
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

Prepared by: ANDREW TAIT, PLANNING OFFICER (DEVELOPMENT MANAGEMENT)

DEVELOPMENT PROPOSED: HYDRO ELECTRIC SCHEME, INCLUDING INTAKE WEIRS, HEADERTANK, PIPEWORK, TURBINE HOUSE AND TAIL RACE CHANNEL (FULL PP)

REFERENCE: 09/117/CP

APPLICANT: CLOVA FARMS LTD, PITLIVIE FARM, ANGUS

DATE CALLED-IN: 1 MAY 2009

RECOMMENDATION: APPROVAL SUBJECT TO CONDITIONS

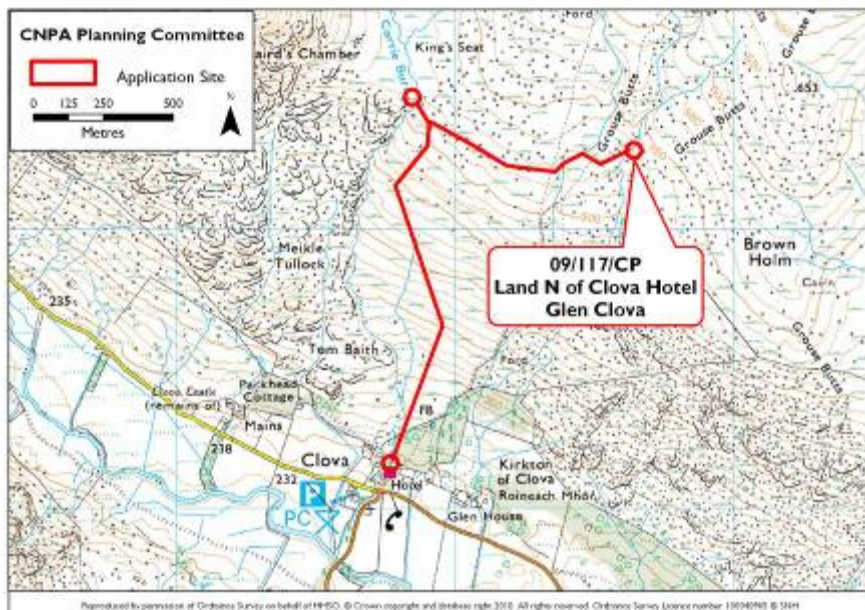


Fig. 1- Location Plan

SITE DESCRIPTION AND PROPOSAL

1. The application site is located to the rear of the Glen Clova Hotel and is predominantly located on open, moorland ground. (see figs 1, 2 & 3). There are four site elements to the scheme. The first element is located immediately behind the hotel and is intended to host a turbine house measuring 6.5 by 4.2 metres with a ridge height of 4.2 metres (see fig. 6). This will be located just off an existing track constructed to serve 3 chalets which received permission from the CNPA in 2009 (see figs 4 & 5) The turbine house will receive the intake pipe then export water via a tailrace back into the adjacent burn which runs down the side of the hotel. The turbine house would be constructed in timber with a grey concrete roof tiles.
2. The turbine will be served by two intakes sited at approximately the 500 metre contour on the hillside above the Hotel. One intake would be on the Burn of Brandy and would consist of an intake weir illustrated by figure 8. The intake screen is designed to exclude anything larger than 1mm in size from entering the penstock. To increase the capacity of the scheme a length of 225mm diameter pipe will be laid between the Brandy Burn and a header tank to be located below the Corrie Burn intake.
3. The Corrie Burn intake weir will be of a similar design to that at the Brandy Burn and can be seen at fig 11.
4. The Corrie Burn intake weir is located approximately 250 (distance) metres above a header tank that will be set almost entirely within the ground apart from an overflow guard. Water will be piped from the Corrie Burn intake via 225 mm dia pipe. An illustration of the header tank is included at figure 12.
5. The pipes leading from the header tank to the turbine house will consist of three sections buried where possible, but where this is not possible mounded and landscaped over. The pipe should be buried to a depth of at least 600 mm above ground level, where this is not possible the pipe would be held in place by means of concrete anchor blocks. Close to the turbine house the pipe would need to cross the Brandy Burn. This will result in a temporary diversion of the Burn while it is excavated to accommodate the pipe.
6. Both burns previously powered a water mill in the village of Clova. The Corrie Burn flows down from a large open corrie with substantial bog before running down the side of Clova and through the hamlet. The Brandy Burn flows from Loch Brandy and runs down the corrie to the east of Clova. Part of the burn has been diverted in the past to the west above Clova, presumably to power the mill.

