felled to facilitate the proposed extraction. The woodland is predominantly an immature conifer plantation with occasional small sections of Scots pine plantation. Juniper is the only plant of conservation significance recorded within the study site. The juniper growth is located adjacent to the existing track and is not proposed to be removed to facilitate the development. The ecology officer recommends that in the event of development proceeding that the area of juniper growth is fenced off during works, to create an exclusion zone in order to prevent potential damage through machinery or trampling.
33. Under the general heading of protected mammal species, the response from the **Heritage and Land Management Group** makes reference to pine marten, wildcat and red squirrel. Reference is made to the findings detailed in the Environmental Assessment which was submitted in support of the application in which it was noted that there is a probable pine marten den within approximately 20 metres of the access track, although the survey did not record any evidence of recent occupation. As the nearby track is currently used by forestry vehicles, the ecology officer considers that pine martens in the vicinity would have some degree of habituation to large vehicles.
34. Reference has been made in the Environmental Assessment to potential wildcat activity within the study area surrounding the site. From the recorded evidence in the Environmental Assessment the **Heritage and Land Management Group** are "cautious to consider this as a wildcat record" but nonetheless suggest that a precautionary approach should be adopted and that this record will be considered as a potential wildcat. With reference to red squirrels, it is noted that the Environmental Assessment refers to the sighting of a red squirrel, as well as recording feeding remains in the woodland surrounding the proposed borrow pit.
35. It is recommended that a pre-works protected species survey be undertaken no more than 4 months prior to operational and restoration works beginning, in order to determine if any changes in the distribution of protected mammal species has occurred. This should include a detailed drey and bat survey of all trees to be felled, as well as wildcat and pine marten surveys. Survey work should be undertaken in an area which includes the borrow pit location and extending to a 500 metre buffer zone around the proposed site area. In the event that there are any changes in the

distribution of protected mammal species, there will be a need to consult the CNPA. SNH will also require to be consulted in respect of any issues relating to bats or wildcats as they are European Protected Species.

36. In discussing breeding birds, the ecology officer noted the results of a detailed breeding bird survey which was commissioned by the applicant in 2008. Several birds have been assessed to be probably breeding within the proposed borrow pit location, although none of those were protected species. The **Heritage and Land Management Group** recommend that a further breeding bird survey be undertaken at the appropriate time of year, not more than one breeding season before the proposed operational and restoration works would be due to begin. In addition, in order to comply with legal requirements, it is recommended that work should not be undertaken during the recognised breeding bird period between March and August (inclusive). In the event that this is not possible, a nesting bird survey should be undertaken immediately prior to any felling or earth works. Where nesting birds are found all works should immediately cease and suitable mitigation measures should be agreed with the CNPA and implemented in full thereafter. Alternatively a license would need to be applied for from the Scottish Government to permit disturbance. In addition, it is also highlighted in the consultation response that birds may breed outwith the specified breeding bird period (due to erratic climatic conditions) and there is a need for contractors to be aware of and vigilant for this, ceasing all work in the event that a nesting bird is found.
37. Consideration has also been given to the potential pollution of watercourses, with it noted that the nearest watercourse, the River Pattack, is approximately 300 metres to the west of the site. It is accepted that various mitigation measures are contained in the Environmental Assessment to prevent the pollution of watercourses and that SEPA will also consider and comment on any potential impacts.
38. Advice is also provided in respect of invasive plant species, essentially highlighting that care should be taken to avoid the spread of invasive, non native plant species to the site, either through planting or because of construction activities. Finally, on the subject of enhancement at the end of the period of use of the site, the first aim of the national park is highlighted and it is recommended that native tree species used within any restoration should be of local provenance.
39. From a landscape perspective it is stated that the proposals are acceptable in principle, subject to a number of recommendations. The recommendations refer to requirements for the stockpiling of stripped topsoil and requirements for the undertaking of planting as part of a restoration programme. On the latter point **HLM** comment that the current proposal for reinstatement relies upon natural regeneration as a seed source. However concern is expressed that due to the inconsistencies of the topsoil composition, this approach may not provide the best cover. In addition an area of mixed broadleaf and conifer within the area is considered of benefit

for biodiversity and **HLM** therefore recommend that the area is sown with a mixture of aspen (30%), birch (30%), scots pine (20%) and juniper (20%) seeds.

REPRESENTATIONS

40. One letter of representation has been received from Mrs. Gail Carruthers of Feagour, Laggan expressing a wish to register her concerns. She states that her house is located in Feagour Forest and the proposed development would have a huge impact on her, causing massive disruption to the tranquil surroundings.

