

Perth and Kinross Council  
Development Control Committee – 24 January 2013  
Report of Handling by Development Quality Manager

**Installation of a run of river hydro scheme, powerhouse and associated works  
on land at Buckny Burn by Butterstone**

Ref. No: 12/01087/FLL

Ward No: 5 - Strathtay

**Summary**

This report assesses the application for the formation of a run of river hydro scheme, powerhouse and associated works and recommends approval subject to compliance with conditions as the development is considered to comply with the provisions of the Development Plan as well as supplementary Planning Guidance.

**BACKGROUND AND PROPOSAL**

1 Planning consent is sought for the formation of a hydro electric generation scheme at Buckny Burn by Butterstone. The proposal is a run of river scheme that would operate without storage and according to the flow of the burn. Water would be abstracted via a weir structure downstream of Dubh Loch into the pipeline before being passed through a 500 kilowatt capacity turbine which aims to generate over 1750 megawatt hours of energy per year. The abstracted water would be returned into the burn at Butterstone Village.

2 The following elements compromise the development:-

Access Route

3 Access to the site for construction traffic will be along the A923 into Butterstone village before entering the existing estate road network. The element of development to the west of the Buckny Burn would be accessed via the road to Riemore and Riechip, while the eastern side would be accessed via the road to Craigton.

4 Permanent tracks are proposed to allow long-term maintenance to the intake and turbine house. A turning area is located at the header tank, which will allow access for maintenance. The proposal does not require permanent access to the pipe bridge in the Den of Riechip as there is an existing logging track to this location at low level alongside the burn. However, a temporary access track to enable construction traffic to enter this area is proposed. Following construction the temporary access would be removed and the land reinstated.

Intake

5 The intake would be set within the proposed low concrete weir spanning the river below the Dubh Loch. The intake is predominantly buried and constructed using reinforced concrete. The right bank (when looking downstream) rises steeply from the channel, while the left bank is shallower and requires the

formation of a new 1.5m high flood bund to tie the top of the wing walls of the intake weir to the natural ground level further upstream thereby reducing the extent of pasture that would be flooded. The bund would be constructed using earth recycled from elsewhere on site, and would contain an impermeable membrane to prevent seepage.

#### Pipe, header tank and pipe bridge

- 6 The abstracted water would flow through the un-pressurised intake (feeder) pipe for approximately 450m towards the header tank. From the header tank, a pressurised pipeline (penstock), would route water towards the turbine house. The gravity pipe and penstock will have nominal diameters of 900mm and 850mm respectively and be buried in a trench between 1650mm and 2500mm deep by 1000mm wide, providing capacity to backfill using locally excavated materials to a depth of 800mm or more. The pipe material selected is continuously welded High Performance Polyethylene (HPPE). The pipe has flexibility which allows this to be routed round obstacles. The use of concrete thrust blocks will secure the pipeline where it cannot be anchored to the bedrock. Due to the undulation of the pipe route valves are required at high points and washout valves will be required at low points, this means manhole covers will be visible at these points. A pipe bridge is proposed to enable the penstock to cross the valley. The pipe would be self-supporting ductile iron in this section with concrete abutments partially submerged on either side of the river bank resulting in the pipe being suspended over the watercourse.

#### The Turbine House

- 7 The turbine house is located on the eastern bank of the watercourse. It is located within the valley floor and has a steep embankment to the rear (eastern elevation) of the turbine house. The proposed building will have a concrete foundation to support the turbine while the exterior will be clad in larch with mineral fibre panels to the roof. The closest dwelling is around 45 metres to the south of the Turbine House.

#### Tail Race

- 8 The tailrace returns water to the watercourse from the turbine house. Water will flow from the turbine house through 30m of buried pipe before being discharged through a concrete headwall into an open channel spillway within the left bank of the Buckny Burn. The outfall structure will be contained within a treated timber post and rail fence for safety. Locked screening will be positioned on the headwall to prevent fish and small mammals from travelling up the tailrace and into the turbine house.

#### Grid Connection

- 9 Scottish and Southern Energy (SSE) will prescribe a grid connection point. The connection is envisioned to be on the opposite side of the river where there is an existing overhead line. This will be reached by burying the cable using directional drilling.

### Construction compounds and lay down areas

- 10 Two construction compounds are proposed. The primary compound area is located to the east of the Buckny Burn in the field adjacent to the proposed turbine house. The secondary compound area is located to the west of the burn off the track to the redundant quarry.

### **ENVIRONMENTAL IMPACT ASSESSMENT (EIA)**

- 11 EEC Directive (No 2003/35/EC) requires the Competent Authority (and in this case Perth and Kinross Council) giving a planning consent for a particular project to make the decision in the knowledge of any likely significant effects on the environment. The Directive therefore sets out a procedure that must be followed for certain types of project before they can be given 'development consent'.
- 12 This procedure, known as Environmental Impact Assessment (EIA), is a means of drawing together, in a systematic way, an assessment of a project's likely significant environmental effects. This helps to ensure that the importance of the predicted effects, and the scope for reducing any adverse effects, are properly understood by the public and the relevant competent authority before it makes its decision.
- 13 A screening exercise in accordance with the EIA (Scotland) Regulations 2011 (as amended) was undertaken by the Planning Authority and in this case an Environmental Statement was required due to the project's size, nature and its relationship with 'sensitive areas'.

### **NATIONAL POLICY and GUIDANCE**

- 14 The Scottish Government expresses its planning policies through the National Planning Framework 1& 2, the Scottish Planning Policy (SPP) and Planning Advice Notes (PAN).

#### **The Scottish Planning Policy 2010**

- 15 The SPP is a statement of Scottish Government policy on land use planning and contains:
  - the Scottish Government's view of the purpose of planning,
  - the core principles for the operation of the system and the objectives for key parts of the system,
  - statutory guidance on sustainable development and planning under Section 3E of the Planning etc. (Scotland) Act 2006,
  - concise subject planning policies, including the implications for development planning and development management, and
  - the Scottish Government's expectations of the intended outcomes of the planning system.