7. Water flow studies have been carried out and the combined resource of both burns is considered suited to the installation of a hydro electric turbine with a capacity of up to 180kW. This could produce an estimated supply for up to 155 average UK households. It is considered that the development would displace up to 296 tonnes of CO₂ production a year.
8. There are no environmental designations on the burns themselves or in the immediate vicinity, although the burns are tributaries of the River South Esk Special Area of Conservation (SAC).



Fig.2 - View of site from across the glen.

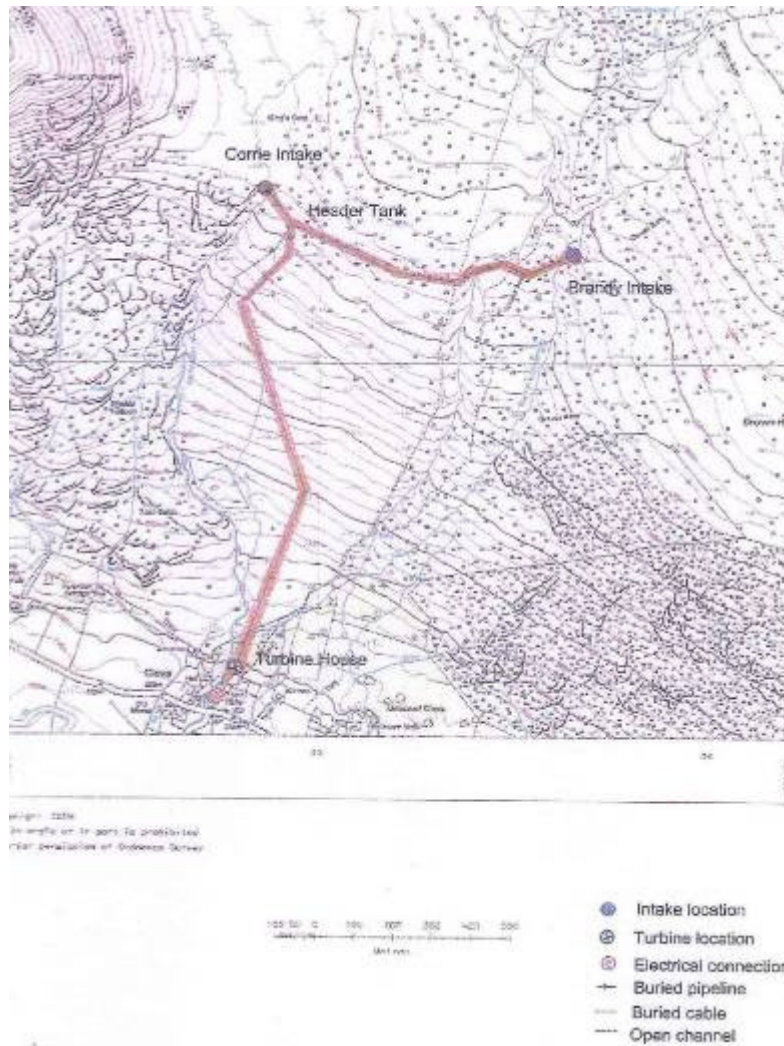


Figure. 3 -Location Plan showing area for development.