APPRAISAL

41. The extraction and processing of aggregate which is proposed in this application is for use in the construction and upgrading of access tracks for the proposed Beaully Denny overhead transmission line, on which a decision is still awaited from the Scottish Government. As detailed earlier in this report the extracted material is required on a temporary basis (for a period of approximately 4 years) and could be returned to the site as part of the final restoration process at the end of that period. It is necessary to make clear at the outset of this appraisal that in giving consideration to the determination of this planning application at the present time, it should not be regarded as an endorsement of the Beaully Denny overhead transmission line proposals. The Cairngorms National Park Authority has already made the case in support of its objection in the course of the Public Local Inquiry relating to that proposal. The scheduling of this application for determination at the present time is in response to the applicants' decision to seek planning permission for various necessary works in the vicinity of the proposed transmission line route, in order to avoid any future delays in the event of the Scottish Government permitting the proposed line. To date a variety of applications have been lodged and are being dealt with by the relevant planning authorities. Permissions have been issued by the Highland Council in respect of other borrow pit applications, and also by Perth and Kinross Council for passing places and road widening works. Members will also recall that the CNPA determined an application in January 2009 for the construction of a passing place on the U220 public road, to the south east of Spey Dam, near Laggan.⁷ A suspensive condition was included to ensure that the works could only be undertaken in the event of permission being granted for the Beaully Denny overhead transmission line.
42. Although full planning permission is being sought in this application, work would be undertaken over a limited period of time of between 6 and 8 months, following which the subject site would be partially restored until its final restoration at the end of the period of use of the extracted material. The development of a borrow pit in this location generally accords with Structure Plan policy. The policy accepts the need for aggregates in some

⁷ CNPA planning ref. no. 08/304/CP refers.

rural locations and requires that this is balanced against the need to avoid environmental disruption or adverse impacts on the quality of life of residents in the vicinity. The application site at Feagour is outwith any sites designated for nature conservation. Survey work has been undertaken in respect of protected species and there are no issues arising from that. The CNPA's **Heritage and Land Management Group** recommend that conditions are included in any grant of planning permission requiring the undertaking of further pre-works protected species surveys, as well as a survey of breeding birds. Conditions are also recommended to ensure that works take place outwith the bird breeding season, that measures are put in place to protect juniper on the site, and also requirements for the submission and agreement of landscaping and restoration plans.

43. The area in which the borrow pit is proposed is in a relatively secluded location within Feagour Forest and is some distance from residential properties. The nearest residential property is located approximately 890 metres to the north east of the location of the proposed borrow pit. Traffic to and from the site would utilise the existing forest access track which leads past that property. As already detailed the processing works would have a limited duration of 6 – 8 months. The impact of development activity and the associated movement of vehicles in the area would therefore be for a relatively short period, and measures could be implemented to minimise the impacts. Methods of achieving this include restrictions on working hours and adherence to dust mitigation plans. In addition to considering the impacts on residential properties in the area, it has also been necessary to consider the potential impacts on other users of the area, particularly in light of the response from the CNPA's **Visitor Services and Recreation Group** highlighting that the forest track forms part of a circular walking route. Increases in vehicular traffic in the area would have an impact on users enjoyment of the walking route, although similar to the impact on the residential property in the area, this would be over a limited period. Advance warning of works being undertaken in the area could be provided at appropriate locations in the wider area, to alert people in advance. The proposed development would not however hinder access opportunities in the area. In addition, in the longer term the implementation of an appropriate restoration programme at the site has the potential to visual aesthetics of this location and enhance the environmental value of the site, particularly bearing in mind that part of the site displays signs of small scale excavations in the past, and has not had the benefit of restoration.
44. Given that the material to be extracted is required for specific projects in relatively close proximity, namely the construction of temporary access tracks and the upgrading of tracks to facilitate work on the proposed Beauldy Denny overhead transmission line, particularly in the southern end of the Corrieyarrick and Garva Bridge, south of Glen Shirra and through to the east of Feagour, the development of the borrow pit in this location would minimise transport movements. In the event that Scottish Ministers approve the upgrade of the Beauldy Denny Transmission Line, and having regard to all other foregoing factors, the development proposal is considered acceptable

and accords with national policy, including the provisions of **SPP4 – Planning for Minerals**, as it can be considered to achieve a sustainable approach to mineral extraction while also addressing environmental factors. However, I would once again reiterate that the recommendation of this report does not signify any endorsement by the **CNPA** of the Beaully Denny transmission line proposal.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

45. By its nature, mineral extraction cannot be perceived as conserving and enhancing the natural or cultural heritage of the area. However, the scale of excavation is limited and for a short temporary period. Appropriate measures can be put in place to ensure that there will be no significant adverse effects on heritage interests. The appropriate restoration of the borrow pit at the end of the period of use of the material would also assist in enhancing the area.