- 16 The following sections of the SPP are of particular importance in the assessment of this application:
- Paragraph 25: Determining planning applications
  - Paragraph 33: Sustainable Economic Growth
  - Paragraphs 34 – 44: Sustainable Development and Climate Change
  - Paragraph 77: Location and Design of New Development
  - Paragraphs 110 – 113: Historic Environment
  - Paragraph 123: Archaeology
  - Paragraphs 125 – 148: Landscape and Natural Heritage
  - Paragraphs 182 – 186: Renewable Energy
  - Paragraph 194: Other Renewable Energy Sources
  - Paragraphs 196 – 211: Flooding and Drainage
- 17 The following Scottish Government Planning Advice Notes (PAN) are also of interest:
- PAN 1/2011 Planning and Noise
  - PAN 2/2011 Planning and Archaeology
  - PAN 40 Development Management
  - PAN 45 Renewable Energy
  - PAN 51 Planning, Environmental Protection and Regulation
  - PAN 58 Environmental Impact Assessment
  - PAN 60 Planning for Natural Heritage
  - PAN 61 Planning and Sustainable Urban Drainage Systems
  - PAN 69 Planning & Building Standards Advice on Flooding
  - PAN 79 Water and Drainage

## **DEVELOPMENT PLAN**

- 18 The Development Plan for the area consists of the Tayplan Strategic Development Plan 2012 – 2032 Approved June 2012 and the Adopted Highland Area local Plan 2000.

### **TAY plan Strategic Development Plan 2012**

- 19 The vision set out in the TAYplan states that:

*“By 2032 the TAYplan region will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice, where more people choose to live, work and visit and where businesses choose to invest and create jobs.”*

Under the LDP, the following principal policies apply:

- 20 **Policy 2:** Shaping Better Quality Places seeks to ensure that climate change resilience is built into the natural and built environment, integrate new development with existing community infrastructure, ensure the integration of transport and land uses, ensure that waste management solutions are

incorporated into development and ensure that high resource efficiency and low/zero carbon energy generation technologies are incorporated with development to reduce carbon emissions and energy consumption.

- 21 **Policy 3:** Managing TAYplan's Assets seeks to identify and safeguard at least 5 years supply of employment land within principle settlements to support the growth of the economy and a diverse range of industrial requirements.
- 22 **Policy 6:** Energy and Waste/Resource Management Infrastructure of TAYplan relates to delivering a low/zero carbon future for the city region to contribute to meeting Scottish Government energy targets and indicates that, in determining proposals for energy development, consideration should be given to the effect on off-site properties, the sensitivity of landscapes and cumulative impacts.

### **Highland Area Local Plan 2000**

- 23 Under the Local Plan the site lies within an area where the following policies are applicable:

#### **Policy 1 Highland Sustainable Development**

- 24 The Council will seek to ensure, where possible, that development within the Plan area is carried out in a manner in keeping with the goal of sustainable development. Where development is considered to be incompatible with the pursuit of sustainable development, but has other benefits to the area which outweigh this issue, the developer will be required to take whatever mitigation measures are deemed both practical and necessary to minimise any adverse impact. The following principles will be used as guidelines in assessing whether projects pursue a commitment to sustainable development: -
- (a) The consumption of non-renewable resources should be at levels that do not restrict the options for future generations.
  - (b) Renewable resources should be used at rates that allow their natural replenishment.
  - (c) The quality of the natural environment should be maintained or improved.
  - (d) Where there is great complexity or there are unclear effects of development on the environment, the precautionary principle should be applied.
  - (e) The costs and benefits (material and non-material) of any development should be equitably distributed.
  - (f) Biodiversity is conserved.
  - (g) The production of all types of waste should be minimised thereby minimising levels of pollution.
  - (h) New development should meet local needs and enhance access to employment, facilities, services and goods.

#### **Policy 2 Highland Development Criteria**

- 25 All developments within the Plan area will be judged against a series of criteria including, a landscape framework, the scale, form, colour, and density of

development within the locality, compatible with its surroundings in land use terms, the local road network should be capable of absorbing the additional traffic generated by the development and a satisfactory access onto that network provided, the site should be large enough to accommodate the impact of the development satisfactorily in site planning terms and buildings and layouts for new development should be designed so as to be energy efficient.

### **Policy 3 Highland Landscape**

- 26 Development proposals should seek to conserve landscape features and sense of local identity, and strengthen and enhance landscape character. The Council will assess development that is viewed as having a significant landscape impact against the principles of the Tayside Landscape Character Assessment produced by Scottish Natural Heritage.

### **Policy 4 Highland Landscape**

- 27 Details of landscape treatment should be submitted with development proposals including, where appropriate, boundary treatment, treatment of settlement edges, and impact on key views.
- 28 Developers will be required to demonstrate that satisfactory arrangements will be made, in perpetuity, for the maintenance of areas of landscaping.

### **Policy 5 Highland Design**

- 29 The Council will require high standards of design for all development in the Plan Area. In particular encouragement will be given to:
- (a) The use of appropriate and high quality materials.
  - (b) Innovative modern design incorporating energy efficient technology and materials.
  - (c) Avoidance of the use of extensive underbuilding on steeply sloping sites .
  - (d) Ensuring that the proportions of any building are in keeping with its surroundings.
  - (e) Ensuring that the development fits its location.
- 30 The design principles set out in the Council's Guidance on the Design of Houses in Rural Areas will be used as a guide for all development proposals.

### **Policy 7 Flood Risk**

- 31 Development in areas liable to flood, or where remedial measures would adversely affect flood risk elsewhere, will not normally be permitted. For the purposes of this policy flood risk sites will be those which are judged to lie within:
- (a) Areas which flooded in January 1993.
  - (b) Sites which lie within a flood plain.

- (c) Low lying sites adjacent to rivers, or to watercourses which lead to categories (a) and (b) above.

### **Policy 11 Highland Renewable Energy**

- 32 The Council will encourage, in appropriate locations, renewable energy developments. Once accepted for renewable energy purposes, sites and installations will be safeguarded from development that would prevent or hinder renewable energy projects and could be accommodated elsewhere. Renewable energy developments, including ancillary transmission lines and access roads, will be assessed against the following criteria:
- (a) The development will not have a significant detrimental effect on sites designated at national, regional or local level for nature conservation interest or archaeological interest;
  - (b) The development will not result in an unacceptable intrusion into the landscape character of the area;
  - (c) The development will not result in an unacceptable loss of amenity to neighbouring occupiers by reasons of noise emission, visual dominance, electromagnetic disturbance or reflected light.

Note: Developers will be required to enter into an agreement for the removal of the development and restoration of the site, following the completion of the development's useful life.

### **Policy 13 Highland Nature Conservation**

- 33 Development will only be permitted on a site designated or proposed under the Habitats or Birds Directives (Special Areas of Conservation and Special Protection Areas) or a Ramsar Site where the appropriate assessment indicates that the following criteria can be met:-
- (a) The development will not adversely affect the integrity of the site.
  - (b) There are no alternative solutions.
  - (c) There are imperative reasons of overriding public interest.