Fig. 4-Site for Turbine House and Tailrace

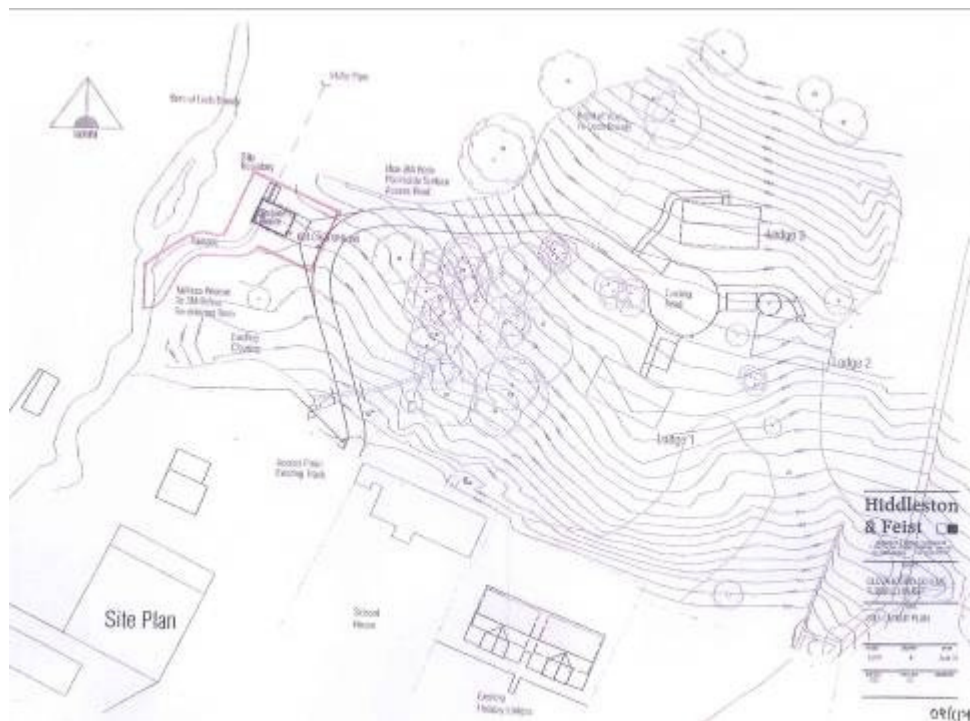


Fig. 5 -Turbine House and Tailrace



Fig. 6 -Turbine House



Fig.7 - Site for Brandy Burn Intake

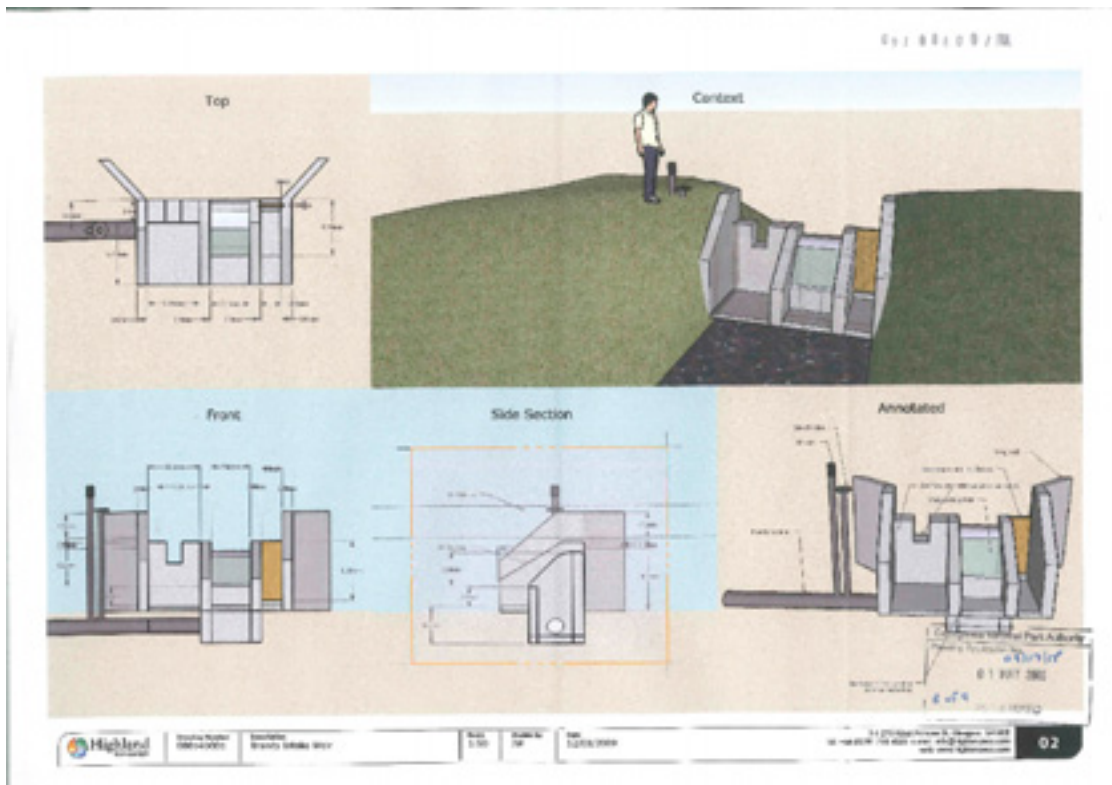


Fig. 8- Brandy Burn Intake



Fig. 9- Line of Pipe connecting Brandy Burn Intake to Header Tank



Fig.10 - Corrie Burn Intake Site

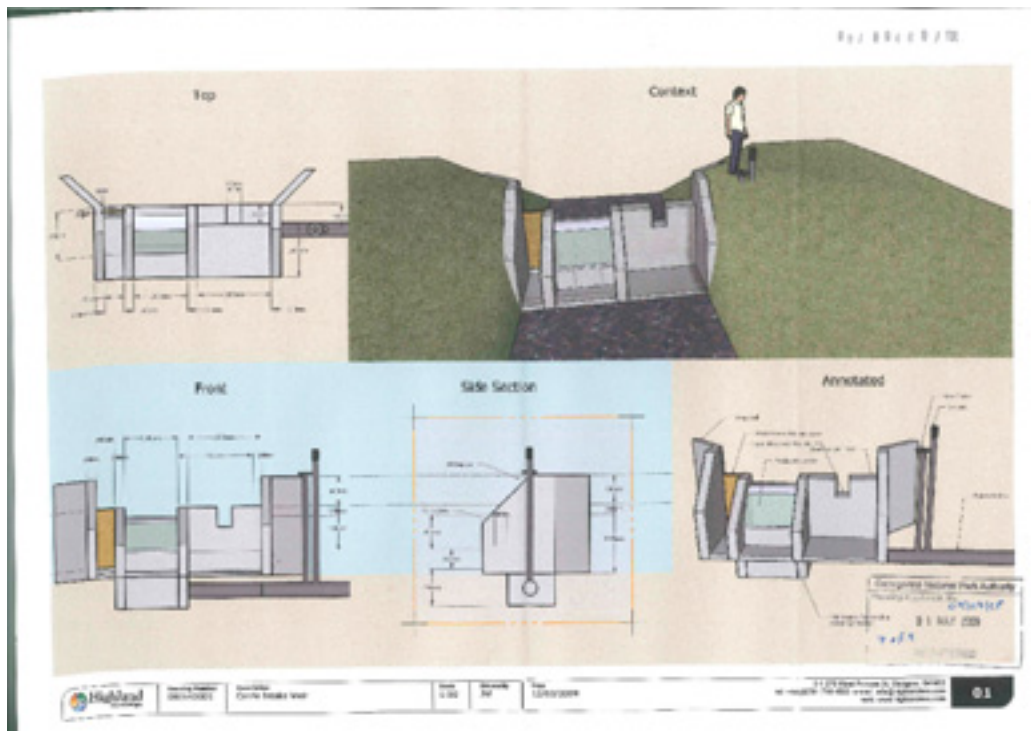


Fig. 11 - Corrie Burn Intake

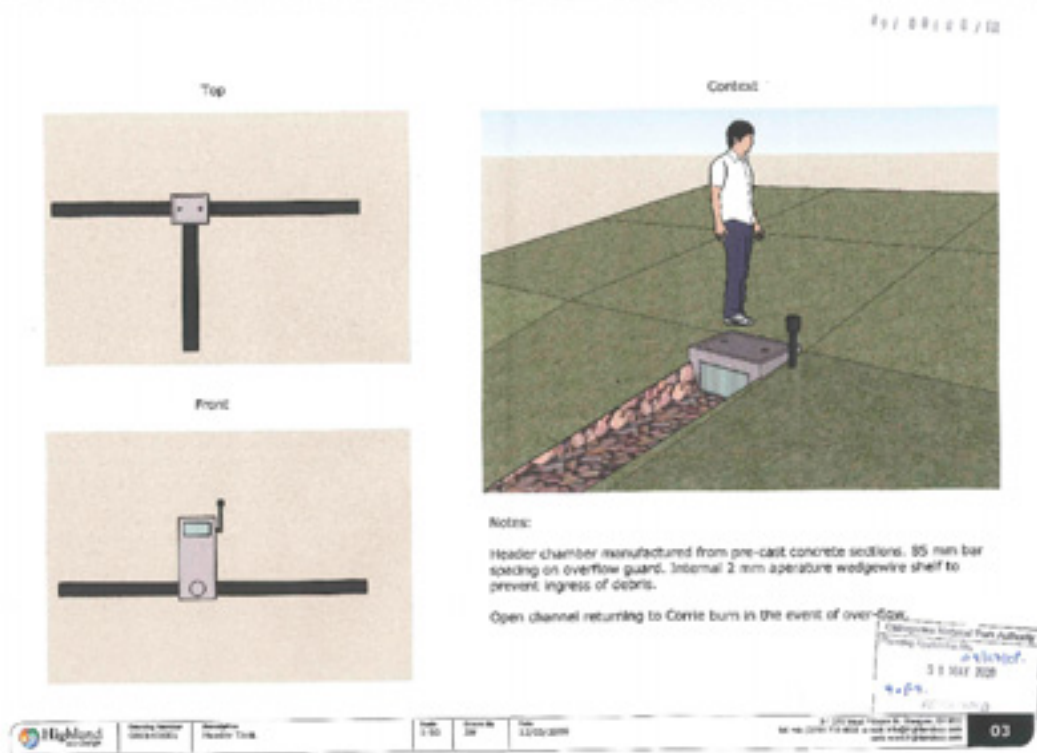


Fig.12 - Header Tank

DEVELOPMENT PLAN CONTEXT

National Guidance

Scottish Planning Policy (SPP)

9. Under landscape the SPP notes that Scotland's landscape is internationally renowned and important. Landscape in both the countryside and urban areas is constantly changing and the aim is to facilitate positive change while maintaining and enhancing distinctive character.
10. Under Renewable Energy (para 182) The policy considers that the commitment to increase the amount of electricity generated from renewable sources is a vital part of the response to climate change. Para 183 notes that there is potential for communities and small businesses in urban and rural areas to invest in ownership of renewable energy projects for local benefit. Planning Authorities should support communities and small businesses in developing such initiatives in an environmentally acceptable way.

Structure Plan

11. **Dundee and Angus Structure Plan 2001-2016 Policy 1 Natural Heritage Designations** consider that development proposals within or affecting a proposed or designated area of natural heritage importance will be determined according to their effects on the particular interests that the designation is intended to protect. **Policy 10 Renewable Energy** considers that proposals for renewable energy development will be favourably considered where they deliver quantifiable environmental and economic benefits and any significant adverse cumulative impacts on the natural and historic environment, landscape and local communities can be satisfactorily addressed.

