CAIRNGORMS NATIONAL PARK AUTHORITY

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

Prepared by: **NEIL STEWART, PLANNING OFFICER (DEVELOPMENT MANAGEMENT)**

DEVELOPMENT PROPOSED:

1. **FULL PLANNING PERMISSION FOR ERECTION OF BOREHOLE COMPOUND, FORMATION OF ACCESS TRACK AND ASSOCIATED WORKS (REVISED AND RETROSPECTIVE APPLICATION);**

2. **FULL PLANNING PERMISSION FOR INSTALLATION OF CLEAR WATER TANK AND ASSOCIATED WORKS (REVISED AND RETROSPECTIVE APPLICATION);**

3. **FULL PLANNING PERMISSION FOR USE OF LAND FOR DEPOSITING OF EXCESS INERT MATERIAL (RETROSPECTIVE APPLICATION); &**

4. **FULL PLANNING PERMISSION FOR CONSTRUCTION OF ACCESS TRACK AND ASSOCIATED WORKS (AMENDED PROPOSALS AS BUILT)**

ALL AT LAGGAN WATER TREATMENT WORKS, LAGGAN

REFERENCES:	**06/402/CP, 06/404/CP, 06/405/CP & 07/153/CP**
APPLICANT:	**SCOTTISH WATER, C/O SCOTTISH WATER SOLUTIONS, TORRIDON HOUSE, BEECHWOOD BUSINESS PARK, INVERNESS & D.GRANT**
DATE CALLED-IN:	**6 OCTOBER 2006 & 20 APRIL 2007**
RECOMMENDATION:	**RETROSPECTIVE APPROVAL, FOR ALL FOUR APPLICATIONS, SUBJECT TO CONDITIONS**

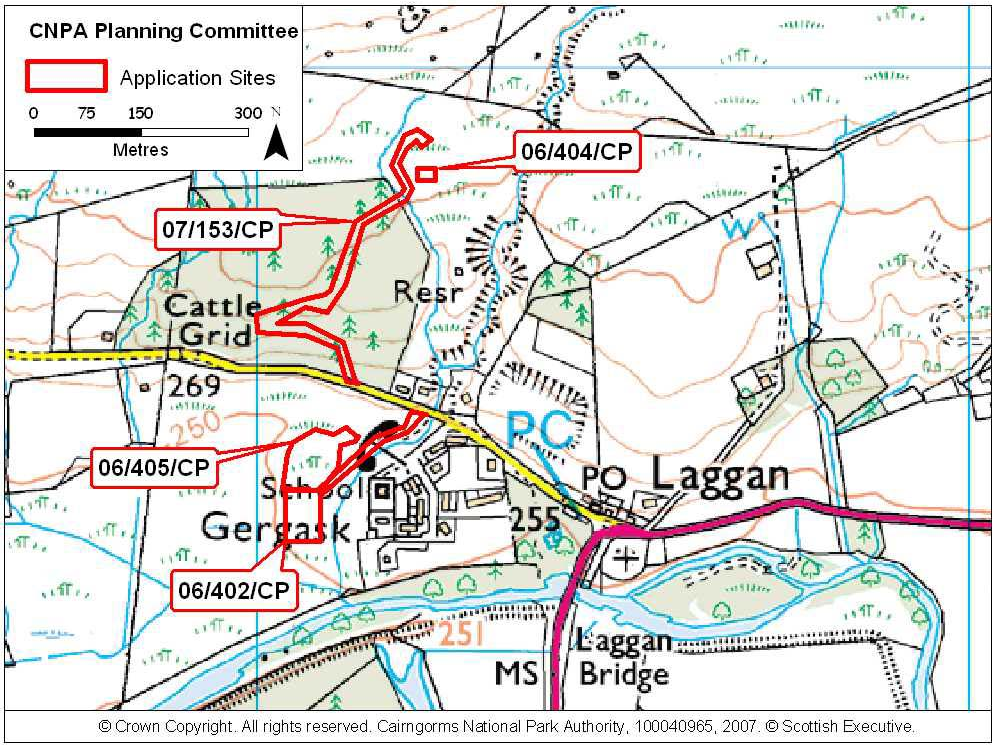

Fig. 1. Location Plan

SITE DESCRIPTION AND PROPOSAL

Background

1. **Members of the Committee will recall that three retrospective applications for works at the Laggan Water Treatment Works (WTWs) were considered at the Planning Committee of 9 March 2007. The decision was to defer the applications in order that further investigations are carried out by the applicants in relation to flood and other associated hydrological impacts. In addition, it was felt that a fourth retrospective application for a new track serving part of the new works, which had not been submitted at that time, required to be considered at the same time as the other three applications. This fourth application was submitted and called-in on 20 April 2007. The additional flood and hydrological impact assessments have also been submitted and assessed.**

2. This report therefore covers the four separate but related retrospective planning applications for works directly related to and associated with the creation of a new water treatment works system for the community of Laggan. The sites of the developments are located to the west and north of the village. As can be seen from the location plan and the photographs contained in this report, the land to the immediate west of the village on the south side of the public road, and adjacent to the Gergask Burn, is flat and open and constitutes part of the River Spey flood plain. The land on the north of the public road is steeply sloping

and comprises a commercial woodland plantation, with open land at the higher level above the village.