Promote Sustainable Use of Natural Resources

46. The principle of extraction of a finite hard rock resource does not contribute positively towards promoting the sustainable use of natural resources. However, in the event of the Beaully–Denny overhead transmission line project progressing, the materials would be a required resource and would be utilised within the immediate vicinity, thereby reducing transport requirements. One of the proposed reinstatement options also includes returning the majority of the materials to the borrow pit, when the temporary tracks that the materials would be used on, are no longer required as part of the construction process of the proposed overhead transmission line.

Promote Understanding and Enjoyment of the Area

47. The development of a borrow pit at this location, for a temporary period, may have a limited short term impact on the general public's enjoyment of the area, particularly in terms of the impacts of noise, dust, traffic and visual amenity. However, in the longer term, the effects would be mitigated against and agreed appropriate restoration of the site would be implemented.

Promote Sustainable Economic and Social Development of the Area

48. The development has limited direct economic benefit to the area, although is it being proposed to assist in a larger scale infrastructural project – the Beaully Denny overhead transmission line, which may provide some short term benefits in the local economy. In the longer term this may have a less than beneficial impact. However, in itself this proposal will not adversely impact on the fourth aim.

RECOMMENDATION

That Members of the Committee support a recommendation to:

Grant full planning permission for extraction and part processing of aggregate for use in the construction of upgrading and new tracks for the Beaully-Denny overhead line on land at Feagour Forest, 1.1km south west of Feagour, Kinloch Laggan, subject to the following conditions : -

1. This grant of planning permission is for a temporary period only and shall expire on September 18th 2014.
2. No works in relation to the planning permission hereby granted shall commence until works on the related part of the Beaully Denny electricity transmission line (within the sections of the route from towers FT47 to FT74 and FT80 to FT102) (planning reference no. 05/01034/S37IN refers) has been fully consented and a contract for those works formally let.
3. Breeding bird surveys shall be undertaken at an appropriate time of year, not more than one breeding season before (a) the operational works begin and (b) the restoration works begin. The area surveyed shall be the same as that originally covered in the Environmental Assessment submitted in conjunction with the application. The survey results shall be submitted to the Cairngorms National Park Authority acting as Planning Authority and no work shall be undertaken without the written agreement of the CNPA.
4. No works shall be undertaken during the recognised bird breeding period between March and August inclusive, unless otherwise agreed in writing with the Cairngorms National Park Authority acting as Planning Authority. In the event that work is required to be undertaken during the period from March to August, a nesting bird survey shall be undertaken immediately prior to any work. If nesting birds are recorded the works shall stop until the birds have ceased nesting or suitable mitigation has been agreed with the Cairngorms National Park Authority or a license had been obtained from the Scottish Government to permit disturbance.
5. Prior to the commencement of development (and no more than 4 months prior to operational works commencing) a pre-works protected species survey shall be undertaken to establish if any changes in the distribution of protected mammal species has occurred. The survey details shall be submitted for the written agreement of the Cairngorms National Park Authority acting as Planning Authority, in conjunction with Scottish Natural Heritage. No development shall proceed without the agreement of the Cairngorms National Park Authority acting as Planning Authority.
6. Prior to the commencement of development a Surface Water Management Plan shall be submitted for the written approval of the Cairngorms National Park Authority acting as Planning Authority, in consultation with SEPA. The approved plan shall be adhered to and implemented in full thereafter.

7. Prior to the commencement of development a detailed site specific work method statement shall be submitted for the written approval of the Cairngorms National Park Authority acting as Planning Authority, in consultation with SEPA. The approved statement shall be adhered to and implemented in full thereafter.
8. Prior to the commencement of development a dust mitigation plan covering the excavation, screening, crushing, storage and transportation operations at the proposed borrow pit shall be submitted for the written agreement of the Cairngorms National Park Authority acting as Planning Authority, in consultation with SEPA. The agreed dust mitigation plan shall be implemented in full thereafter.
9. The construction and operation of the site shall comply with the relevant SEPA pollution prevention guidelines (PPGs 04-06).
10. Prior to the commencement of development the following works shall be undertaken to satisfy the requirements of Transport Scotland - visibility splays shall be provided and maintained on each side of the access onto the public road to the satisfaction of the Cairngorms National Park Authority acting as Planning Authority. These splays are the triangles of ground bounded on 2 sides by the first 2.4 metres of the centreline of the access driveway (the set back dimension) and the nearside trunk road carriageway measured 215 metres (the y dimension) in both directions from the intersection of the access with the trunk road. In a vertical plane, nothing shall obscure visibility measured from a driver's eye height of between 1.05 metres and 2.00 metres positioned at the set back dimension to an object height of between 0.26 metres and 1.05 metres anywhere along the y dimension.
11. Unless otherwise agreed in writing with the Cairngorms National Park Authority acting as Planning Authority, following consultation with Highland Council's Environmental Health Service, working operations at the quarry, including all associated transport movements, shall be restricted to the hours of 0700hrs to 1800hrs (Monday to Saturday). No operations shall take place on Sundays.
12. Prior to each occurrence of blasting activity, at least seven days notice shall be provided to the public in the area by means of a publication of a notice in the local press; the display of a notice in a publicly accessible location in the vicinity; the display of appropriate warning notices within the boundaries, or otherwise visible from public roads within 400 metres of the site; and individual written notification to all residential and commercial properties within 1 kilometre of the site.