Angus Local Plan

12. **Policy INF12: Renewable Energy Development** notes that Angus Council will have regard to Government guidance, landscape character guidance and the Structure Plan, and will give positive consideration to proposals for renewable energy developments against the following criteria:-
 - a) impact of proposal on natural and built environment, including residential amenity;
 - b) impact of the proposal on the landscape and visual qualities of the area;
 - c) quality and nature of renewable energy resource and its contribution to the national requirement for renewable energy;
 - d) access, maintenance and operational impacts.

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 that development compliments the landscape character and conserves the archaeological record.

14. Strategic objectives for Biodiversity include: conserving and enhancing the condition and diversity of habitats and species present throughout the Park through a landscape-scale approach to habitat networks and ensuring that populations of protected species are stable or, where appropriate, increasing.
15. Strategic objectives for Energy include: contributing to national targets for greater renewable production through increasing community, business and domestic-scale renewable energy schemes.
16. Strategic objectives for Water include: Maintain or where necessary enhance the existing high water quality and physical condition of water bodies in the Park and encourage more sustainable patterns of domestic, industrial, agricultural and recreational water use.

CONSULTATIONS

17. **Angus Council Roads** has no objection.
18. **Aberdeenshire Council Archaeology (on behalf of Angus Council)** comment that having looked at the proposals as a whole there should be little impact on archaeology. One exception is a small area to the north of the hotel where there is a burnt mound of probable prehistoric date. It is unclear how close the pipeline goes to this site. Mitigation measures would be required in the form of a full excavation if the pipeline goes through the site or a watching brief if it is avoided.