Previous Application History

3. In April 2005, the CNPA called-in an application for full planning permission for the erection of a new water treatment works, the siting of associated kiosks and the formation of associated boreholes and access tracks (05/156/CP) at this site. Subsequently, on 26 August 2005, the CNPA Planning Committee agreed with an officer recommendation to grant permission, subject to planning conditions. The decision notice was subsequently issued to Scottish Water on 7 September 2005.

4. Late in 2005, works commenced on site. However, shortly after, concerns were raised from owners of neighbouring properties and the Laggan Community Association, about failures to comply with the approved plans. In 2006, it became clear that what was being constructed on site did not comply with the approved plans and the conditions of the planning permission granted by the CNPA.

5. As well as the failure to comply with some conditions of the previous approval, the breaches of planning control related to the following;

- *the access track within the woodland on the north side of the public road, serving the proposed clear water tank compound was wider and different in alignment and level to that approved, and had resulted in considerable engineering operations and additional tree felling. A turning area had also been formed at the mid point.*

- *the borehole compound and its associated kiosks and equipment on the south side of the public road was different in size and layout to that approved and involved landraising.*

- *the access track serving the borehole compound on the south side of the public road had been created by upfilling above existing ground levels.*

- *infill material from excavation works carried out elsewhere had been deposited on land on the south side of the public road.*

- *the size and layout of the clear water tank compound on the north side of the woodland was different to that approved.*

6. The matter was brought to the attention of the CNPA Planning Committee (under AOB) in June 2006 and agreement was given to pursue whatever action (enforcement or otherwise) was considered necessary. Thereafter discussions took place with the applicant's representatives and in July 2006, the applicants confirmed their intention to submit four separate retrospective applications for the work

that had been carried out. These are the applications covered by this report.

06/402/CP

7. This application refers to the formation of the access track on the south side of the public road and the borehole compound. The works here include the 3 metre wide track, which is constructed at varying heights above the existing ground levels (maximum 1.8m) and which has graded edges. At the junction with the public road, there is a layby and tubular steel gates with stock fences. The borehole compound, which is also above original ground levels by approximately 1m, is surrounded by a metal security fence. Within the compound are 3 borehole kiosks, a chlorine contact tank, a water treatment works room and a control room, and an inlet tank. Above ground equipment is coloured dark green. Also proposed for a temporary period of 20 weeks is a contractors self contained mess unit and storage cabin. Within a wider area of ground around the compound, and within stock proof fencing are areas proposed for screen planting. An existing agricultural access and track on the east side adjacent to the Gergask Burn is to remain for the use of the landowner. (Figs. 2 & 3).

Fig. 2. Access Track and Borehole Compound Viewed from Public Road Looking South.

Fig.3. Access Track and Borehole Compound Viewed from Public Road Looking South.

06/404/CP

8. This application refers to the formation of the clear water tank compound on the elevated and open north side of the village above the woodland. The compound is enclosed by a 3 metre high metal security fence. Within the compound, there is the clear water tank, a glass reinforced instrumentation and power kiosk and a flow meter chamber. All above ground plant is coloured dark green. Outwith the compound but within the red line site boundaries, is a bund which it is proposed to plant. A steel gate provides access to the compound. (Fig. 4.)

Fig. 4. Clear Water Tank Compound Looking East

06/405/CP

9. This application refers to the unauthorised depositing of excess ground material excavated from the works to create the access tracks, the borehole compound and the clear water tank. As a temporary measure, this material was deposited in a natural hollow lying to the north west side of the borehole compound. It became evident to the applicants that if this excess material were to be transported off site, it would require to be taken to a licensed landfill site in Perth. It was considered by the applicants that there would be considerable environmental impacts from this (300 lorry loads approximately) and further to discussions with the landowner, it was decided that the material could provide an agricultural improvement at the site. As such, the applicants now seek a permanent permission for the depositing of this excess material. The area in question amounts to approximately 2,582 square metres. The material raises the ground levels in the hollow by approximately 1.6m. (Fig. 5)

Fig. 5. Deposited Excess Material in Foreground

07/153/CP

10. This final application relates to the formation of the new access track on the north side of the public road, up the slope and through the existing woodland, which provides access to the clear water tank compound. The track is generally 4-5m wide (not including adjacent drainage channels) but at some points it is wider. For example at the sharp turn it is 10m wide and higher up as the track leaves the woodland area it is 6m wide. A turning area is provided approximately midway. Access gates are provided at the junction of the track with the public road where there is also a new bitmac layby. The track at various locations is raised above the height of the original ground

profile in order to facilitate underground distribution and rising mains which run from the clear water tank along the line of the track down to the public road. The track is surfaced in hardcore/compacted gravel (Figs. 6, 7, 8, 9 & 10).