At least 7 days in advance Highland Council's Environmental Health Service shall also be given notice of the dates when blasting operations are to occur on the site.

Evidence of all forms of notification (including delivery confirmation for individual notifications) shall be made available for inspection by the Cairngorms National Park Authority acting as Planning Authority, upon request.

- 13.** Prior to the commencement of development detailed proposals for the protection of the two drystone structures to the south of the proposed site (NN 5649 8921 and NN 5650 8920) shall be submitted for the agreement of the Cairngorms National Park Authority acting as Planning Authority, in consultation with the Archaeology section of Highland Council. All agreed measures shall be implemented in full thereafter.
- 14.** Prior to the commencement of development a detailed landscaping and (a) an interim restoration plan and (b) a final restoration plan shall be submitted for the written agreement of the Cairngorms National Park Authority acting as Planning Authority. Comprehensive details shall be provided of the timing of all interim and final restoration works. The final restoration plan should include proposals for the reseeded of the area with a mixture of aspen (30%), birch (30%), scots pine (20%) and juniper (20%). Restoration and reinstatement proposals shall also include the overburden storage site.
- 15.** The area of juniper located adjacent to the existing track shall be retained and protected. Prior to the commencement of development details of all protective measures to create an exclusion zone around the existing juniper (including the nature of fencing and its precise location) shall be submitted for the written agreement of the Cairngorms National Park Authority acting as Planning Authority, with the agreed works being undertaken in full thereafter.
- 16.** Any stripped topsoil for use in reinstatement should be stockpiled separately to the excavated overburden and shall not be piled higher than 1.8 metres and without compaction.

Advice notes :

- I.** The Surface Water Management Plan required in compliance with condition no. 3 of this permission shall be prepared in accordance with Planning Advice Note 50 : Controlling the Environmental Effects of Surface Mineral Workings in relation to surface water (pages 24 – 25). The Plan should include dewatering flows and in an integrated way should cover :
 - Management of general site surface water run off;
 - Flow balancing by sumps and pumping;
 - Control of particulates by settlement in sumps and lagoons;
 - Control of water chemistry;
 - Oil and scum removal;
 - Use of water in processing plant and treatment of effluent including vehicle washing water;
 - Containment of spillage from storage and processing areas;
 - Use of water in dust control;
 - Use of appropriate water to counteract groundwater lowering; and

- Regular cleaning and maintenance of water system.
2. The Dust Mitigation Plan required in condition no. 6 of this permission should be provided with reference to guidance contained in PAN 50 Annex B, The Control of Dust at Surface Mineral Workings.
 3. The Work Method Statement required in connection with condition no. 4 of this permission must address the following –
 - Surface water run-off – measures to prevent erosion, sedimentation or discolouration of controlled waters should be provided, along with monitoring proposals and contingency plans;
 - Fuel or chemicals – measures to ensure any fuel/ chemicals from plant does not cause pollution;
 - Waste – all waste streams associated with works should be identified.
 4. Care should be taken to avoid the spread of invasive, non-native species to the site. In the event of any such species arriving at the site it is recommended that they are removed as soon as possible and disposed of appropriately.
 5. Red squirrels are one of a number of species protected under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended under the Nature Conservation (Scotland) Act 2004). Section 9(4) of the Act makes it an offence to intentionally or recklessly damage a red squirrel drey.
It is now an offence to intentionally or recklessly
 - Kill, injure or take (capture) a red squirrel;
 - Damage, destroy or obstruct access to any structure or place which a red squirrel uses for shelter or protection;
 - Disturb a red squirrel whilst it is occupying a structure or place which it uses for that purpose.
 6. The pre-works protected species survey required in fulfilment of condition no. 17 of this permission shall include a detailed drey and bat survey of all trees to be felled, as well as a wildcat and pine marten survey. The survey area should include the borrow pit location and a 500 metre buffer zone around the site boundary.

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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.