19. **Scottish Water** has no comments on this proposal.
20. **SEPA** has considered the proposal with regard to flooding and considers that because water is taken from the burns, then returned downstream of the confluence of these two watercourses the volume of water entering a particular watercourse is not expected to increase, therefore no impact on flood risk is anticipated and SEPA has no objection.
21. With regard to Controlled Activities Regulations (CAR) licensing SEPA has confirmed that a key interest would be whether or not this proposal would be capable of CAR authorisation. SEPA's Local EPI Team confirms that the applicant is at an advanced stage in the process of applying for consent under the CAR. The approach avoids the duplication of effort, speeds the overall consenting process and ensures that regulatory requirements are given due consideration at an early stage. Whilst not pre-empting the outcome of this exercise, SEPA can confirm that owing to issues relating to the availability of adequate low flow data, this process was extended to March 2010.
22. After a further request for update information the Area Team for SEPA has confirmed that the CAR licence was all but complete subject to a final visit to the site on 12 April to resolve any additional issues to protect the habitat environment. If any more information comes in the licence will be altered to

reflect whatever is required to protect the habitat. The licence is scheduled to go before the Regulatory Team on 10 May where the recommendation will be for the scheme to be approved. Flow measurements are being studied at the moment and no insurmountable issues are anticipated, if anything a precautionary approach will be adopted. No licence will be granted unless it satisfies all necessary criteria. It is anticipated that SEPA will grant the licence.