11. This application differs from the other three in that there are joint applicants – Scottish Water and Mr. D. Grant (landowner). Accompanying this submission is a woodland management plan, prepared on behalf of Mr. Grant in co-operation with Scottish Water. This covers the Gergask Wood and seeks to provide a justification for the access track on the basis of the long term woodland management objectives for this wood. In this respect therefore, although providing access to the clear water tank compound, the track's main purpose is promoted as being woodland management.

Fig. 6. Access track adjoining the public road

Fig. 7. Access track and cuttings

Fig. 8. Turning area

12. The applicants have also submitted some detailed landscaping proposals for all of the development areas. These include planting proposals along the southern access track to the borehole compound, areas within and immediately adjacent to the borehole compound, screen planting proposals along the banks, cuttings and edges of the northern access track, and tree planting on the south side of the clear water tank compound. In addition, there are proposals to re-profile the engineered edge of the soil deposit area.

Fig. 9. Access track as it emerges from the woodland

Fig. 10. Access track on approach to clear water tank compound

DEVELOPMENT PLAN CONTEXT

Cairngorms National Park Plan 2007

13. Strategic objectives for the Landscape, Built, and Historic Environment include; maintaining and enhancing the distinctive landscapes across the Park; and ensuring development complements and enhances the landscape character of the Park. Strategic objectives for Sustainable Use of Resources, include; all management and development in the Park should seek to make the most sustainable use of natural

resources, including water and energy. Strategic objectives for Water, include; maintain or where necessary enhance the existing high water quality and physical condition of waterbodies in the Park; adopt a catchment-scale approach to water management that integrates land-use, nature conservation and flooding; and promoting sustainable flood management consistent with natural fluvial processes. Strategic objectives for forest and woodland management, include; promotion of multi-objective forest and woodland management that delivers environmental, economic and social benefits;

Highland Structure Plan 2001

14. In the **Highland Structure Plan 2001, Policy G2 (Design for Sustainability)** states that developments will be assessed on the extent to which they, amongst other things, are compatible with service provision; contribute to the social and economic development of the community; impact on resources such as habitats, species, landscape and freshwater systems; and are affected by significant risk from natural hazards, including flooding, unless protective measures are incorporated, or the development is of a temporary nature. **Policy L4 (Landscape Character)** seeks to maintain and enhance present landscape character. In principle, the structure plan highlights the importance of a satisfactory infrastructure system to promote economic development. This general support is encompassed in **Policy U3 (Water Supplies)** which seeks to safeguard water resources in terms of volume and quality of water. **Proposal NH1 (Flood Consultation Areas)** advises that Local Plans will identify areas with a perceptible risk of flooding. Within these areas, all development proposals will be assessed for their compatibility with the flood risk and with the flow character of the watercourse.

Badenoch and Strathspey Local Plan 1997

15. The **Badenoch and Strathspey Local Plan 1997** includes in its strategic objectives the need to continue to upgrade and extend essential infrastructure networks and promote the sustainable use of the area's resources. In the Laggan settlement statement, the area to the south of the minor road adjacent to the west of the Gergask Burn where the borehole compound is located, is shown as **"Amenity Woodland". Policy 8.15.2. (Trees)** seeks to safeguard existing trees and woodland and encourage their natural regeneration together with reinforcement planting at various locations in and around the village including beside the Gergask Burn. This area is also denoted as being liable to flood risk, where general **Policy 2.4.12. (Flooding – Development Restraint)** presents a general presumption against any building development except where it is considered essential to continued agricultural use of the land. In the Laggan settlement statement, **Policy 8.14.2. (Water Supply)** states that spare capacity in the existing water supply is limited and may have implications for phasing of development. It is likely that a new source will require to be

developed to meet longer term needs. The Gergask Wood is identified as **"Woodland/Forestry"** where **Policy 2.5.2. (Forestry)** recognises the amenity, conservation and recreational value of forest areas encourages management and felling practices compatible with mixed use of such areas where appropriate.

CONSULTATIONS

16. **SNH** have been consulted on all four applications. The site of the borehole compound and southerly access track lies approximately 100m from the River Spey SAC and SSSI. The area of deposited ground material lies approximately 200m from these designations. The clear water tank compound is situated approximately 0.6km from these designations. In relation to these interests, SNH does not consider that an Appropriate Assessment is required or that the proposals will have any adverse affects. The area around the borehole compound, southerly access track and landfill area supports a population of breeding waders, including lapwing, snipe, oystercatcher, curlew and redshank. A survey carried by the RSPB in 2000 identified the area as having a high density of breeding waders. However, SNH do not consider that any of the proposals will have an impact on the breeding waders at this location. In relation to the northern access track, SNH have no comments.