### **Policy 14 Highland Nature Conservation**

- 34 The Council will not normally grant consent for any development which would have an adverse affect on:-
- (a) Sites supporting species mentioned in Schedules 1, 5 and 8 of the Wildlife and Countryside Act 1981 as amended ;Annex II or IV of the European Community Habitat Directive; or Annex 1 of the European Community Wild Birds Directive.
  - (b) Those habitats listed in Annxe 1 of the European Community Habitats Directive.

### **Policy 15 Highland Nature Conservation**

- 35 In the absence of overriding proven public interest, the Council will not grant consent for, or support development which would damage the integrity, or conservation objectives of Sites of Special Scientific Interest or National Nature Reserves.

Note: Further details of protected sites and areas are contained in the Technical Appendix.

### **Policy 18 Designated Landscapes**

- 36 The Council will oppose developments which would have an adverse impact on the landscape character and visual amenity of the National Scenic Areas identified on Proposals Map 1.

### **Policy 21 Drystone Dykes and Hedgerows**

- 37 The Council will encourage the conservation and reconstruction of drystone dykes and hedgerows and their use as field and other boundaries.

### **Policy 22 Trees**

- 38 The Council will seek to protect native woodland from development and will encourage and support the protection and expansion of existing native woods and the creation of new ones in appropriate locations.

### **Policy 25 Highland Archaeology**

- 39 The Council will safeguard the settings and archaeological landscapes associated with Scheduled Ancient Monuments (protected under the Ancient Monuments and Archaeological Areas Act 1979), in the absence of reasons of overriding proven public interest.

Note: Further details of the list of Scheduled Ancient Monuments is contained in the Technical Appendix.

### **Policy 28 Listed Buildings**

- 40 There will be a presumption against the demolition of Listed Buildings and against works detrimental to their essential character. There will be a presumption in favour of consent for development involving the sympathetic restoration of a Listed Building, or other buildings of architectural value. The setting of Listed Buildings will also be safeguarded.



## **PERTH AND KINROSS COUNCIL LOCAL DEVELOPMENT PLAN - PROPOSED PLAN JANUARY 2012**

- 41 Members will be aware that on 30 January 2012 the Proposed Local Development Plan was published. The adopted Local Plan will eventually be replaced by the Proposed Local Development Plan (LDP). The LDP has recently undergone a period of public consultation. The Proposed Local Development Plan may be modified and will be subject to examination prior to adoption. It is not expected that the Council will be in a position to adopt the Local Development Plan before December 2014. The Plan may be regarded as a material consideration in the determination of this application, reflecting a more up to date view of the Council.

Under the LDP the principal relevant policies are:-

### **Policy PM2 – Design Statements**

- 42 Design statements will be required for developments falling within any of a series of specified categories

### **Policy TA1: Transport Standards and Accessibility Requirements**

- 43 The Plan identifies that encouragement will be given to the retention and improvement of existing infrastructure

### **Policy HE1: Scheduled Monuments and Non-Designated Archaeology**

- 44 There is a presumption against development which would have an adverse effect on the integrity of a Scheduled Monument and its setting and the Council will seek to protect areas or sites of archaeological interest and their settings

### **Policy NE1: Environment and Conservation Policies**

- 45 Development proposals should not have any significant impact on International Nature Conservation Sites, National Designations, Local Designation or European Protected Species.

### **Policy NE2 – Forestry, Woodlands and Trees**

- 46 The Council will seek to protect all wildlife and wildlife habitats, including grasslands, wetlands and peat-lands and habitats that support rare or endangered species.

### **Policy NE3: Biodiversity**

- 47 The Council will seek to protect and enhance all wildlife and wildlife habitats.

#### **Policy NE4: Green Infrastructure**

- 48 This policy sets out a series of criteria under which development can contribute to the creation, protection, enhancement and management of green infrastructure.

#### **Policy ER1: Renewable and Low Carbon Energy Generation**

- 49 Proposals will be supported where they are well related to the resources that are needed for their operation and in assessing such proposals, a series of criteria will be taken into account.

#### **Policy ER6: Managing Future Landscape Change to Conserve and Enhance the Diversity and Quality of the Area's Landscapes**

- 50 Development and land use change should be compatible with the distinctive characteristics and features of Perth and Kinross' landscapes.

#### **Policy EP2: New Development and Flooding**

- 51 There will be a general presumption against proposals for built development or land raising on a functional flood plain and in areas where there is a significant probability of flooding from any source or where the proposal would increase the probability of flooding elsewhere.

#### **Policy EP6: Lunan Valley catchment Area**

- 52 The Council will protect and seek to enhance the nature conservation and landscape interests of the Lunan Valley catchment Area subject to a series of criteria.

#### **Policy EP8: Noise Pollution**

- 53 There is a presumption against the siting of development proposals which will generate high noise level of noise in the locality of existing or proposed noise sensitive land uses.

#### **OTHER POLICIES**

- 54 In addition the following documents are relevant in the determination of the application:-

#### **TAYSIDE LANDSCAPE CHARACTER ASSESSMENT (TLCA)**

- 55 The Tayside Landscape Character Assessment (TLCA) is published by Scottish Natural Heritage. The Structure Plan, the Kinross Area Local Plan and the Highland Area Local Plan 2000 make it clear that the TLCA will be a 'material consideration' when considering any proposal in Perth & Kinross. The TLCA suggests that the overall aim of any management strategy should reflect the sensitivities of the landscape.

## **SCOTTISH NATURAL HERITAGE'S GUIDANCE ON HYDROELECTRIC SCHEMES AND THE NATURAL HERITAGE VERSION 1 – DECEMBER 2010**

- 56 Provides guidance on the natural heritage impacts associated with hydro developments. It focuses on design issues and ways to mitigate environmental effects.

### **PLANNING SITE HISTORY**

- 57 12/00005/FLL Installation of a run-of-river hydro electric scheme 6 February 2012 Application Withdrawn.

### **CONSULTATIONS**

#### **Scottish Government:**

- 58 Under the Environmental Impact Assessment (Scotland) Regulations 2011 the Scottish Government are a statutory consultee to any submitted EIA. The comments detailed below are representative responses to either the content of the Environmental Statement and the appropriateness or otherwise of the submitted development proposal.

#### **Transport Scotland:**

- 59 The proposal will cause minimal environmental impact on the Trunk Road Network. No objection.