23. **Angus Council Environmental Health** has no comment to make on the application.
24. **Angus Council Countryside Access Officer** has commented that if the development is approved there should be measures to ensure that the path and surrounding vegetation are properly protected and/or restored, and that public access is not restricted during construction.
25. **Scottish Natural Heritage** has no objection to the planning application. However, the Corrie Burn and Brandy Burn are tributaries of the River South Esk Special Area of Conservation and the tailrace for the proposed development is approximately 400 metres from the SAC boundary. The River South Esk is designated for Atlantic Salmon and Freshwater Pearl Mussel. Both species are sensitive to siltation. It is therefore essential that the mitigation plans outlined in the Clova Design Report (March 2009) and the Construction Method Statement are followed to minimise the risk of sediment entering the River South Esk.
26. **CNPA Visitor Services and Recreation Group** note that of concern is the point where the pipe crosses the path up to Loch Brandy which is a very popular route and promoted by the Cairngorms Outdoor Access Trust. It would be expected that during construction the public are notified of the possible break in the path and if an alternative is available directed to it. It is also expected that the path would be reinstated after construction and that the pipe is buried at this point rather than landscaped.
27. **CNPA Heritage and Land Management (Ecology)** comment that the intake weirs for the burns are located at a steep section of the burns. This may have significant impact upon the area behind the intake weirs depending on the level of flooding. The proposed route of the pipeline depicts the line of the proposed pipeline down the hillside, crossing two watercourses and through woodland to the turbine house. A botanical survey has been requested.
28. **CNPA Heritage and Land Management (Landscape)** The key landscape issues with this proposal are impacts resulting from loss of natural character of both rivers at both intake and tailrace together with the introduction of linear elements in the landscape. Careful placing of the intake structures so as to relate to the existing landform is important. All pipes should be buried to allow a natural soil profile above the pipe. The construction process should employ low impact methods to minimise ground damage and material disturbed during construction shall be retained. Any

new compound layout areas shall be carefully considered to minimise disturbance to the ground and reinstatement should take place. The design and construction of the tailrace should relate to the local character of the river and surrounds and be constructed in as natural a form as possible. It is recommended that planning conditions are attached to cover these issues.

REPRESENTATIONS

29. The proposal was not advertised, no representations have been received as a result of neighbour notification.

APPRAISAL

30. The first part of the appraisal considers the principles of the scheme proposed. This will be followed by an assessment of the environmental impacts of the proposal.

Principle

31. Planning policy expresses clear, in principle support for sustainable renewable energy projects subject to protection of the environment, species, the landscape, and general amenity.
32. In this case, the principle of this type of development is clearly supportable and the proposal makes a reasonable contribution to targets for reducing carbon emissions. Members will recall granting planning permission for two holiday accommodation projects and this hydro scheme is the third part of the overall plan to make the Clova Hotel business more environmentally friendly. While the power would go onto the grid, in the first instance it would be providing power to the hotel and houses in the glen. In principle, this type development is clearly supportable and accords with the objectives of the National Park Plan with regard to energy, providing there are no unacceptable environmental impacts.

Environmental Impact

33. With regard to species the proposal includes a habitat survey, no sensitive species were identified. However, based on observations at the site it is likely that otter will frequent the lower sections of the burns at some point so mitigation measures would be required. Scottish Natural Heritage has been consulted upon the proposal and has no objection providing mitigation measures and the construction methods are carried out in line with the findings of the submitted design report. The CNPA Ecologist has been consulted on the proposal and requests a botanical survey. This is specified by condition. Given the scale of the site plan effectively a work corridor has been applied for and if sensitive species are found the line of any pipes or infrastructure can be altered. Part of the construction method statement includes a requirement that a walkover survey is carried out every morning

prior to works starting to ensure that there are no sensitive species at the site.

