
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

**Prepared by: FIONA MURPHY
(PLANNING OFFICER,
DEVELOPMENT MANAGEMENT)**

DEVELOPMENT PROPOSED: Removal of 13 sections of rock armour river bank protection followed by bank re-profiling at Moulzie, Acharn and Braedownie. Re-connection of three palaeochannels – one at Moulzie and two at Acharn. At River South Esk and White Water at Moulzie, Acharn and Braedownie, Glen Doll.

REFERENCE: 2014/0265/DET

APPLICANT: Ms Jackie Webley, Scottish Natural Heritage

DATE CALLED-IN: 1 September 2014

RECOMMENDATION: APPROVAL SUBJECT TO CONDITIONS

CNPA Planning Committee



Application Site

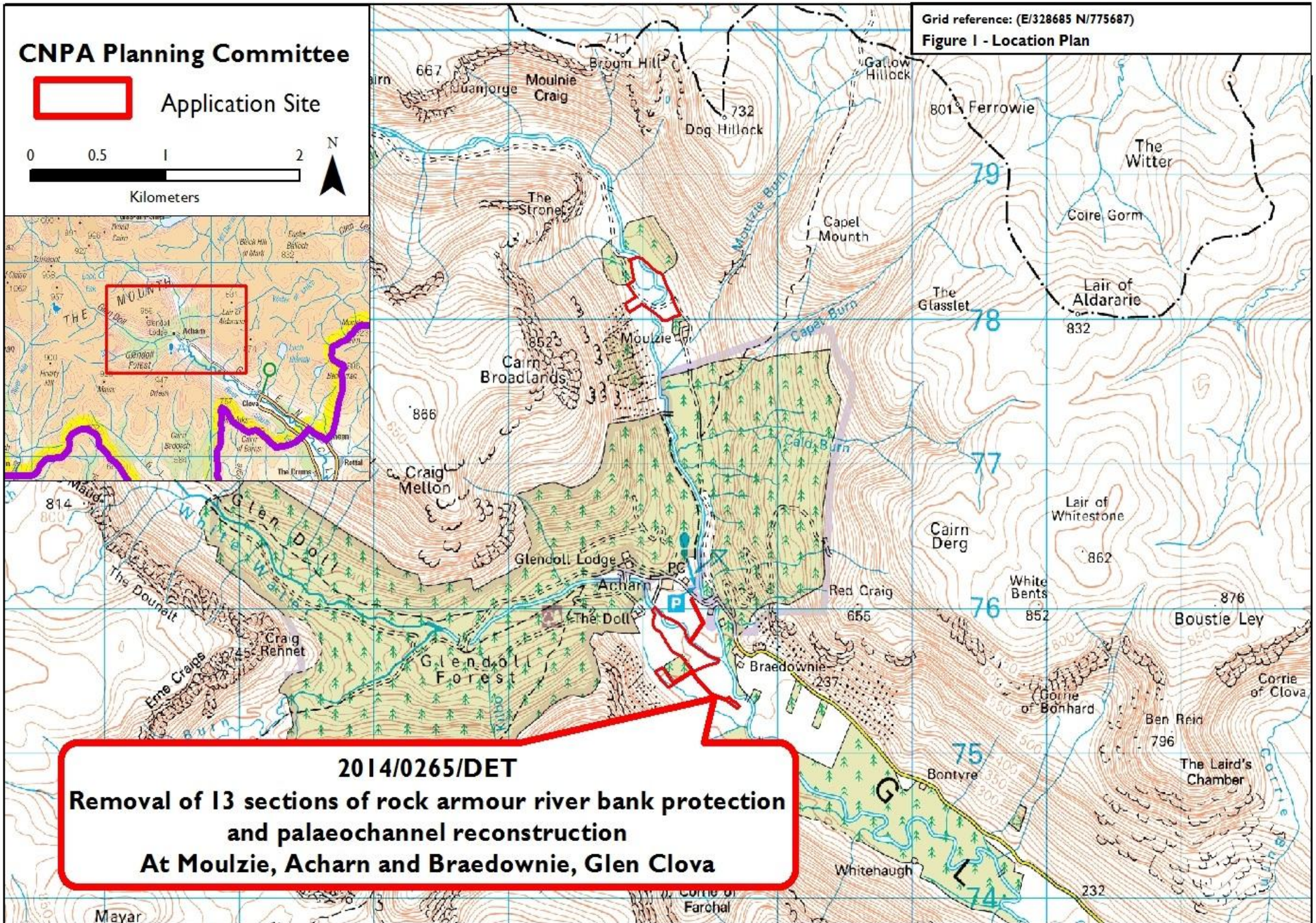
0 0.5 1 2

Kilometers



Grid reference: (E/328685 N/775687)