#### **Historic Scotland:**

- 60 No objection.

#### **Scottish Water**

- 61 No objections to the planning application.

#### **SEPA**

- 62 No objection subject to conditions which relate to mitigation associated with Groundwater Dependant Terrestrial Ecosystems (GWDTEs).
- 63 They advise a Controlled Activities Regulation (CAR) application for the scheme has been received and is currently being assessed by them - they confirm as part of this process a Construction Method Statement will be required.

#### **Scottish Natural Heritage**

- 64 Object unless conditional control is imposed on the consent which limits the working corridor through the Den of Riechip SSSI to 6 metres and secures compensatory planting.

### **RSPB Scotland**

- 65 No objection if mitigation measures within the Environmental Statement are deployed.

### **Environmental Health**

- 66 No objection subject to conditions which relate to noise and water supplies.

### **Biodiversity Officer**

- 67 No objection subject to conditional control.

### **Flood Officer**

- 68 No objection subject to conditional control.

### **Access Officer**

- 69 No objection subject to conditional control.

### **Tree Officer**

- 70 No objection subject to conditional control which ensures works are undertaken in accordance with *BS:5837 2012* which protects trees during construction activities and ensuring replacement trees are sought for those removed.

### **Forestry Commission**

- 71 Expect the development to comply with their policy on 'Control of Woodland Removal'.

### **Conservation Section**

- 72 No objection. Cognisance of the Butterstone Tree Preservation Order 2008, which is opposite the tailrace, is required to be taken into account.

### **Perth & Kinross Heritage Trust - Archaeology**

- 73 No objection subject to conditional control.

### **Community Council**

- 74 Dunkeld and Birnam Community Council object to the application.

## **REPRESENTATIONS**

- 75 The application has attracted 16 letters of objection. The issues raised by objectors are summarised as follows:-

- Visual Impact:- Tailrace, power house, infrastructure such as access roads, switch gear/transformers, removal of trees and impact of pipeline works.
- Impact on tourism and recreation:- including core path.
- Flooding.
- Impact on designated sites.
- Impact on protected species.
- Grid Connection.
- Concern about reduction in burns flow rate which could affect the burns ability to dilute discharge from septic tanks.
- Noise during construction and operation of the facility.
- Consideration of alternatives in the Environmental Statement.

### Response to issues

- 76 The appraisal section of this report responds to the material planning concerns raised.

### ADDITIONAL STATEMENTS

77	Environment Statement	Submitted
	Screening Opinion	Undertaken
	Environmental Impact Assessment	Submitted
	Appropriate Assessment	Not required. SNH advise that the proposal is unlikely to have a significant effect on any qualifying interests of the SPA.
	Design Statement/Design and Access Statement	Not required.
	Report on Impact or Potential Impact	Reports submitted as part of the Environmental Statement.

### APPRAISAL

- 78 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise. The Development Plan consists of the TAYplan 2012 and the Highland Area Local Plan 2000. The Perth and Kinross Council Local Development Plan – Proposed Plan January 2012 is a material consideration in the determination of the application.
- 79 The determining issues in this case are whether: - the proposal complies with Development Plan policy; whether the proposal complies with supplementary planning guidance; or if there are any other material considerations which justify a departure from policy.
- 80 Policy 6 of TAYplan relates to the aim of delivering a low/zero carbon future for the city region to contribute to meeting Scottish Government energy targets and indicates that, in determining proposals for energy development, consideration should be given to the effect on off-site properties, the sensitivity of landscapes

and cumulative impacts. Policy 6 of the structure plan sets out the principles that all development proposals should have regard to, the relevant policies of the Local Plan are assessed under the following headings in further detail where applicable.

### **Hydrology and River Morphology**

- 81 The Buckny Burn catchment receives 1020mm of rainfall per year on average. The catchment lies approximately 7km to the north of the Highland Boundary Fault, in Dalradian age metamorphic rocks. The catchment is south facing, with thin soils on the steeper slopes and areas of peat in topographic hollows. Within the catchment there are numerous wetland areas and lochans providing some attenuation to storm runoff. Downstream of Butterstone the river joins the Lunan Burn, through two lochs and the River Isla, and ultimately the River Tay.
- 82 During operation, the proposed abstraction regime would mostly affect the medium flows in the burn. When the flow in the Buckny Burn is less than the Hands-off flows stipulated for the scheme by SEPA, then no abstraction will occur and the natural river flow will pass through the system unhindered. Hands-off flows are often set to Q90, which is considered to be necessary for the maintenance of aquatic populations, however, this proposal is based on Q95 as there are no migratory fish in the channel and residual flows in the affected reach of the Buckny Burn is also supplemented by two tributary burns upstream of the proposed pipe crossing, which will increase the flow rate.
- 83 The applicant is required to submit a CAR application for the proposed development under the Water Environment (Controlled Activities) Regulations 2011. SEPA has advised that this has been submitted and is currently being assessed. The impact on other CAR licences which discharge to the burn will be taken into account under SEPA's assessment of the proposed abstraction. It should be noted that SEPA offer no objection to this planning application.
- 84 The Environmental Statement highlights the potential impacts of the proposed scheme on Hydrology and Morphology and includes design and construction mitigation measures in terms of in Table 14. I am content that the design arrangements and conditional control can enable the development to proceed.

### **Flooding and Drainage**

- 85 Policy 2 of the Structure Plan and Policy 7 of the Highland Area Local Plan relate to flood risk. Development which has a significant probability of being affected by flooding or would increase the probability of flooding elsewhere should usually not be permitted. However, there are exceptions, for example where infrastructure is essential for operational reasons and where it cannot be located elsewhere. In such cases, the development should be designed to remain operational in times of flood and not impede water flow, and the effect on the flood water storage capacity should be kept to a minimum.
- 86 SEPA and the Flooding Officer in the Council have taken account of the Environmental Statement and offer no objection to the proposed development

on flood risk grounds due to the nature of the development. However they advise that the Power House should incorporate flood resistant and resilient materials.

### **Private Water Supplies**

- 87 Consultation with Environmental Health confirms that properties in the vicinity of the development are served by private water supplies, in particular Butterstone Supply and Butterglen Supply. The principal risk to water supplies is during the construction. While contamination of water supplies is a private legal issue, I consider it only reasonable to ensure the safeguarding of water quality and water supplies thereby ensuring the amenity of residential and commercial premises are protected. Consequently a condition will be attached to the consent to secure this matter.