17. **Highland Council's Area Roads Manager** has no comments to make on the application for the clear water tank. The formation of the southerly access track complies with the requirements of the conditions on the previous application in relation to layby provision and visibility splays. However, in relation to the formation of the southerly access track, borehole compound and the depositing of the material, he recommends that SEPA be consulted in relation to possible flooding issues. Subject to confirmation from SEPA that the development will not materially increase the risk of flooding to properties upstream and downstream of the site, he has no comments on this element of the development. In relation to the northern access track, he has no comments.

18. **Highland Council's Environmental Health Officer** has no objections to the application for the depositing of the excess ground material.

19. **Highland Council's Contaminated Land Officer** also has no comments to make on the landfill application.

20. **The CNPAs Natural Heritage Group** advises that the clear water tank compound is located in an area of rough grazing above the village and the woodland plantation. The site is where the hillside levels slightly prior to the very steep upper sides of the Gergask Craig. There are extensive views to and from the site especially to the south and east. There is a small bund on the south side of this compound but the

screening effect of this is limited and any planting here alone may reinforce the fragmentary and disconnected nature of this compound. The borehole compound, southerly access track and deposited excess ground material sits below the public road on land which was formerly flat and boggy, typical of the floor of the Strath at this location. The deposited material and track have obliterated the rich grass and sedge area and created an area of higher ground which has now been exclusively grassed. The track is also at odds with the general landscape creating an artificial and incongruous element. There is a general complicated arrangement of tracks and fence lines. The tip face of the deposited material is at a steep angle and so attracts the eye and draws attention to itself as an artificial feature. The borehole compound is also raised and forms an "island" in the landscape. Consequently, it is highly visible and diminishes the quality of the landscape and the relationship with the village. All of this is unfortunate because the finished landscape does not reflect the quality of the settlement or its setting.

21. **The CNPAs Natural Heritage Group** does however, suggest some possible mitigation measures. Scots Pine planting around the clear water tank compound, including planting which would connect the compound to the existing woodland plantation, could be carried out. The western edge of the deposited material could be graded back to a much more gradual slope. This will minimise the engineered edge. Finally, the borehole compound and its raised embankments could be planted with local origin Aspen. This should be arranged in clumps rather than simply ringing the compound, and should link visually with some off site planting of the same species. This would tie in the compound to the edge of the village making it appear less isolated and at the same time screen the compound. It would also be very good for the local biodiversity. The off site planting could be in the primary school grounds and on farm land just outside the village edge.

22. The above comments from the **CNPA Natural Heritage Group** have resulted in additional detailed landscape information being provided, by the applicants, in the interim period. In response to these submissions, the **NHG** have advised that these landscaping proposals are acceptable. In relation to off-site planting, they also confirm that the applicants have had discussions with Laggan Primary School's Headteacher and that some limited tree planting will now take place within the southeast corner of the school grounds (provided by Scottish Water).

23. In relation to the northern access track, **Forestry Commission Scotland (FCS)** have been consulted**.** Their policy and technical support officer advises that the question posed to him is, whether the access track now formed is "fit for purpose". The answer to this is no, not entirely. The track as built does not meet FCS specifications. This is principally because of excessive gradient (17%) from the gate to the first rise (recommendation is 10% with up to 12% for short sections).

Also the type 1 surfacing material is reasonable in dry conditions but provides less traction when saturated and is liable to rutting and scouring. Access to roadside stacking is limited but this may be acceptable as currently only the upper section could be worked by a forwarder as there is no landing point either to the new road or the public road for forwarders on the lower steeper section. The french drains constructed may be prone to blocking and given the steepness and material type used could lead to failure in severe storm conditions. The conclusion is that the track could be used by the right lorry in the right weather conditions provided there was also good site management. There is a considerable risk factor though from the point of view of achievability and safety. The addition of high friction bitmac surfacing would reduce the risk but not remove it entirely.

24. **SEPA** has no objections to the clear water tank compound application. However, in October 2006, they did forward concerns, on the basis of flood risk, to the applications for the depositing of the material and the raised southerly access track and borehole compound. They commented on the submitted "Post Development Flood Risk Assessment". The main points of concern were that; there was no allowance made for climate change; there were unclear results on the back water effect from the combined 1 in 200 year flood event (River Spey and Gergask Burn); no figure for the percentage of earthworks above ground level had been given in relation to the amount lying below the 1 in 200 year event; and there was no estimation of pre and post development peak levels to neighbouring properties and the school. There was a need to confirm the effect, if any, (area and inundation) on existing properties caused by the development. **SEPA** therefore recommended that before deciding if compensatory storage or reinstatement of the existing floodplain is an issue, the models needed to be re-run taking account of the aforementioned inadequacies.

