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## CAIRNGORMS NATIONAL PARK AUTHORITY

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### **DEVELOPMENT PROPOSED:**

Installation of a pipe bridge (in part retrospect) at Hydro Scheme, Fealar Lodge, Glenferstate

**REFERENCE:** 2018/0115/DET

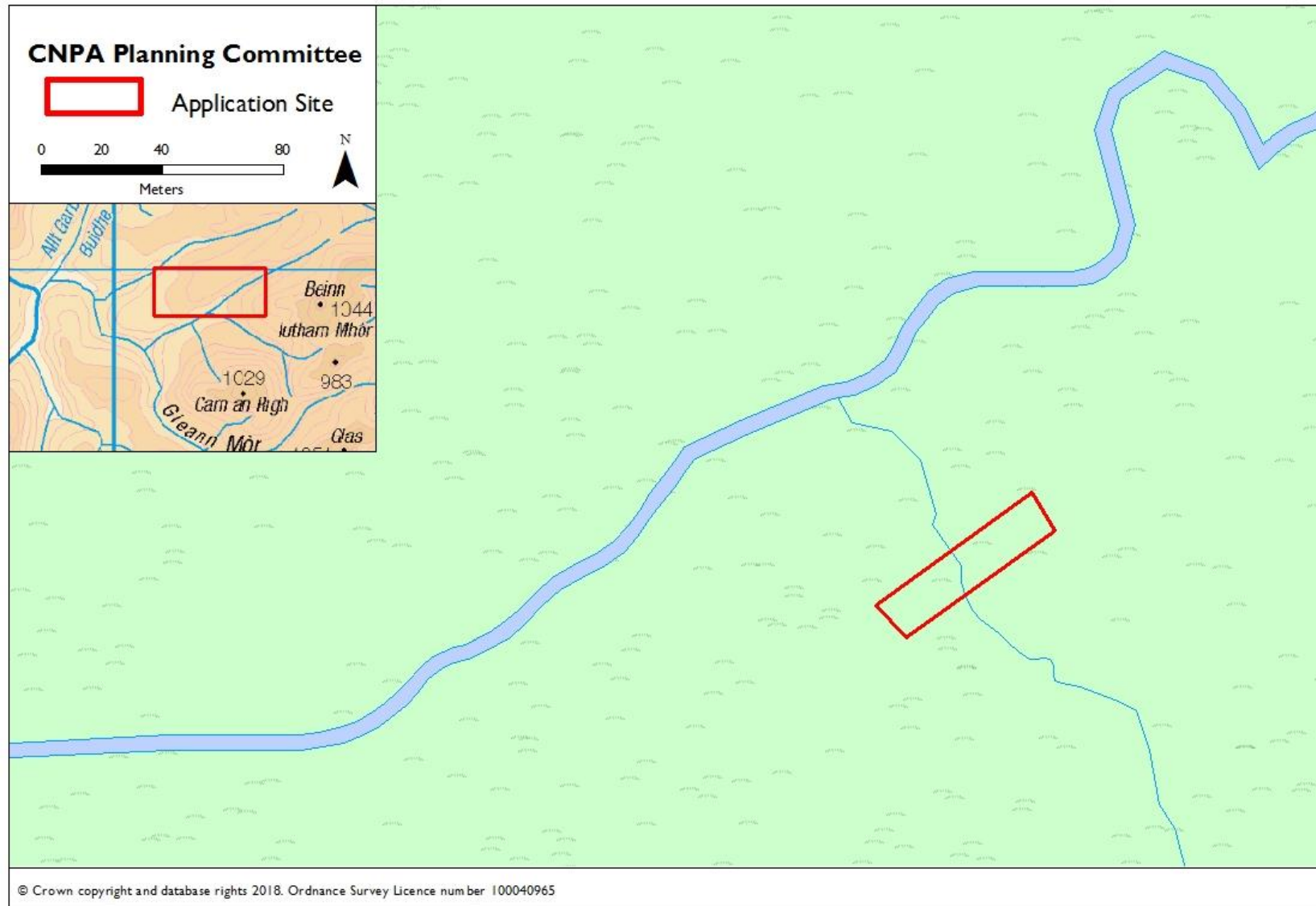
**APPLICANT:** Mrs Sally Mellor

**DATE CALLED-IN:** 26 March 2018

**RECOMMENDATION:** Approve subject to Conditions

**CASE OFFICER:** Colin Bradley, Graduate Planner

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## SITE DESCRIPTION, PROPOSAL AND HISTORY