34. The site for the development is open and clearly visible across the glen above the Hotel as seen at figure 2. Consequently, there will be impacts from such viewpoints. However, the turbine house and tailrace are well hidden behind a treed area and at the distances viewed from the intakes will be hardly, if at all, noticeable. The pipework is more of a concern and there will be temporary impacts. The pipework would generally be underground but there is mention that limited pipework could be above ground but then covered by mounded landscaping. As noted in the CNPA Landscape Officer response landscape and issues are crucial. Permanent above ground pipework on this hillside would raise concern and could impede people's enjoyment of the local landscape. Consequently, a condition is imposed to ensure that the pipework is undergrounded and mounding is only used as a last resort. Given the very limited diameter of the pipe (225mm) and the fact that it only need be placed 600mm below ground level this should be achievable. If not, the applicant would have to come back to the CNPA with an alternative solution. Providing pipework is undergrounded the distant visual impacts will be temporary and in the long term negligible. However, conditions are recommended by the Landscape Officer to ensure that the proposal makes an appropriate response to its surroundings. Interestingly, a similar scheme just a few miles down the glen at Rottal (just outside the Park boundary) constructed a couple of years ago is now hardly noticeable when viewed across the glen.
35. In terms of archaeology there will be little impact from the proposal as a whole. However, there is one small area of concern where a burnt mound is evident. Mitigation would be required but this would depend on the exact line of the pipe on the ground. Consequently, a planning condition requires that the detailed siting of the pipe avoids this area and that a watching brief is carried out. The Archaeologist advising has agreed with this approach.
36. As highlighted by the CNPA Outdoor Access Officer it is essential that the popular path to Loch Brandy and beyond remains open and a planning condition is attached to cover this issue. However, given the tourism based hotel business of the applicant which serves visitors including hillwalkers it is clearly in his interest to ensure that access is maintained and that works do not become unsightly in any way.
37. The proposal requires a CAR licence from SEPA which is currently being considered and is likely to gain approval in May. The applicant has specifically asked that this proposal be presented to this meeting due to grant funding issues. While it would be beneficial to see the licence before granting permission this is not a bar to granting permission for this scheme and SEPA are not expecting the granting of planning permission to be held up while the finer details of the licence are being worked through. The conditions attached at the end of this report relate to the land infrastructure to accommodate the development. SEPA will cover all water related issues.

IMPLICATIONS FOR THE AIMS OF THE PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

38. Conditions are recommended by SNH and the CNPA Heritage and Land Management Team to ensure that the proposal is carried out in an appropriate manner and to ensure that species of conservation importance are protected. In landscape terms the proposal will have some temporary impacts but given the evidence of the nearby Rottal scheme these should be short lived.

Promote Sustainable Use of Natural Resources

39. The proposal accords with this aim in that it uses the water resource of the area in a sustainable manner and while connecting to the grid, the power will effectively be used locally to power the hotel and associated holiday accommodation. The proposal uses a means of power at the site that has been used historically to power a Mill.

Promote Understanding and Enjoyment

40. As mentioned it is in the applicant's interest that people's enjoyment and understanding in the form of taking access is not impeded during the development. A planning condition will ensure that this is the case. While not being a level of development that would justify a visitor facility, tourists to the area may well be interested in the scheme and it is recommended that a planning condition is attached to provide means of interpreting the scheme both during works and after completion.

Promote Sustainable Economic and Social Development

41. The proposal supports the sustainable economic and social development of the business at the Clova Hotel. The proposal will be likely to provide some employment benefits during construction with local labour previously being used for the holiday accommodation projects.

Conclusion

42. Overall, this is a positive proposal and for a scheme of its type is considered, by the hydro agent putting the proposal forward to be one of the more productive he has dealt with. There will be some landscape impacts but these are likely to be temporary and relatively short lived in nature. The proposal is considered to fit well with both planning policy and the aims of the National Park and consequently approval is recommended subject to the conditions set out below.

RECOMMENDATION

43. That members resolve to **GRANT Full Planning Permission** for the construction of a hydro electric scheme, including intake weirs, headertank, pipework, turbine house and tailrace channel at land north of Clova Hotel, Glen Clova, subject to the following conditions:-

1. The development to which this permission relates must be begun within three years from the date of this permission.

Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended).

2. All pipework shall be undergrounded unless otherwise agreed in writing by the CNPA acting as planning authority.

Reason: In the interests of conserving and enhancing the landscape of the area.

3. The development shall be constructed and operated in accordance with the provisions of the planning application and Highland Eco Design Clova Micro-Hydro Preliminary Design Report dated 17 March 2009 unless otherwise agreed in writing with the CNPA acting as Planning Authority.