25. Further information was submitted. However, in November 2006, **SEPA** advised that while the submission concluded that the effect of the developments on water level was considered to be insignificant, it did not supply the required data. At the same time, **SEPA** advised that they had received a letter of complaint from a neighbour with regard to the works and the additional flood risk now caused to that neighbouring property. Attention was drawn by **SEPA** to SPP7 (Planning and Flooding) which states that *"Landraising should have a neutral or better effect on the probability of flooding elsewhere, including existing properties."* **SEPA** therefore insisted that the requested data be supplied so that consideration could be given to the post development increase in flood risk to neighbouring properties.

26. Following on from this, **SEPA hydrologists** had further discussions with the applicants and carried out site visits in December 2006 (a neighbouring property (Linreoch) was affected by floodwater following a 1 in 11 year flood event at the location) and again in January 2007. On

16 January 2007, **SEPA** finally confirmed that, as a result of these visits and discussions, and further checks of the flood plain levels and the submitted flood risk assessment information, they accepted the conclusion that the landraising works associated with the applications for the material infilling and the access track and borehole compound constructions, will have little or no effect on any flooding in the vicinity. SEPA confirmed they are of the view that the flooding incident in December 2006, which resulted in flood water incursion below the ground floor level of the neighbouring property, was not caused by the earthworks carried out by the applicants.

27. Following the deferral of the applications at the Planning Committee in March, new consultants were brought in by the applicants, and a further flood and hydrological impact assessment carried out and submitted. **SEPA** have assessed this in relation to all four applications and they confirm acceptance of the findings that there is no significant hydrological impact as a result of any of the construction works associated with the new water treatment works. They therefore have no objections.

28. **SEPA** have also confirmed that the depositing of the excess ground material falls within an exemption category and therefore does not require a Waste Management Licence.

REPRESENTATIONS

29. The previous report in March attached 4 letters of representation and two additional letters were circulated on the day of the Committee. **These are again attached for information.** The issues raised at that time include:

- *concern that the proposals do not include a retrospective application for the northerly access track serving the clear water tank – this should be addressed.*
- *concern about the excess material and landraising works in the flood plain, and the potential impact, on neighbouring properties, in particular "Linreoch" which lies to the east of the Gergask Burn on the south side of the primary school.*
- *information is provided about how "Linreoch" was flooded in December 2006, and that this was a direct result of the developments.*
- *concern that the flood risk issue was not addressed earlier and before works started on site.*
- *the claim that Scottish Water did not wish to pay for transporting the deposited material, is not a good enough excuse – compensation may be sought.*
- *elsewhere in the UK, if an area of ground is raised, it is recommended that another area nearby is dug out to compensate – this should be done here.*

- *flooding of "Linreoch" will cause damage to antique possessions, and may affect injured birds of prey that are kept at the site for the RSPB.*
- *concern that increased flood risk will make "Linreoch" impossible to insure and sell in the future.*

30. The fourth application for the northern access track has attracted one additional letter. The concerns raised include:

- *No regard to the original permission for the track which had minimum tree loss.*
- *New track and tree loss now expose a new house which was designed to blend in with woodland landscape – this house is now a prominent feature detracting from the landscape.*
- *The entrance width requires two wide gates – this is not the kind of entrance required for occasional Scottish Water use – it is therefore excessive as is the entire width of the track.*
- *Large cutting causes a scar on the landscape – grass seeding will not diminish this.*
- *Old tracks in the woodland would have sufficed.*
- *Turning area is four times the size of that originally shown – again excessive for the purposes.*
- *Access track is not a good advertisement for sensitive development within the Cairngorms National Park and should be refused as the development represents blatant disregard for planning control.*

31. The applicant's agent has responded to the above. Their main points are:

- *The previous track application was based on Scottish Water's operational requirements to access the clear water tank – the constructed access track now reflects this use combined with the requirements of the landowner for woodland management and timber extraction.*
- *Widths and turning area are to accommodate timber extraction vehicles.*
- *With the width increased and the nature of the slope and the soils, the depth and angle of the cutting required to be increased – this also resulted in additional tree felling.*
- *Full landscaping proposals are being put forward.*
- *Route of the track amended to accommodate the width, slope and remove impact on the new house.*

32. The new flood and hydrological assessment has attracted a further representation which includes an opinion from another hydrologist. The matters raised include:

- *Report does not conclude definitely on the cause and the source of flooding at Linreoch.*

- *If southern access track to remain some culverts should be cut to allow water to flow through.*
- *Scottish Water should pay for any requirement for the owner of Linreoch to install additional barriers.*