### Site Description

1. Planning permission is sought, in part retrospectively, for the formation of a pipe bridge with wooden decking to a small scale hydro generation scheme at Fealar near Enochdhu east of Pitlochry. The proposal is for a covered pipe bridge as part of an existing 100kw run of river scheme with an intake point on the Allt a' Ghlinne Bhig burn. The site is very remote, with the nearest public road located more than 12 miles from the Lodge. The detailed site location plan is provided in **Appendix I**.
2. There are two access tracks in the localised area. The main access track along which walkers and vehicles travel to the Lodge is a popular through route for walkers and mountain bikers. The secondary track is rough path that is barely visible and very seldom used which crosses the Burn travelling from Fealar Lodge in a south easterly direction. This is about 20 metres upstream from the intake site. The main access track is single vehicle width, with several right angle bends and narrow bridges. It is a private road that is privately maintained.
3. The properties served by the track include Fealar Lodge, the shepherd's cottage, the shepherd's assistant's cottage and two holiday lets.
4. The area which lies within the Southern Hills: South Eastern Glens Landscape Character Area is characterised by long, often narrow glens and complex topography. The glens are relatively grassy and surrounded by steep hillsides and scree clad slopes, with broadleaved woodlands on some steeper slopes and along gulleys and gorges. Substantial areas of fenced regenerating broadleaved woodland are a feature in the vicinity of this proposal.

### Proposal

5. The drawings and documents associated with this application are listed below and are available on the Cairngorms National Park Authority website unless noted otherwise:

<http://www.eplanningcnpa.co.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=P5ZP3YSIOBY00>

Title	Drawing Number	Date on Plan*	Date Received
Contextual Rural Location Plan			26/03/18
Proposed Section I			26/03/18
Rural Location Plan 1			26/03/18
Rural Location Plan 2			26/03/18
Supporting Statement			26/03/18
Rural Location Plan 3			26/03/18
Section Diameter Detail			26/03/18

Penstock Plan I			26/03/18
Construction Method Statement for reinstatement of the ground adjacent to the pipe bridge on the Cairn Righ burn – Fealar Hydro Scheme.			07/06/18

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

6. This application seeks part retrospective permission for the installation of a pipe-bridge over the Cairn Righ burn (also known as the Allt Choire na Moine burn) within the Fealar estate in remote Highland Perthshire. The details are shown on the submitted plans included in **Appendix I**.
7. The application seeks to install a wooden covering to the pipe-bridge to soften the landscape impact of the pipe-bridge and further seeks to improve the vegetation levels to stabilise damaged habitat to the burn-side areas where the pipe bridge is located.
8. The proposal is to use the supporting RSJ beam to anchor vertical supports prior to fixing a flat, trellis like platform to sit above the exposed length of pipe and give the impression of a wooden crossing to the Cairn Righ burn, (also known as the Allt Choire na Moine burn). The trellis platform would be treated and maintained in a dark brown creosote or similar to blend in with the background vegetation, which is mainly heather.
9. The applicant has advised that this would be carried out using hand tools and that both materials and tools can be taken to the site by argocat to avoid the creation of any tracks in the hillside. They have advised that the works could be completed within a day.

## **History**

10. The initial application was made to Perth and Kinross Council in 2009 application reference number 09/01593/FLL which approved the proposal. This proposal had its intake located down-stream from the subsequently approved intake and had an output of 50kw.
11. The hydro scheme was then amended to increase the height of the intake point which increased the power output to 100kw. This was approved by the Cairngorms National Park in August 2013, CNPA reference number 2013/0192/DET.
12. As part of the initial application, reference number 2013/0192/DET, it was intended to bury the pipe under the ground following the contours of the site. However, the applicant advised due to technical reasons identified during the construction phase meant that this would cause inefficiencies and render the scheme un-viable. From an engineering and operability point of view, dipping the

pipe under the burn would have caused airlocks resulting in loss of pressure and output. It was concluded that to work properly and reliably the pipe should fall in altitude on a continuous basis from the intake to the powerhouse. The decision to change the design was made on site and work proceeded on that basis, in breach of the originally approved scheme.

13. Following dialogue with Officers, it was concluded that to avoid potential damage to the surrounding landscape and habitat that the least destructive solution was to improve the design of the pipe bridge and restore the disturbed ground around the pipe. A retrospective application was sought for consideration.