Reason: To ensure that the development is constructed and operated in accordance with this approval.

4. Prior to any works commencing on site, an addendum to the construction method statement to cover the location of construction of compounds/layout areas and the detailed construction method for all elements of the scheme including any temporary tracks together with proposals for restoration and re-use of materials to be used in the construction of the development shall be submitted to and approved in writing by the CNPA acting as planning authority. Development and restoration shall be carried out in accordance with the agreed addendum statement.

Reason: For clarification and to ensure that any impact upon the environment is properly managed.

5. Prior to the commencement of any development on the site a detailed drawing at a scale of 1:200 showing the micro siting of the pipeline at grid ref NO3278 7316 shall be submitted to and approved in writing by the CNPA acting as planning authority.

Reason: To ensure that any items of archaeological interest are protected.

6. The developer shall secure the implementation of an archaeological watching brief, to be carried out by an organisation acceptable to the CNPA acting as Planning Authority in consultation with the Archaeological Service, during any ground breaking and site development work. The retained archaeological organisation shall be afforded access at all reasonable times and allowed to record and recover items of interest and finds. Terms of reference for the watching brief will be supplied by the Aberdeenshire Council Archaeological Service. The name of the archaeological service retained by the developer shall be given to the CNPA acting as planning authority and to the Aberdeenshire Archaeological Service in writing not less than 14 days before the development commences.

Reason: To record items of archaeological interest and finds.

7. Prior to the commencement of the development hereby approved a detailed plan for any pipe burn crossings at a scale of 1:200 including cross sections shall be submitted to and approved in writing by the CNPA acting as planning authority.

Reason: To ensure that any crossings do not result in siltation to the burns and in the interests of visual amenity.

8. Prior to the commencement of the development hereby approved detailed plans scaled at 1:200 for each intake with cross sections before and after showing how the intakes would sit in the existing burn landscape shall be submitted to and approved in writing by the CNPA acting as planning authority.

Reason: To ensure that the infrastructure is assimilated into the existing landscape.

9. Restrictions on public access shall be kept to a minimum and that prior to the commencement of development, the details of any land to be excluded from public access for any period shall be submitted to and approved by the CNPA acting as planning authority.

Reason: In order to maintain public access to the site.

10. No vegetation clearance or construction work shall take place along the pipeline routes between 1 April and 15 July in any year unless otherwise approved in writing by the CNPA acting as planning authority.

Reason: In order to minimise potential disturbance on breeding birds.

11. Prior to the commencement of development in the year that construction is due to commence a botany survey shall be undertaken and submitted for the written approval of the CNPA acting as planning authority to ensure that no disturbance is caused to species of conservation importance.

Reason: In order to ensure that appropriate measures are put in place to minimise impact on any habitats/species of conservation value.

12. That prior to the commencement of development a detailed scaled drawing of the overflow arrangement (including cross sections) and re-entry to the burn for overflow from the header tank shall be submitted to and approved by the CNPA acting as planning authority.

Reason: To ensure that these important details are properly considered.

13. Prior to the commencement of development at the site a scheme for the interpretation of the works both during and post construction in a location to be agreed in writing by the CNPA shall be submitted to and approved by the CNPA. The interpretation shall be in place prior to the commencement of any ground works and maintained throughout the operational use of the hydro scheme.

Reason: In the interests of promoting understanding and enjoyment of the area.

14. Notwithstanding the details contained within the application the turbine house shall be roofed in slate, and the doors are to be open out and finished in timber a sample of both slate and timber materials shall be submitted to and approved by the CNPA prior to any works commencing on the turbine house.

Reason: In the interests of the cultural heritage of the area.

15. Prior to the commencement of the development a scheme of landscaping and restoration for all elements of the proposal shall be submitted to and approved in writing by the CNPA. The agreed landscaping shall be completed during the first planting season after completion of the development unless otherwise agreed by the CNPA.

Reason: To ensure that the proposal is properly assimilated into the surrounding landscape.

16. Prior to the commencement of development a detailed, scaled drawing of the tail race including cross section shall be submitted to and approved by the CNPA.

Reason: To ensure that these important details are properly considered.

ADVICE NOTE

Protected Species

1. 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 a 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.
2. 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).
3. **SEPA Application for Licence under the The Water Environment (Controlled Activities) (Scotland) Regulations 2005 (CAR Licence).**

The applicant's 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.

Andrew Tait
22 April 2010

planning@cairngorms.co.uk

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.