33. Copies of all representations are attached to this report.

APPRAISAL

34. The first matter to consider is that these four applications are **retrospective.** Scottish Water and their agents, have conceded that they progressed on site and made changes to the approved development without recourse to the CNPA. In general terms, this is considered to be more than unfortunate and indeed unacceptable. However, once the concerns were raised with them and discussions took place, it became apparent that there was an acceptance of their failings in this respect, and that there was a need for them to address the situation. Clearly, enforcement action was an option. However, Scottish Water opted to exercise their right to try and rectify the unauthorised situation, by submitting retrospective applications. **Where retrospective applications are submitted, guidance is that no enforcement action is taken while the applications are being assessed. In respect of the four unauthorised developments, this is the position that we now find ourselves in. It is also necessary to assess the retrospective applications in the normal way. The fact that the works have already been carried out should not form an integral part of the assessment.**

35. As covered at the time of the previous application in 2005, the principle of improving the water supply for Laggan is unquestionable. There are also technical reasons for requiring the boreholes extracting water in a location close to the Gergask Burn. The issues that these applications continue to therefore raise include, the impact on natural heritage, landscape and visual impact, and flood risk.

Impact on Natural Heritage

36. The site on the south side of the public road lies close to SAC and SSSI designations. The land is also considered to be important for a population of breeding waders. However, SNH have confirmed that they have no objections to any of the developments. No Appropriate Assessment is required and SNH consider that there will be no adverse affects on either the designations or the bird populations at this location.

Landscape and Visual Impact

37. It is considered that both the sites (north and south of the public road) are prominent in the landscape. The site of the clear water tank compound is elevated above the village and is open land detached from the woodland plantation. The southerly access track and borehole compound and the landfill area are on low lying open land on the edge of the settlement. The northern access track, due to its width and configuration has cut a swathe of trees through the woodland and is clearly visible from areas to the south. The CNPAs Natural Heritage Group consider that the combined effect of these applications has had a significantly negative impact upon the character of the local landscape and the visual relationship of the village to its surroundings. However, as described in paragraph 21 above, suggestions have been put forward to help mitigate these impacts.

38. In the interim period from the previous deferral, the applicants have taken the opportunity to work up fully detailed landscaping proposals, in order to address some of the concerns raised in respect of the above. These landscaping proposals include;

- native tree planting (Scots Pine, Aspen, Silver Birch, Rowan and Hawthorn) within the site boundaries of the borehole compound;
- embankment grass seed mix planting along the sloped edges of the southern access track;
- a re-profiling of the engineered slope edge of the material deposit area;
- mixed native tree planting and grassing of sloping embankments of the lower parts of the northern access track and on the south side of the turning area;
- further grassing and tree planting on the sloping edges of the upper parts of the northern access track, including the areas of the track between the existing woodland and the clear water tank to provide a visual link between the two; and
- native tree planting on the embankment on the south side of the clear water tank compound.

39. In addition, the applicants have worked with the local primary school and some limited tree planting will take place within the school grounds, at Scottish Water's expense. This will help provide a visual link between the settlement edge and the borehole compound, and will also create an educational opportunity to teach pupils the value of plants and trees within the environment. The CNPA's Natural Heritage Group consider all the landscaping proposals acceptable.

40. In relation to the creation of the northern access track, there has been concern, including from representees, that the track and its turning area are excessive in terms of their scale, width, configuration, alignment and appearance, in relation to Scottish Water's need for occasional

vehicular access to their clear water tank compound. Certainly it is not what was envisaged at the time of the original application and I concur with the view that it is excessive for Scottish water's purposes only. However, the explanation for the track, as built, lies now with the landowner's desire for management and timber extraction in the Gergask Woodland. To support the application a woodland management plan has been submitted. The justification for the track therefore lies with this need. Essentially the track, while constructed by Scottish Water, is a forestry track. Scottish Water will just retain a right of access along the track for occasional maintenance purposes. To summarise, the five year operational objectives and management prescriptions for the woodland include;

- to improve the woodland structure and initiate continuous cover forestry management by assessment and thinning operations;
- to enhance species diversity through supplementary and enrichment planting in suitable areas;
- to maintain and enhance other habitats within the wood; and
- to enhance public access.

41. The plan includes a method statement for timber extraction processes. Thinning operations will be by means of modern harvesting and forwarding machinery because a low-tech approach is considered no longer viable for this type of crop. The wood has generally good internal access with existing forwarder tracks from previous thinning operations. This will allow harvested timber to be readily transferred to stacking areas next to the main forest track for subsequent lorry uplift. It is stated that the access track at its present scale, is central to the viability of the timber operations over the next few decades (30 years). It is required to provide artic lorry access resulting in efficient and economical timber extraction, thereby enabling the transition from uniform plantation to diverse continuous cover woodland with additional benefits for local biodiversity and landscape value. The plan also shows egress and access "swept paths" required for the articulated lorries on the proposed track.