### **Nature Conservation Effects Designated Sites**

#### River Tay Special Area of Conservation

- 88 The watercourse forms part of the River Tay Special Area of Conservation (SAC), designated for its clear water lochs, Atlantic salmon, sea lamprey, otter, brook lamprey and river lamprey. It also contains populations of freshwater pearl mussel.

#### Atlantic salmon and lamprey

- 89 There are no Atlantic salmon or lamprey populations in the Buckny Burn due to impassable barriers further down the Lunan Burn. However, Atlantic salmon or lamprey spawning grounds are vulnerable to construction run-off, which can smother the gravel spawning areas with silt. The applicant will be required to follow SEPA Pollution Prevention Guidelines, which greatly reduces these risks. Taking this into account and the distance involved it is unlikely there will be a significant effect on these qualifying interests of the SAC.

#### Freshwater pearl mussel

- 90 Freshwater pearl mussels are protected under Schedule 5 of the Wildlife and Countryside (Scotland) 1981 Act (as amended). Atlantic Salmon have a critical role in the freshwater pearl mussels life cycle but as Atlantic salmon are not in this stretch of the Buckny Burn the presence of freshwater pearl mussels can be discounted. However, following pollution prevention guidelines should also ensure that they are not affected by silt associated with construction run-off or other pollutants.

#### Otters

- 91 Sightings of otters within the Buckny Burn have been recorded historically. The survey work associated with this application observed no positive signs of otter activity although suitable otter habitat in the burn corridor was highlighted.

- 92 The Environmental Statement confirms that the presence of otters cannot be ruled out and includes reasonable mitigation measures.

#### Forest of Clunie Special Protection Area and Site of Special Scientific Interest

- 93 The Forest of Clunie Special Protection Area (SPA) designation is classified for its internationally important populations of breeding birds, hen harrier, merlin, short-eared owl and osprey while the Site of Special Scientific Interest (SSSI) designation is associated with black grouse and its breeding bird assemblage.
- 94 The works associated with the development are outwith the designated sites although the intake and upper part of the penstock pass within a few tens of metres of the SPA boundary. Work on the project is described in the planning application to be scheduled to take place outside of the bird nesting season. As a result, it is considered that there will be no likely significant effect on the SPA or SSSI.

#### The Den of Riechip Site of Special Scientific Interest

- 95 The Den is an area of mixed woodland lying in a gorge on schistose rocks to the North of the village of Butterstone. It contains fragments of ash, hazel, oak and elm woodland with a large number of uncommon higher plant species such as wood fescue *Festuca altissima*, mountain melick *Melica nutans*, early purple orchid *Orchis mascula*, and stone bramble *Rubus saxatilis*. There is also a large population of the nationally rare plant species whorled Solomon's seal *Polygonatum verticillatum*.
- 96 Consultation with Scottish Natural Heritage confirms that they have been in early discussions with the developer and as a result the pipe route has changed, additional rare plant surveys carried out and construction methods clarified. Overall they are satisfied that there are no rare plants on the proposed pipe route through the SSSI and are content with the loss of trees within a 6 metre working corridor subject to appropriate compensatory planting.

#### Requirement for an Appropriate Assessment

- 97 The status of the SAC and SPA mean that the requirements of either the Conservation (Natural Habitats, &c.) Regulations 1994 as amended, (the "Habitats Regulations") apply, or the Conservation of Habitats and Species Regulations 2010 as amended apply.
- 98 Given the proposal is not likely to have a significant effect on the qualifying interests of the River Tay Special Area of Conservation (SAC) or the Forest of Clunie Special Protection Area an appropriate assessment is not required in this instance.

#### **Nature Conservation Effects Protected Species**

- 99 The ES appears competent in identifying and surveying for protected species likely to be present across the development site and makes reasoned mitigation



proposals to reduce the risk of any damaging impacts. This includes the need for contemporary surveys to inform disturbance mitigation efforts and to avoid direct harm to protected species. The mitigation proposals described in the ES, if followed, are likely to ensure compliance with the Wildlife and Countryside Act 1981 (as amended) and avoid harmful and illegal impacts on protected species and habitats.

- 100 Scottish Natural Heritage advises that the responsibility to ensure compliance with the Wildlife and Countryside Act remains with the developer. If new surveys discover signs of protected species in close proximity to the proposed works then a licence from SNH may be required.

### **Groundwater Dependant Terrestrial Ecosystems**

- 101 Groundwater Dependant Terrestrial Ecosystems (GWDTEs), which are types of wetland, are specifically protected under the Water Framework Directive. SEPA advise that GWDTEs are in the vicinity of the intake weir, access track and pipeline. SEPA advise that where possible, the route of the penstock should avoid these areas to maintain the hydrological processes through the wetland. They suggest that during construction and in line with the Ecological Appraisal, an Ecological Clerk of Works (ECoW) is appointed to mark out wetland areas prior to construction commencing.
- 102 Overall the implementation of appropriate mitigation secured by conditional control will ensure habitat and species are protected thereby complying with the TAYPlan as well as policies 1, 13, 14 and 15 of the Local Plan.

### **Cultural Heritage**

#### Unscheduled Archaeology

- 103 Archaeological sites are an important, finite and non-renewable resource and should be protected and preserved in situ wherever feasible. The presence and potential presence of archaeological assets should be considered by Planning Authorities when allocating sites in the Development Plan and when making decisions on applications. Where preservation in-situ is not possible Planning Authorities should, through the use of conditions or a legal agreement, ensure that developers undertake appropriate excavation, recording, analysis, publication and archiving before and/or during development.
- 104 Perth and Kinross Area Archaeologist (PKHT) has been consulted. They confirm that there is a wealth of archaeology in the area surrounding the development site showing continuity of settlement from the Bronze Age through to the post medieval period. The proposed development will not impact directly on any known archaeology sites. However, due to the density of archaeology in the area it is recommended that a walkover survey of the development site be carried out, prior to development starting on site, to identify the presence or absence and character of any archaeological remains within the development area. If any archaeological sites are identified these should be avoided and fenced off during construction works. If archaeology sites cannot be avoided

archaeological monitoring or excavation may be required. In line with Scottish Planning Policy historic environment section (paragraphs 110-112 and 123), PKHT recommended that a walk-over survey be carried out by condition and if necessary, further develop a mitigation strategy to deal with any remains identified.