Figure I - Location Plan



2014/0265/DET
Removal of 13 sections of rock armour river bank protection and palaeochannel reconstruction
At Moulzie, Acharn and Braedownie, Glen Clova

SITE DESCRIPTION AND PROPOSAL

- I. The plans and documents submitted by the applicant and under consideration for this application are identified in the table below and are available on the Cairngorms National Park Authority website at:

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

Title	Drawing Number	Date on Plan	Date Received
Outline Design Cross Section: Detail A	164480-005	10 January 2014	1 Sept 2014
Outline Design Cross Section: Detail B	164480-006	10 January 2014	1 Sept 2014
Outline Design Cross Section: Detail C	164480-007	10 January 2014	1 Sept 2014
Site Location Plan: Moulzie	164480_09 Rev A	09 July 2014	1 Sept 2014
Site Location Plan: Acharn and Braedownie	164480_010 Rev A	09 July 2014	1 Sept 2014
Site Location Plan: Overview	164480_011 Rev A	09 July 2014	1 Sept 2014
Outline Design Plan: Moulzie 1 of 3	164480_012 Rev A	09 July 2014	1 Sept 2014
Outline Design Plan: Moulzie 2 of 3	164480_013 Rev A	09 July 2014	1 Sept 2014
Outline Design Plan: Moulzie 3 of 3	164480_14 Rev A	09 July 2014	1 Sept 2014
Outline Design Plan: Acharn and Braedownie 1 of 4	164480_15 Rev A	09 July 2014	1 Sept 2014
Outline Design Plan: Acharn and Braedownie 2 of 4	164480_016	09 July 2014	1 Sept 2014
Outline Design Plan: Acharn and Braedownie 3 of 4	164480_017 Rev A	09 July 2014	1 Sept 2014
Outline Design Plan: Acharn and Braedownie 4 of 4	164480_018 Rev A	09 July 2014	1 Sept 2014
Planning Statement			23 Sept 2014
Ecological Site Assessment			24 Sept 2014
Otter Survey*			21 Oct 2014

(*classified as sensitive due to protected species and not available to view)

2. This application concerns sections of the River South Esk and White Water at the top of Glen Clova near to the Visitor Centre.
3. The works are part of the 'Pearls in Peril' project, which is a UK-wide project to safeguard the future of the freshwater pearl mussel. The project is funded in part through the European Commission LIFE Nature programme and by 22 organisations across the UK, including the Cairngorms National Park Authority. It is led by Scottish Natural Heritage.

Development Proposal

4. The development proposal is to restore parts of the watercourse back to its original channels, with the aim of restoring natural river processes to improve freshwater pearl mussel and salmonid habitat.
5. The turf and topsoil along the bank behind the structure will be rolled back to retain its integrity as much as possible. The top layer of soil will be removed and taken to the deposit area indicated on the site plan. The armour stone will be removed from the structure whilst minimising disturbance to the river bed. This will increase sediment load at and downstream from the restoration site in the short term (2 to 3 weeks). Mitigation measures will be in place.
6. The boulders will be deposited primarily at the foot of the boulder slopes from where they were originally taken. At Acharn cobbles from the first site to be restored will be used to re-surface the access track and at other sites the remaining clean cobble/pebble bank material will be used to seed the river. The sand and gravel sub-soil behind the structure will be re-excavated to re-profile the bank to approximately 1:2 slope or to bench out the top part of the bank. Excess sub-soil will be removed to the agreed locations.