42. In order to fully assess this justification, advice was sought directly from Forestry Commission Scotland. The advice received was that, in actual fact the track, on the basis of the woodland management plan, does not comply fully with their standards, particularly in relation to gradient. From this it seems to me that, on the basis of woodland management, the scale and width of the track can be justified. It could not have been justified for occasional Scottish Water use but this is not its main purpose. Even if acceptance of this justification is argued, the point is whether or not it has an adverse visual and landscape impact because of its scale, width, configuration etc. With the landscaping proposals put forward, and with appropriate planning conditions ensuring implementation, I cannot raise a continued objection to this retrospective track on these grounds.

Flood Risk

43. One of the main concerns relating to the applications on the south side of the public road remains that of flood risk. The letters of representation submitted before the March Committee clearly indicate concerns about the fact that the landraising aspects of the developments have the potential to increase the potential for flood risk to nearby properties. Although the site is clearly within the flood plain, flood risk was not considered to be a concern at the time of the previous application because the proposals did not include any proposals for landraising.

44. As a result of these concerns, and the flood event in December 2006, SEPAs hydrologists previously considered thoroughly the flood risk potential as a result of the developments. The details of the consultations with SEPA at that time are detailed in paragraphs 24-26. However, the final conclusion, was that the developments will have little or no effect on any existing flooding in the vicinity. In respect of the flooding that occurred in December 2006, following investigations, SEPA were of the view that, the flooding of "Linreoch" did not occur because of the development proposals.

45. However, the Committee in March remained concerned about the cumulative effect of the "as built" works in relation to flooding, and the potential for changes in the hydrological regime in the area. Of particular concern was the impact that the works on the north side of the public road (particularly the northern access track) would have had on surface water drainage regimes on the south side of the public road and that this could have added to potential flood risk.

46. The applicant's commissioned and submitted a further detailed assessment which takes into account, flooding from the River Spey, flooding from the Gergask Burn, surface water run-off from the primary school road and playground, surface water run-off from the northern access track, and the impacts of the landfill area, the raised southern access track and the raised borehole compound. The following conclusions were reached.

- The construction of the northern access track has no detrimental impact on the risk of flooding in Laggan or "Linreoch", as any increased run-off drains towards the Spey floodplain to the west of the Gergask Burn and not towards the village. There is no direct pathway to "Linreoch". Run off is drained through the filter drains on the track with an outlet immediately downstream of the road. If the drain capacity was exceeded and water was spilling onto the public road, the road at this point has a topography such that any water would flow westwards, away from Laggan and then into the floodplain. The impact of any additional run-off compared to the size of the Spey catchment would be negligible and would not influence levels downstream.

- The River Spey valley is very flat in Laggan and backwater hydraulic conditions are prevailing ie. water levels at one point result from the downstream conditions and from the amount of flow in the river. Scottish Water's works have been constructed upstream of Laggan and therefore have no impact. The amount of earthworks and landraising compared to the volume of the floodplain is limited. The Spey may not have been the direct source of flooding at "Linreoch" in December 2006, however, it provided the hydraulic downstream conditions to the Gergask Burn and may have partially contributed to the saturation of the grounds in the flood plain and areas surrounding "Linreoch" – this is not though linked to the Scottish Water works.

- The Gergask Burn is a very steep watercourse and limited overbank spilling is predicted for both pre and post development conditions. Naturally, most water that would overspill would flow towards the Spey floodplain and therefore the changes due to the construction works have no impact on "in-bank" flood water levels. It has been found that the left bank (east) of the Burn is locally eroded along the field west of "Linreoch" and this could provide a direct pathway for overbank water to "Linreoch" – this is not though linked to the Scottish Water works.

- "Linreoch" is located at a lower level than surrounding grounds and is a potential receptor of any local surface water run off, including from the school playground, or from any saturated ground. The new road and its drainage arrangement at the front of the school has been checked by Highland Council's Engineers and appears to be working properly. However, it is noted that storm water run-off from the bitmac surface of the playground falls towards the entrance of "Linreoch", with no provision for collecting this storm water. "Linreoch", being located at a level below the school playground and lower than neighbouring properties, makes the area a natural receptor for any overflow drainage or surrounding saturated ground. Due to this local topography and the alluvial nature of the surrounding grounds, and the fact that the field to the west of "Linreoch" acts as a natural receptor, it is expected that during periods of heavy rainfall, such as in December 2006, ground and surface water run-off will affect the property.

47. The conclusion is that none of the factors that are considered to have affected the hydrological conditions at "Linreoch", and detailed above, are due to the works by Scottish Water. SEPA have considered this and agree with the conclusions.

