

REVISED RECOMMENDATION WITH REVISED CONDITION 10 TAKING ACCOUNT OF SEPA COMMENTS RECEIVED 9 SEPTEMBER

Grant Full Planning Permission subject to the following conditions: -

1. The development to which this permission relates must be begun within five years from the date of this permission.
2. That the development hereby approved shall be carried out strictly in accordance with the "Otter and Water Vole Survey for Allargue Estate Recommended Avoidance and Mitigation Measures" Dated April/May 2009, by Flora Grigor-Taylor and Steff Ferguson, subject to the carrying out and submission of an updated survey and recommendations, to be carried out no more than 6 weeks prior to the commencement of the development and with the additional requirements that:
 - (i) Notwithstanding the recommended construction periods, **no** excavation or construction works shall take place **outwith** the late summer to mid-autumn period (i.e. Mid - August to Mid- November);
 - (ii) Construction and excavation works shall be limited to the period between 2 hours after sunrise and 2 hours before sunset;
 - (iii) A protection zone of 30 metres shall be clearly marked out around any Otter holts identified in the survey, with access barred to people and machinery during the construction period.
 - (iv) Access routes for heavy machinery shall not enter the water courses and machinery shall be restricted to the banks immediately adjacent to the intake and outfall points.
3. Prior to the commencement of the development, design drawings to a recognised scale, of the intake weir, attenuation works, bank protection and outfall structure, shall be submitted for the approval of the Cairngorms National Park Authority, in consultation with SEPA and SNH. The fish pass shall be a minimum of 300mm wide. The bank works shall be designed to encourage colonisation by Water Voles. The development shall be carried out entirely in accordance with the approved drawings and any related approved construction methodology. The turbine house shall be in accordance with Drawing Number 08004D001/02, dated 25.11.08 unless an alternative is first approved in writing by the Planning Authority.
4. The construction shall be carried out in accordance with the Construction Method Statement marked "Report 08004R002 – Issue 2" supplied with the Feasibility, Environmental and Design Study supplied by Highland Eco-Design and dated 25th November 2008. Excavation of the pipe and cable runs shall include the careful and separate setting aside, beside each trench, of top soil and subsoil and its careful backfill on completion of the works. Any re-seeding shall use locally sourced native grass seeds.
5. Within 2 months of the completion of the each of the works at (i) the Weir, (ii) the turbine house, (iii) the discharge point and (iv) the pipe connections, v) the cabling connection and vi) the access track, the areas around and over these respective elements shall be restored to its original condition of unimproved grassland with

local native shrubs and thereafter maintained for a period of at least two years or until established.

6. The turbine machinery shall be made entirely inaccessible to Otters, Water Voles and fish, including Brown Trout fry and parr, both at the in-take weir and outfall and at the turbine house, to the satisfaction of the Planning Authority in consultation with SEPA.
7. The works, including the pipe works shall avoid all sites identified on the National Monuments Register. In particular, prior to the commencement of the works, sites to the west of the Milltown Burn at NJ265 097 and NJ266 098 shall be identified on the ground, taped off and avoided completely by all machinery.
8. An annual survey of salmonids above and below the intake weir and surveyed in April and May each year shall be submitted for the review of the Planning Authority in consultation with SEPA. The survey shall include recommendations in respect of water levels and the observed impact on fish stocks, leading to a review of the approved Q90 “hands off” flow, as necessary, in pursuit of restoring fish stocks to the base line level found in the survey dated April/May2009. The conclusions of the review of the survey by the Planning Authority in consultation with SEPA shall be implemented within a timescale specified by the Planning Authority.
9. The turbine house hereby approved shall be finished in traditional timber cladding to the walls and corrugated iron to the roof (other than lighting panels) and shall be stained or painted to dark, recessive colours to the satisfaction of the Planning Authority.
- 10. In the event of abstraction shut-down due to turbine maintenance, the maintenance by-pass sluice shall be left open. In the event that the intake weir becomes disused, the by-pass sluice shall be left permanently open to allow the burn to be restored fully to its natural flow regime.**

ADVICE NOTE

Protected Species

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

Where it is proposed to carry out works which will affect European protected species or their shelter/breeding places, whether or not they are present in these refuges, a licence is required from the Scottish Government (Scottish Natural Heritage).

SEPA Application for Licence under the The Water Environment (Controlled Activities) (Scotland) Regulations 2005 (CAR Licence).

The applicants attention is drawn to the above application for a CAR Licence. Notwithstanding grant of the planning permission, the CAR Licence must be granted before the development may proceed. Both the conditions of planning permission and the terms of the CAR licence must be met in full.

Hilary MacBean
10th September 2009