## **DEVELOPMENT PLAN CONTEXT**

### **Policies**

<b>National Policy</b>	Scottish Planning Policy 2014	
<b>Strategic Policy</b>	Cairngorms National Park Partnership Plan 2017 - 2022	
<b>Local Plan Policy</b>	Cairngorms National Park Local Development Plan (2015) Those policies relevant to the assessment of this application are marked with a cross	
POLICY 1	NEW HOUSING DEVELOPMENT	
POLICY 2	SUPPORTING ECONOMIC GROWTH	
POLICY 3	SUSTAINABLE DESIGN	<b>X</b>
POLICY 4	NATURAL HERITAGE	<b>X</b>
POLICY 5	LANDSCAPE	<b>X</b>
POLICY 6	THE SITING AND DESIGN OF DIGITAL COMMUNICATIONS EQUIPMENT	
POLICY 7	RENEWABLE ENERGY	<b>X</b>
POLICY 8	SPORT AND RECREATION	
POLICY 9	CULTURAL HERITAGE	
POLICY 10	RESOURCES	
POLICY 11	DEVELOPER CONTRIBUTIONS	

14. All new development proposals require to be assessed in relation to policies contained in the adopted Local Development Plan. The full wording of policies can be found at:

<http://cairngorms.co.uk/uploads/documents/Park%20Authority/Planning/LDPI5.pdf>

### **Planning Guidance**

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

Policy 1	New Housing Development Non-Statutory Guidance	
Policy 2	Supporting Economic Growth Non-Statutory Guidance	
Policy 3	Sustainable Design Non-Statutory Guidance	<b>X</b>
Policy 4	Natural Heritage Supplementary Guidance	<b>X</b>
Policy 5	Landscape Non-Statutory Guidance	<b>X</b>
Policy 7	Renewable Energy Supplementary Guidance	<b>X</b>
Policy 8	Sport and Recreation Non-Statutory Guidance	
Policy 9	Cultural Heritage Non-Statutory Guidance	
Policy 10	Resources Non-Statutory Guidance	
Policy 11	Developer Contributions Supplementary Guidance	

## **CONSULTATIONS**

16. A summary of the main issues raised by consultees now follows:
17. **Perth & Kinross Local Authority Flood Team** have stated that they have no comment to make with regards to the application.
18. **CNPA Ecology Officer** originally stated that since no detail has been provided to show the restoration of the disturbed ground, a condition shall be required for further consideration. The response advised that robbing of turves from adjacent habitat to stabilise damaged habitat and aid vegetation re-establishment must be used. It was also advised that the use of machinery should be avoided to prevent further disturbance and trampling of habitat. A revised CMS has subsequently been submitted that covers these aspects to the satisfaction of the Officer.
19. **CNPA Landscape Officer** advises that in the original proposal the penstock was to be buried along the whole route, but in order to achieve an even fall the constructor constructed it in a way that left sections exposed above ground. One longer exposed section (10m) crosses the Cairn Righ burn. The 'feature' though small is prominent and incongruous in the local landscape and is exacerbated by the poor standard of restoration and reinstatement of the works. In a landscape containing few human artefacts there is a very local but significant impact upon the strong sense of sanctuary and solitude of the immediate area.
20. It is proposed to construct a section of dark-stained boardwalk across the top of the pipe bridge. Whilst this in itself may appear incongruous because it doesn't lead anywhere, it is less engineered/industrial in appearance and more typical of the kind of feature one might expect to see on moorland, say to facilitate ATV access. This proposal will help to reduce the adverse impact.
21. No mitigation has been proposed for the disturbed ground on the burn-sides where the pipe emerges from the ground. A recommendation has been made that turfs are 'robbed' from random locations nearby and placed so as to stabilise the disturbed ground, reduce the risk of erosion and speed up vegetation re-establishment across the area. These turfs should be the maximum

size that can be cut and moved by hand, as machinery would cause further damage, and the turfs should be 'pinned' where necessary to keep them in place.

22. The Officer concludes that with the addition of some minor restoration and reinstatement works the proposal will reduce the adverse effects of the pipe bridge on the landscape character and wild land experience. If permitted, the applicant should be required to carry out restorative works and reinstate the disturbed ground as described above. A revised CMS was submitted dealing with these aspects to the satisfaction of the Officer.
23. **Mount Blair Community Council** no response has been received to date.

## REPRESENTATIONS

24. There have been no representations with regards to this proposal.

## APPRAISAL

25. The principle of development is supported by Policy 7: Renewable Energy of the Cairngorms National Park Local Development Plan 2015. Under this policy proposals for renewable energy generation will be considered favourably where they contribute positively to the minimisation of climate change and complement the sustainability credentials of the development.
21. Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015 further requires the use of materials and landscaping that will complement the setting of the development. As such, this report shall focus on the ecological and landscape impacts of the development.