48. The objector (owner of "Linreoch") has responded to the new assessment and her hydrologist has queried some of the findings (copies attached as representations). However, her findings have been considered again by SEPA's hydrologist and a further response

advises that the assessments provided by the independent consultants (Scottish water's and the objectors) and his views concur, that there is no significant increase in flood risk to "Linreoch" as a result any of the construction works. He advises that it may be that some form of alleviation such as improving drainage arrangements in the school grounds, and carrying out work to improve the eroded bank of the Gergask Burn would help protect "Linreoch" from surface water run-off. However, the question here is whether the works have directly increased flood risk to "Linreoch" or elsewhere in Laggan. The answer to that is no.

49. The applicants have also responded to this and this is attached as a representation.

Conclusion

50. Taking account of all the issues, and despite the fact these applications are retrospective, I can find no supportable planning reason to resist these developments. I continue to recommend approval.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

51. The developments do not impact on any natural heritage designations or on any cultural heritage feature. However, there has been some concern about the visual and landscape impact and the developments cannot be considered to enhance the area. However, extensive landscaping proposals/tree planting will take place which will mitigate, and I do not feel that any visual and landscape impact of this water infrastructure project which is important for the Laggan community, is so significant to justify refusal.

Promote Sustainable Use of Natural Resources

52. The improvement to the Laggan water supply is seen as positive to this aim.

Promote Understanding and Enjoyment of the Area

53. There are no direct implications for this aim. However, it could be argued that the landscape quality of the area for visitors has been reduced by the developments but this will be mitigated by the landscaping proposals.

Promote Sustainable Economic and Social Development of the Area

54. The provision of an improved water supply will help to improve and sustain the Laggan community.

RECOMMENDATION

55. That Members of the Committee support a recommendation to:

56. **Grant Full Planning Permission for Erection of Borehole Compound, Formation of Access Track and Associated Works (Revised and Retrospective Application), Laggan Water Treatment Works, Laggan (06/402/CP), subject to the following condition:**

1. The development shall be landscaped and maintained in accordance with the approved scheme as follows:-

   (a) Completion of the scheme during the planting season next following the date of this consent, or such other date as may be agreed in writing with the CNPA acting as Planning Authority.

   (b) The maintenance of the landscaped areas in perpetuity in accordance with the detailed maintenance schedule/table. Any trees or shrubs removed, or which in the opinion of the CNPA acting as Planning Authority, are dying, being severely damaged or becoming seriously diseased within three years of planting, shall be replaced by trees or shrubs of similar size and species to those originally required to be planted.

57. **Grant Full Planning Permission for Installation of Clear Water Tank and Associated Works (Revised and Retrospective Application), Laggan Water Treatment Works, Laggan (06/404/CP), subject to the following conditions:**

1. The development shall be landscaped and maintained in accordance with the approved scheme as follows:-

   (a) Completion of the scheme during the planting season next following the date of this consent, or such other date as may be agreed in writing with the CNPA acting as Planning Authority.

   (b) The maintenance of the landscaped areas in perpetuity in accordance with the detailed maintenance schedule/table. Any trees or shrubs removed, or which in the opinion of the CNPA acting as Planning Authority, are dying, being severely damaged or becoming seriously diseased within three years of planting, shall be replaced by trees or shrubs of similar size and species to those originally required to be planted.

2. Within 2 months of the date of this consent, a written statement on the potential for contamination and any mitigation measures

required at the existing Water Treatment Plant shall be submitted for the further written approval of the CNPA acting as Planning Authority. Any contamination mitigation measures identified and agreed shall be implemented on the cessation of the use of the existing Water Treatment Plant.

58. **Grant Full Planning Permission for Use of Land for Depositing of Excess Inert Material (Retrospective Application), Laggan Water Treatment Works, Laggan (06/405/CP), subject to the following condition:**

1. That during the planting season next following the date of this consent, or such other date as may be agreed in writing with the CNPA acting as Planning Authority, the area used for the depositing of the inert material hereby approved, shall be re-profiled and re-seeded in line with the approved landscaping scheme, all to the satisfaction of the CNPA acting as Planning Authority.

59. **Grant Full Planning Permission for Construction of Access Track and Associated Works (amended proposals as built), Laggan Water Treatment Works, Laggan (07/153/CP), subject to the following condition:**

1. The development shall be landscaped and maintained in accordance with the approved scheme as follows:-

(a) Completion of the scheme during the planting season next following the date of this consent, or such other date as may be agreed in writing with the CNPA acting as Planning Authority.

(b) The maintenance of the landscaped areas in perpetuity in accordance with the detailed maintenance schedule/table. Any trees or shrubs removed, or which in the opinion of the CNPA acting as Planning Authority, are dying, being severely damaged or becoming seriously diseased within three years of planting, shall be replaced by trees or shrubs of similar size and species to those originally required to be planted.

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2 August 2007
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