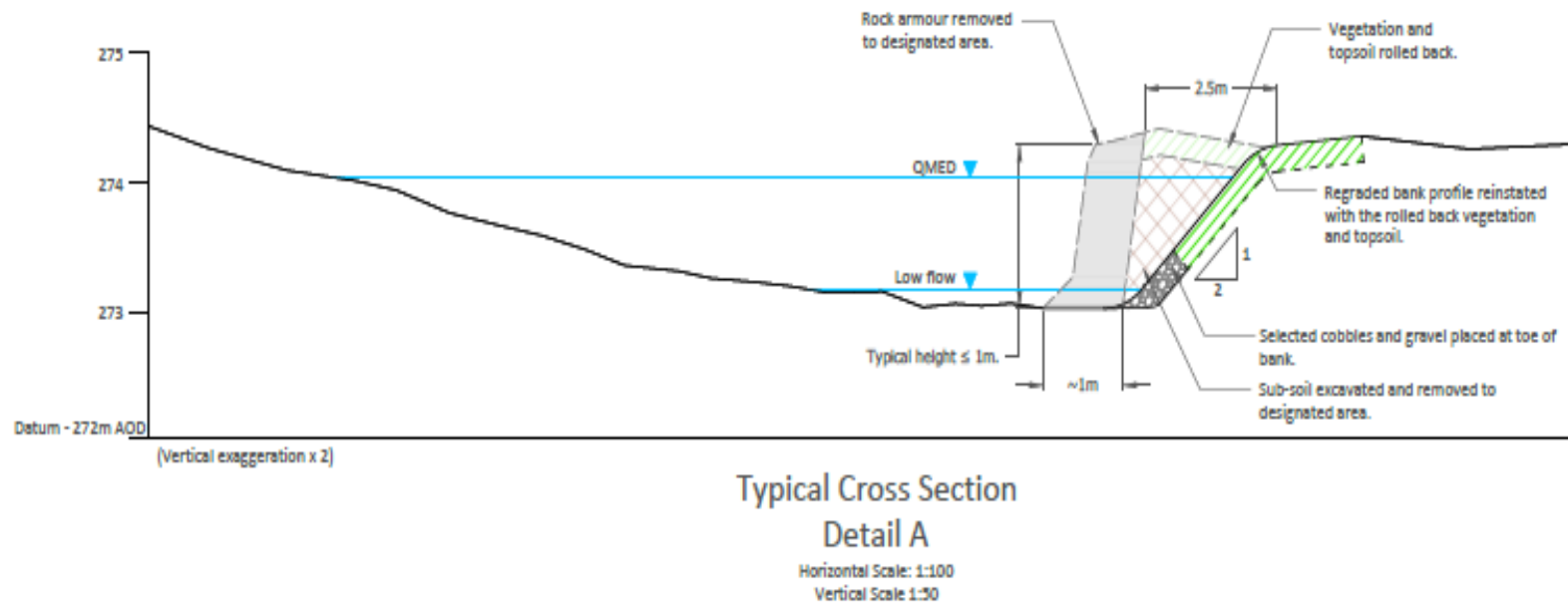


Figure 2: Typical Cross Section illustrating proposed works.
Extract from Drawing Number I64480-05 Outline Design Cross Section: Detail A.



Figure 3: Photograph illustrating one of the locations of the proposed bank works between Acharn and Braedownie

7. Reconnection of the palaeochannels will increase the frequency that these channels are active. The turf will be rolled back over the re-profiled slope and additional measures to encourage re-establishment of vegetation such as seeding will be taken where necessary.
8. At Acharn some alder-willow scrub will need to be removed to allow access for boulder removal. This will be reinstated with additional planting where appropriate to join up areas of scrub. No tree removal is required at Moulzie or Braedownie. There are no mature trees at any of the sites.
9. The works are expected to last four to five weeks and could be visible from the road (Acharn/Braedownie) or footpath (Moulzie). Signs and information boards will be erected to inform people prior to and during the works. The Angus Glens Range Service will also be kept fully informed of all activities.
10. An Ecological Clerk of Works will be present during the works to ensure the methods statements and mitigation are adhered to as aspects of the restoration will be governed by site specific conditions.
11. Access will use existing tracks wherever possible. Where temporary access tracks are required, where possible they will traverse the most stable, drier areas of grassland. Low ground pressure vehicles or temporary ground protection track mats will be laid down over soft ground.