### Listed Buildings

- 105 While the word setting is not defined in planning legislation Historic Scotland's guidance on this matter confirms that authorities are firmly encouraged not to interpret the word narrowly. It highlights at all times the listed building should remain the focus of its setting. Attention must never be distracted by the presence of any new development whether it be within or out with the curtilage. In this case I am content that the impact on the setting of Craigton Cottage would be minimal. The application therefore accord with Local Plan Policy 28.

### **Landscape and Visual Effects**

- 106 One of the main impacts will be the pipeline corridor, scarring through the landscape will occur due to tree felling, vegetation clearance and construction activities. The impacts of construction activities can be reduced by replacing original turfs shortly after construction as well as being supplemented by restoration measures including the spreading of locally derived seeds (where required) and compensatory tree planting to comply with the Forestry Commissions Policy on Woodland removal. Field boundaries will be altered to construct the pipeline and it is prudent to have fencing and dykes re-established on completion of construction works to retain these boundary features and field pattern. Taking this into account the visual impact connected with the buried pipeline element of the scheme will diminish over time.
- 107 The proposed intake structure has been located where there are existing steps in the riverbed. Although it will become a new focal point I am content that the form, scale and design is appropriate taking account of the landform.
- 108 The spillway will result in another linear feature in the landscape. I consider that mitigation is required to reduce the harshness, details of landscaping and materials shall be sought via condition.
- 109 The pipe bridge is screened by trees and other vegetation in a relatively inaccessible part of the Buckny Burn valley, therefore the impact on the landscape is limited. It is likely that the benefits of screening provided by the trees will vary through the seasons. As a consequence the pipe/pipe bridge in this location should be painted in a matt finish.
- 110 I note the concern expressed by neighbours about the visibility and design of the powerhouse, however I consider the building to be sited in an appropriate location with it's presence in the landscape reduced by the surrounding topography which acts as a backcloth when viewed from the village of Butterstone. It is worth noting that the orientation of the timber clad powerhouse building screens the external infrastructure thereby reducing the potential

impact further. In terms of design I am content with the scale, form and materials of the building which is suitable for this location. Details of fencing and landscaping to further mitigate the proposal will be secured by condition. The tail race is to be dry stone lined and I am content with this approach.

- 111 Overall I am content that the proposal will not have an adverse impact on the Highland Foothills and Highland Summit and Plateaux landscape character types as defined by Scottish Natural Heritages Tayside Landscape Character Assessment 1999 (TLCA).
- 112 As the development is located within the River Tay (Dunkeld) NSA Scottish Natural Heritage were consulted. They advised that the development has the potential to affect two of the nine special qualities of the NSA, “the beauty of cultural landscapes accompanying natural grandeur” and the quality of “characterful rivers and waterfalls”. Their assessment concludes that the impacts will be of a scale that will have no lasting harmful effects upon the nationally important special features of the NSA.
- 113 Taking this into account I consider the development complies with Policy 3 of the Tayplan as well as Highland Area Local Plan policy 3, 18, 21 and 22.

### **Transport**

- 114 There will be initial plant deliveries and then deliveries of pipes and ready mix concrete trucks on a periodic basis and the one off delivery of the turbine and generator during the construction period. There will also be regular daily site personnel and delivery van movements during construction. There will therefore be a temporary increase in traffic associated with construction. I appreciate construction operations will have an impact on the nearby residential properties in terms of noise and vehicular movement, however they will be for a temporary period only and the timing and operations associated with construction are controlled by separate legislation outwith the planning remit.
- 115 Transport Scotland has been consulted on the proposal due to the impact the development may have on the trunk road. They recognise the development will increase the percentage of traffic but they will cause minimal environmental impact on the trunk road network.
- 116 The Council's Transport Planner has been consulted on the proposal and has offered no objection subject to conditions.

### **Public Access**

- 117 Outdoor Access has now been given a new context in Scotland, since the Land Reform (Scotland) Act 2003. This establishes a duty on local authorities to uphold the outdoor access rights as specified in Section 13(1) of the Act. However, this duty on local authorities does not stop them from carrying on with the authority's other functions, an example of this is when they are considering planning applications for development on land over which access rights are exercisable, they will still be able to give consent for developments. Although,

where appropriate, local authorities should consider attaching a suitable planning condition to enable them to ensure reasonable continuing public access.

- 118 In this case the main access to the site is a core path and during construction there is potential that the development could impair outdoor access rights. To ensure this doesn't occur the Access Officer recommends a condition to ensure the route is not obstructed during building works or on completion.

### **Noise**

- 119 The planning system has an important role to play in preventing and limiting noise pollution. Although the planning system cannot tackle existing noise problems directly, it has the task of guiding development to the most suitable locations and regulating the layout and design of new development. The noise implications of development can be a material consideration in determining applications for planning permission. Sound levels in gardens and amenity areas also need to be considered in terms of enabling a reasonable degree of peaceful enjoyment of these spaces for residents and this is an issue that has been raised in letters of representation.
- 120 The Environmental Health Service of the Council has taken account of the applicant noise assessment as well as the report prepared on behalf of the Butterstone Community. Environmental Health have confirmed that a noise impact assessment was undertaken by their officers, which included a background survey from the garden of the nearest residential property and also the garden of another residential property located in an area where the noise from the burn was not audible. The results obtained were able to be compared to those results obtained by the applicants and the community's noise consultants.
- 121 They acknowledge that there is the potential for low frequency noise created by the power generating equipment to cause nuisance to nearby sensitive receptors if not adequately controlled. However Environmental Health considers it unlikely that the level of noise would adversely affect amenity or cause nuisance based on the proposed attenuation, powerhouse construction and data provided.
- 122 The applicants Noise Assessment states that noise from powerhouse would be below Noise Rating Curve 20 within nearby residential properties. Due to the nature of the application site Environmental Health recommend conditions be included on any given consent to set acoustic and vibration levels.

### **Content and Adequacy of the Environmental Statement**

- 123 The purpose of the EIA process is to examine the likely significant environmental effects from a proposed development having regard to the project and its nature, size or locality. Through the EIA process, a proper understanding of the interaction between the project and its location should be assessed to determine if the effects on the environment are likely to be

significant and if there are associated mitigation measures which make this acceptable.

- 124 Part II, Schedule 4 of the Environmental Impact Assessment (Scotland) Regulations 2011 outlines the information required to be included in any EIA. The basic content and the associated background information of the Environmental Statement are considered to meet the requirements of those regulations.