## Ecological Impacts

22. The Cairngorms National Park Local Development Plan 2015, Policy 4: Natural Heritage states that where there is evidence to indicate where a habitat or species may be present on, or adjacent to, a site the developer will be required to where necessary, set out measures to avoid, reduce or mitigate any impacts.
23. The site area is relatively compact including the banking to the Cairn Righ burn (also known as the Allt Choire na Moine burn) and approximately 10.00m of exposed, penstock piping. The banks of the Cairn Righ burn require re-turfing to aid the regeneration of the habitat in this location. This can be achieved through a process of robbing turves from random nearby locations and pinning them to the banking. Further to the consultation response from CNPA Ecology Officer, a revised CMS has now been submitted to cover these aspects to their satisfaction.
24. A planning condition is recommended to ensure these works are carried out in accordance with the revised CMS to mitigate the harm currently caused by the development. This will ensure compliance with Policy 4: Natural Heritage of the Cairngorms National Park Local Development Plan 2015.

## Landscape Impacts

25. Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015 requires that all development must conserve or enhance the landscape character and special qualities of the Cairngorms National Park including wildness and in particular the setting of the proposed development.
26. It is considered that the current exposure of 10.00m of penstock pipe and steel RSJ beam support appears incongruous in the landscape. The addition of a wooden, decked platform to this structure shall give the impression of a deliberate water crossing and shall significantly reduce the incongruous negative impact of the pipe bridge. Further to the consultation response from CNPA's Landscape Officer, a revised Construction Method Statement (CMS) has now been submitted to cover these aspects to their satisfaction.
27. A planning condition is recommended to ensure that the pipe bridge is enclosed under a wooden platform and finished appropriately to blend into the surrounding vegetation and that the restoration works are carried out in accordance with the revised CMS. This will ensure compliance with Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015.

## CONCLUSION

28. The overriding planning permission for the hydro scheme was approved by the Cairngorms National Park Planning Committee in September 2013. This application seeks to amend the approved design to include a pipe-bridge due to technical and operational reasons. With the addition of a wooden covering to the pipe-bridge to simulate a river crossing it is considered that the pipe-bridge would appear less incongruous within the landscape and therefore accords with Policy 5: Landscape of the Cairngorms National Park Local Development Plan.
29. In order to comply with both Policy 4: Natural Heritage and Policy 5: Landscape of the Cairngorms National Park Local Development Plan, further restoration works shall be required to the banks of the Cairn Righ burn, (also known as the Allt Choire na Moine burn), and this can also be controlled through the use of a planning condition.
30. Given that this is a part retrospective application, it is also necessary to impose a condition to ensure that the works are carried out within a reasonable timescale to avoid continued harm being caused. Given that the applicant has advised that this can be achieved within a short timescale, a period of six months until 31 December 2018 is considered appropriate to allow for the implementation of those works. Should these works not be carried out in full by that date to the satisfaction of officers, consideration would then be given to enforcement action.



## RECOMMENDATION

**That Members of the Committee support a recommendation to approve the Installation of a pipe bridge (in part retrospect) at Hydro Scheme, Fealar Lodge, Glenfernate subject to the following condition:**

1. The development hereby approved shall be implemented in full accordance with the approved details in the Construction Method Statement for the reinstatement of the ground adjacent to the pipe bridge on Cairn Righ Burn – Fealar Hydro Scheme submitted and received on the 7<sup>th</sup> June 2018. All those works shall be fully completed by 31 December 2018.

Reason: To ensure that the mitigation and restoration works are carried out to a competent standard and in accordance with Policy 3: Sustainable Development, Policy 4: Natural Heritage, Policy 5: Landscape and Policy 7: Renewable Energy of the Cairngorms National Park Local Development Plan 2015.

### Informatives

1. The person undertaking the development is required to give the Planning Authority prior written notification of the date on which it is intended to commence the development. Attached to this decision notice is a Notice of Initiation of Development for completion and submission. Submission of this information assists the Cairngorms National Park Authority Monitoring and Enforcement Officer in monitoring active work within the area to ensure compliance with the approved details and to identify and correct any potential problems, as they arise, rather than later when it may be more difficult and more costly to rectify. Failure to give notice would constitute a breach of planning control which may result in enforcement action being taken.
2. Following completion of the development, a notification of the completion shall, as soon as practicable, be given to the Planning Authority. Attached to this decision notice is a Notice of Completion of Development for completion and submission. Submission of this form will assist the Cairngorms National Park Authority Monitoring and Enforcement Officer in making a final inspection and checking compliance with the approved drawings and conditions. If the development hereby approved is to be carried out in phases, then a notice of completion should be submitted at the completion of each phase.

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.