Site History and Constraints

12. There is no recent planning history. The site is within the National Scenic Area, the River South Esk Special Area of Conservation (qualifying features are salmon and freshwater pearl mussel) and adjacent to the Cairngorms Special Area of Conservation (qualifying feature is otter), and the 1 in 200 year flood risk.

DEVELOPMENT PLAN CONTEXT

National policy

13. **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.
14. The SPP sits alongside four other Scottish Government planning policy documents:
 - a) 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;
 - b) **Creating Places**, the policy statement on architecture and place, containing the Scottish Government's policies and guidance on the importance of architecture and design;
 - c) **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
 - d) **Circulars**, which contain policy on the implementation of legislation or procedures.

Strategic Policies

Cairngorms National Park Partnership Plan (2012-2017)

15. 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.
16. Three long term outcomes for the Park are set out as follows:
 - a) A sustainable economy supporting thriving businesses and communities;
 - b) A special place for people and nature with natural and cultural heritage enhanced; and
 - c) 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 Plan (2010)

17. The Cairngorms National Park Local Plan was formally adopted on 29th October 2010. The full text can be found at :
<http://www.cairngorms.co.uk/parkauthority/publications/results.php?publicationID=265>
18. The Local Plan contains a range of policies dealing with particular interests or types of development. These provide detailed guidance on the best places for development and the best ways to develop. The policies follow the three key themes of the Park Plan to provide a detailed policy framework for planning decisions:
 - a) Chapter 3 - Conserving and Enhancing the Park;
 - b) Chapter 4 - Living and Working in the Park;
 - c) Chapter 5 - Enjoying and Understanding the Park.
19. Policies are not cross referenced and applicants are expected to ensure that proposals comply with all policies that are relevant. The site-specific proposals of the Local Plan are provided on a settlement by settlement basis in Chapter 6. These proposals, when combined with other policies, are intended to meet the sustainable development needs of the Park for the Local Plan's lifetime. The following paragraphs list a range of policies that are appropriate to consider in the assessment of the current development proposal.
20. Policy 1 (Natura 2000 Sites): Requires that development likely to have a significant effect on a Natura 2000 site will be subject to an appropriate assessment in accordance with the Conservation (Natural Habitats, &c.) Regulations 1994 to ensure that the development will not adversely affect the integrity of the site. If it is deemed that it will, development will only be permitted in certain circumstances.
21. Policy 2 (National Natural Heritage Designations): Specifies that development which will adversely affect various designations, including the Cairngorms National Park or National Scenic Area will only be permitted in certain circumstances.
22. Policy 4 (Protected Species): Specifies that development which will adversely affect any European Protected Species will only be permitted in certain circumstances. As the Freshwater Pearl Mussel is protected under Schedule

5 of the Wildlife and Countryside Act 1981 (as amended) it is protected from any adverse impact from development under this policy.

23. Policy 6 (Landscape): Specifies that there will be a presumption against any development that does not complement and enhance the landscape character of the National Park and in particular the setting of the proposed development, unless special circumstances prevail.
24. Policy 12 (Water Resources): This includes a requirement that the development does not result in the deterioration of the current or potential ecological status or prejudice the ability to restore water bodies to good ecological status.

Supplementary Planning Guidance

25. In addition to the adoption of the Cairngorms National Park Local Plan (2010) on 29th October 2010, a number of Supplementary Planning Guidance documents were also adopted, including:-

Natural Heritage: This guidance sets out how the natural heritage of the National Park will be taken into account when considering all development proposals, including the six key principles that will be used to address planning applications, to ensure that there is no net loss of natural heritage interest.

Proposed Cairngorms National Park Local Development Plan (LDP)

26. The Department of Planning and Environmental Appeals (DPEA) carried out an Examination of the proposed Cairngorms National Park Local Development Plan over Spring and Summer 2014. The CNPA received the Report of the Examination on 8 September 2014. The proposed Plan and the Reporters recommendations are now a material consideration in planning decisions. The emerging policies in the LDP have been checked and these raise no new issues that are not already considered in this report.