### **Assessment of Alternatives within the Environmental Statement**

- 125 It should be noted that a proposer does not have to consider alternatives; but if they do they must provide an outline of the main alternatives studied.
- 126 For each of the main alternatives studied, an indication of the main reasons for the choice, that is, why the alternative was not adopted, taking account of its environmental effects and those of the submitted project; noting that the predicted environmental effects of the alternatives rejected may have been better or worse than the submitted project.
- 127 Thus, the EIA process does not absolutely constrain the selection of the submitted project in preference to alternatives studied, but it is reasonable to expect that a rational explanation would be included in the Environmental Statement as to why a more, or less, environmentally harmful project was chosen for submission.
- 128 In this case the Environmental Statement contains an outline of the alternatives studied by the proposer in chapter 5 with a further report 'Consideration of alternative pipe routes and powerhouse locations' contained in Appendix 18. A traffic light style table clarifies the selection process summarises and the thought process of the proposer in the Environmental Statement and in this case I am content with this approach.

### **LEGAL AGREEMENTS**

- 129 None required.

### **DIRECTION BY SCOTTISH MINISTERS**

- 130 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, regulations 30 – 32 there have been no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in or notification relating to this application.

### **CONCLUSION AND REASONS FOR RECOMMENDATION**

- 131 The proposed development would contribute to the Scottish Government's target of 100% of electricity generation from renewable energy sources by 2020. I have taken account of the potential impacts the development may have on the environment and sensitive receptors and conclude that a grant of

planning permission for the proposed development with conditional control to secure mitigation measures would comply with the Development Plan for the area. In this case there are no material considerations that would justify refusal of the application.

## **RECOMMENDATION**

### **A Approve the application subject to the following conditions:**

- 1 The development shall be undertaken in accordance with the Application and Environmental Statement, unless otherwise provided for by conditions imposed on the planning consent. The development shall be undertaken in its entirety, with no partial implementation and construction activities shall be completed within an 18 month period from the commencement of the development unless otherwise agreed in writing by the Planning Authority.
- 2 Prior to the commencement of works on the development, the applicant shall submit for the written approval of the Planning Authority a Construction Traffic Management Scheme (TMS) which shall include the following:
  - (a) restriction of construction traffic to approved routes
  - (b) a code of conduct for HGV drivers to allow for queuing traffic to pass;
  - (c) emergency arrangements detailing communication and contingency arrangements in the event of vehicle breakdown;
  - (d) arrangements for cleaning of roads affected by material deposited from construction sites associated with the development;
  - (e) arrangements for signage at site accesses and crossovers and on roads to be used by construction traffic in order to provide safe access for pedestrians, cyclists and equestrians;
  - (f) arrangements to ensure that access for emergency service vehicles are not impeded;
  - (g) co-ordination with other major commercial users known to use roads affected by construction traffic;
  - (h) monitoring, reporting and implementation arrangements; and
  - (i) arrangements for dealing with non-compliance

The TMS as approved shall be strictly adhered to during the entire site construction programme all to the satisfaction of the Council as Planning Authority.

- 3 Prior to the commencement of site clearance details of trees to be retained and the comprehensive approach to their protection in accordance with *BS 5837:2012 "Trees in relation to Construction"* shall be submitted for the written approval of the Council as Planning Authority. For the avoidance of doubt this should specifically limit the working corridor within the Den of Riechip to a maximum of six metres in width. Following tree works the protection scheme shall be installed immediately in accordance with the plan unless phasing has been proposed and approved. The approved Tree Protection measures shall not be removed, breached or altered without prior written authorisation from the local Planning Authority but shall remain in a functional condition throughout the

entire development or as per the phasing plan. If such protection measures are damaged beyond effective functioning then works that may compromise the protection of trees shall cease until the protection can be repaired or replaced with a specification that shall provide a similar degree of protection.

- 4 Prior to the commencement of development the operator of the hydro scheme shall have written permission from the relevant competent authority to export electricity to the National Electrical Grid. Details of the connection point and methods of connecting to the grid from the powerhouse shall be submitted for approval of the Council as Planning Authority. Thereafter the connection shall be installed in accordance with the approved method.
- 5 Prior to Commencement of Development, a Detailed Construction Environmental Management Plan (CEMP) detailing environmental mitigation measures and construction method statements, including specific measures for environmental monitoring during construction, shall be submitted to and approved by the Planning Authority in consultation with the Scottish Environment Protection Agency and Scottish Natural Heritage. Such details shall be submitted not less than one month prior to the agreed scheduled commencement date and shall incorporate detailed pollution avoidance and mitigation measures for all construction elements. Thereafter the Development shall be fully undertaken in accordance with the approved CEMP.
- 6 Construction work on the site shall be confined to the hours of 0700-1900 Mondays to Fridays and 0700-1300 hours on Saturdays, with no working on Sundays, local or national public holidays unless otherwise agreed in writing with the Planning Authority.
- 7 Prior to the commencement of development details of an independent and suitably qualified Ecological Clerk of Works to be appointed by the developer, and approved by the Planning Authority to oversee specified construction and decommissioning phases of the development. The ecological clerk of works shall have responsibility for co-ordinating environmental monitoring and implementation of the necessary mitigation measures as required by the planning conditions, this shall include an approved timetabled reporting scheme to the Planning Authority.
- 8 The Ecological Clerk of Works (ECoW) shall be involved in the following activities:-
  - (a) Provide an ecological tool box talk to construction staff prior to the commencement of construction works.
  - (b) The ECoW shall mark out Groundwater Dependant Terrestrial Ecosystems (GWDTEs) prior to the commencement of any construction activities and construction works within these areas shall be undertaken in accordance with Section 6.10 of the Bowland Ecology Ecological Appraisal (September 2012).
  - (c) Prior to the commencement of any clearance/felling or development works on site pre-construction surveys shall be carried out by a suitably qualified ecologist to determine the presence of all European Protected Species