CONSULTATIONS

27. **Angus Council Flood Prevention Unit** raises no objections.
28. **Scottish Environmental Protection Agency (SEPA)** notes that construction works can increase the risk of water pollution due to release of sediment from exposed surfaces, contaminant discharges and accidental spillages. SEPA request a planning condition that no development shall commence on site until a site specific Construction Method Statement has been approved in writing by the Planning Authority in conjunction with SEPA. SEPA has no objection on flood risk grounds. They have confirmed that a CAR licence has been received.

29. **Scottish Natural Heritage (SNH)** advises that it fully supports the project. SNH advises that an appropriate assessment is not required because the proposal involves the restoration of natural river processes to improve freshwater pearl mussel and salmon habitat. SNH comment on the need for a method statement to minimise any negative effects of the work but defer to the planning authority and SEPA to assess its adequacy.
30. **CNPA Landscape Adviser** advises that the proposed river works are designed to re-naturalise the river system. The landscape and visual effect of this will, over time, be a positive one, enhancing the landscape character of the river corridor. However, in the process of enhancing the river system there is a risk that materials excavated from the river banks and placed in various locations in the vicinity fit poorly with local landform and have a long term permanent impact on landscape character and fail to meet Local Plan Policy 6 (Landscape). With careful attention to the detail of the deposition process, long term impacts could be avoided.
31. The Landscape Adviser comments that there is insufficient material to ensure that excavated materials are deposited in a way that has no long term adverse effects on landscape character and advises that:-
- a) Boulder Areas – a written method statement is provided to ensure that contractors place boulders in a random, and naturally appearing pattern. Individual boulders should be stable with weathered sides uppermost.
 - b) Subsoil Areas – these should fit with the prevailing topography, so it is necessary to demonstrate how the contractor is to deposit and shape materials. A contour plan and sections will be required for each site deposit site, and a specification for vegetating these areas. The shaped and vegetated mound should be consistent with the form, texture and ground cover of the surrounding area, and in the case of those mounds along the edges of woodland, these should be planted up with native broadleaves. Any tree planting should be protected from grazing herbivores.
 - c) Trees removed from the river banks for access should be replaced at a ratio of 1:3 with native species characteristic of the area.
32. **CNPA Ecological Adviser** advises that the proposal is expected to make a significant positive impact on riverine ecology and improving habitat for salmon, freshwater pearl mussel and mammals along the river bank including otter and water vole.
33. It is further advised that conditions are required relating to:-
- a) A species protection plan for otter and water vole will be required (this would form part of the licence application required from SNH before works are undertaken)
 - b) A pre-construction check for otter and water vole is required

- c) An ecologist should be present on site while works are undertaken
- d) The Construction Method Guidance provided in the document River Esk SAC-Advice for planning applicants (SNH, 2011) must be adhered to
- e) Works will take place outside the salmon spawning season
- f) No scrub species are to be planted at Moulzie because the land adjacent is used by waders

and that the following advisory note should be added:

- g) A pre-construction check for ground nesting birds on the access path route must be undertaken if the works are to be undertaken in the bird breeding season.

REPRESENTATIONS

- 34. No representations have been received in respect of this application.
- 35. The agent has requested to address the Planning Committee.

APPRAISAL

- 36. As the project involves the restoration of parts of the river channel with the specific aim of improving conditions for protected species, it is considered that they meet with the requirements of Policy 1 (Natura 2000 Sites), Policy 2 (National Natural Heritage Designations) and Policy 4 (Protected Species) of the Cairngorms National Park Local Plan.
- 37. In relation to Policy 6 (Landscape), the Landscape Adviser considers that the landscape and visual effect of the proposal will be a positive one over time subject to the imposition of and compliance with appropriate conditions.
- 38. With regard to Policy 12 (Water Resources), this includes a requirement that the development does not result in the deterioration of the current or potential ecological status or prejudice the ability to restore water bodies to good ecological status. As the proposal seeks to improve the ecological status of the water bodies, it is considered to comply with this policy.

CONCLUSION

- 39. In conclusion, this proposal to restore parts of the watercourse back to its original channels with the aim of restoring natural river processes to improve freshwater pearl mussel and salmonid habitat is welcomed. The application is considered to comply with the Development Plan policies and approval subject to appropriate planning conditions is recommended.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

40. The aims of this development to restore natural river processes to improve freshwater pearl mussel and salmonid habitat by restoring parts of the watercourse back to its original channels are entirely consistent with the aim of conserving and enhancing the natural and cultural heritage of the area.

Promote Sustainable Use of Natural Resources

41. The project involves the re-location of boulders and other natural material that was originally sourced locally and hence involves the sustainable use of natural resources.

Promote Understanding and Enjoyment of the Area

42. The applicant will provide information about the project in the Visitor Centre at the head of Glen Clova, to help visitors understand and enjoy the area.

Promote Sustainable Economic and Social Development of the Area

43. In The development will provide limited work for local contractors.

RECOMMENDATION

That Members of the Committee support a recommendation to GRANT FULL PLANNING PERMISSION subject to the following conditions:

- 1 No development shall commence until a site specific Construction Method Statement (CMS) has been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority, in consultation with the Scottish Environmental Protection Agency (SEPA). All works on site must be undertaken in full accordance with the approved CMS unless otherwise agreed in writing with the Planning Authority.

Reason: In order to minimise the impacts of necessary construction works on the environment.

- 2 No development shall commence until a written Method Statement for the boulder areas has been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority. Thereafter the Method Statement shall be fully adhered to. The Method Statement shall ensure that the boulders are placed in a random and naturally appearing pattern and that individual boulders are stable with weathered sides uppermost.

Reason: To ensure that the placing of the boulders respects and reflects the natural topography of the area and safeguards the landscape character of the area in the interests of visual amenity.

- 3 No development shall commence until a contour plan and sections for each deposit site, together with a specification for vegetating these areas, has been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority. Thereafter the approved details shall be fully adhered to.

Reason: To ensure that the design of the deposit sites respects and reflects the natural topography of the area and safeguards the landscape character of the area in the interests of visual amenity.

- 4 No development shall commence until proposals for planting native species of trees on a ratio of 3 to 1 to replace those removed during the project, together with a management and maintenance programme, have been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority. The approved planting shall be implemented during the first planting season following the completion of the development and maintained in good condition in perpetuity. No planting shall take place at Moulzie because the land adjacent is used by waders.

Reason: To mitigate for the loss of trees as a result of the development, in order to maintain the extent of tree cover in the interests of habitat retention and visual amenity.

- 5 No development shall commence until a Species Protection Plan for otter and water vole has been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority.

Reason: As otters and water voles are European Protected Species.

- 6 No development shall commence until a pre-construction check for otter and water vole has been undertaken.

Reason: As otters and water voles are European Protected Species.

- 7 An Ecological Clerk of Works shall be present on site while works are undertaken.

Reason: To ensure the Methods Statements and mitigation are adhered to as aspects of the restoration will be governed by site specific conditions.

- 8 All works shall be carried out in accordance with The Construction Method Guidance provided in the document River Esk SAC - Advice for planning applicants (SNH, 2011).

Reason: To ensure that no damage occurs to the River Esk SAC.

- 9 All works shall take place outwith the salmon spawning season (late October to early February)

Reason: To ensure that salmon spawning is not adversely affected by the development.

Informatives:

- 1 In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), this permission lapses on the expiration of a period of 3 years beginning with the date on which this permission is granted unless the development to which this permission relates is begun before that expiration.
- 2 A pre-construction check for ground nesting birds on the access path route must be undertaken if the works are to be undertaken in the bird breeding season (April to July).
- 3 In relation to Condition 3, the subsoil areas should fit with the prevailing topography, so it is necessary to demonstrate how the contractor is to deposit and shape materials. The shaped and vegetated mound should be consistent with the form, texture and ground cover of the surrounding area, and in the case of those mounds along the edges of woodland, these should be planted up with native broadleaves. Any tree planting should be protected from grazing herbivores.
- 4 It is suggested that display material is provided in the Glen Clova Visitor Centre to provide information about the project to enable walkers and cyclists visiting the area to understand the role of the development.

Fiona Murphy

planning@cairngorms.co.uk

24 October 2014

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.