- (Otter, Wildcat, all bat species) and also Red Squirrel and determine any mitigation measures required to minimise disturbance of such species. Any such mitigation measures shall have been submitted to and approved by the Planning Authority in consultation with SNH.
- (d) Prior to the commencement of any vegetation clearance associated with development the ECoW shall walk in front of those strimming the working corridor to encourage animals/reptiles to relocate themselves. For the avoidance of any doubt the strimming works shall be undertaken between the months of February to October.
  - (e) If works are undertaken during the bird breeding season then the ECoW shall survey vegetation prior to its removal. If an active nest is found then works should be modified to ensure it does not disturb the young until they have fled the nest.
- 9 Prior to any decommissioning of the site a Decommissioning Method Statement shall be submitted for the approval of the Council as Planning Authority in consultation with SNH and SEPA. This method statement should ensure there is a process in place for ensuring good practice working methods are used for the removal of infrastructure and site restoration.
- 10 Prior to Commencement of Development, a fully detailed landscaping mitigation plan which will ensure there is no net loss of trees associated with the felling required to implement the consent shall be submitted to and approved in writing by the Planning Authority. The landscaping and replanting details will have a particular focus on the vicinity of the Den of Riechip SSSI, the wash out channel and powerhouse. Measures to protect the new planting from animals should be included. The approved scheme shall be fully implemented to the satisfaction of the Planning Authority no later than the first planting season following the Commissioning of Development. Any plant failures through disease, weather exposure, neglect or damage shall be replaced with equivalent species within one year of such failure.
- 11 Within three months of completion of the construction works any dykes that have been dismantled to accommodate the pipeline route shall be fully reinstated to their original height and design all to the satisfaction of the Planning Authority.
- 12 Prior to the commencement of development details of fencing (specification and locations) associated with the above ground structures shall be submitted to and approved in writing by the Planning Authority, thereafter the scheme shall be implemented in accordance with the approved plans.
- 13 Power generating equipment shall be acoustically enclosed to attenuate sound therefrom, such that it does not exceed Noise Rating 30 between the hours of 0700 and 2300 hours or Noise Rating 20 between the hours 2300 and 0700 hours within any neighbouring noise-sensitive property. The measurement shall be taken with the windows slightly open and the figure when measured and/or calculated and plotted on a Noise Rating chart.



- 14 The Powerhouse and Transformer Compound shall be designed and constructed to the satisfaction of the Planning Authority to ensure that nearby dwellings are not subjected to Vibration Dose Values in excess of 0.2 to 0.4  $m/s^{1.75}$  between 2300 and 0700 hours (as set out in Table 1 of BS 6472-1:2008 Evaluation of human exposure to vibration in buildings) as a result of vibration from plant associated with the application.
- 15 Prior to commencement of site works, details of the location and measures proposed for the safeguarding and continued operation, or replacement private water sources, private water supply storage facilities and/or private water supply pipes serving properties in the vicinity, sited within and running through the application site, shall be submitted to and approved in writing by the Council as Planning Authority. The approved protective or replacement measures shall be put in place before the site works commence and shall be so maintained throughout the period of construction.
- 16 Prior to the commencement of development details of the flood resistant and resilient materials to be incorporated into the design of the powerhouse along with acoustic attenuation measures shall be submitted to and approved in writing by the Planning Authority, thereafter the scheme shall be implemented and maintained in accordance with the approved plans.
- 17 Prior to the commencement of development a levels survey (existing and proposed) detailing the cut and fill required to develop the power house site shall be submitted to and approved in writing by the Planning Authority. This will include cross sections showing proposed finished ground and floor levels of the power house building relative to a fixed datum point and illustrate the impact on flood plain capacity is minimised. Following approval the scheme shall be implemented in accordance with the approved plans.
- 18 The external surfaces of the building(s) and, where applicable, all areas of hard surfacing, shall not be constructed other than in materials, details/samples of which shall be submitted to and approved in writing by the local Planning Authority prior to the commencement of development.
- 19 No development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by Perth and Kinross Heritage Trust, and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with Perth and Kinross Heritage Trust.
- 20 The core path DUNK/123/1 adjacent to the site shall not be obstructed during building works or on completion unless otherwise agreed in writing with the Planning Authority. Any damage done to the route and associated signage during building works must be made good on completion of the construction works all to the satisfaction of the Planning Authority.

- 21 In the event the Development fails to produce electricity on a commercial basis to the public network for a continuous period of 12 months with no realistic expectation of resumption in the foreseeable future, then, unless otherwise agreed in writing with the Planning Authority, it shall be deemed to have permanently ceased to be required. The Planning Authority shall have due regard to the circumstances surrounding the failure to generate and shall take any decision following discussion with the Company and such other parties it considers appropriate. If the Development is deemed to have ceased to be required the Company shall cause the Development to be decommissioned and the site will be reinstated within a period of eighteen months following the expiry of such period of cessation or within such timescale as agreed in writing by the Planning Authority.

Reinstatement shall include the removal of the above ground infrastructure, if considered necessary and restoration of the natural water regime to normal flows, to the written satisfaction of the Planning Authority in consultation with other relevant authorities in accordance with condition 9.

**REASONS:**

- 1 To ensure the development is implemented in accordance with the application documentation and that it is constructed in one continuous phase and within an acceptable timescale.
- 2 In the interests of pedestrian and road safety.
- 3 To minimise tree loss and ensure trees to be retained are protected.
- 4 To ensure that the plant is capable of exporting electricity to the national grid.
- 5 In the interests of visual amenity.
- 6 To minimise disturbance and protect the amenity of nearby residents.
- 7 To ensure a suitably qualified person oversees management of ecological interests on the site.
- 8 To minimise disturbance to otters, wildcats, bats, red squirrels etc and sensitive areas during the construction process.
- 9 To ensure that the site is reinstated to the satisfaction of the Planning Authority.
- 10 To ensure that the proposed development does not prejudice the appearance of the locality and to preserve and enhance nature conservation interests.
- 11 To ensure the dykes are reinstated to their original style.
- 12 To ensure a suitable specification of fencing is installed.
- 13-14 To reduce the risk of noise nuisance.

- 15 To protect private water supplies.
- 16 To ensure the building is flood resilient and incorporates suitable noise attenuation measures.
- 17 To minimise the impact on flood plain capacity.
- 18 To ensure that the proposed development does not prejudice the appearance of the locality.
- 19 In order to ensure the protection of any archaeological interest of the site.
- 20 To ensure continued public access along the public paths.
- 21 To ensure the development is decommissioned and the site reinstated when ceased to generate electricity.

## **B JUSTIFICATION**

The proposal is considered to comply with the Development Plan and there are no other material considerations that would justify a departure therefrom.

## **C PROCEDURAL NOTES**

None.

## **D INFORMATIVES**

- 1 This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. (See Section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
- 2 Under Section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) 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. A failure to comply with this statutory requirement would constitute a breach of planning control under Section 123(1) of that Act, which may result in enforcement action being taken.
- 3 The applicant should ensure that any existing wayleaves for maintenance or repair to existing private water supply or septic drainage infrastructure in the development area are honoured throughout and after completion of the development.
- 4 The applicant is advised that in terms of Section 56 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environment Protection Agency

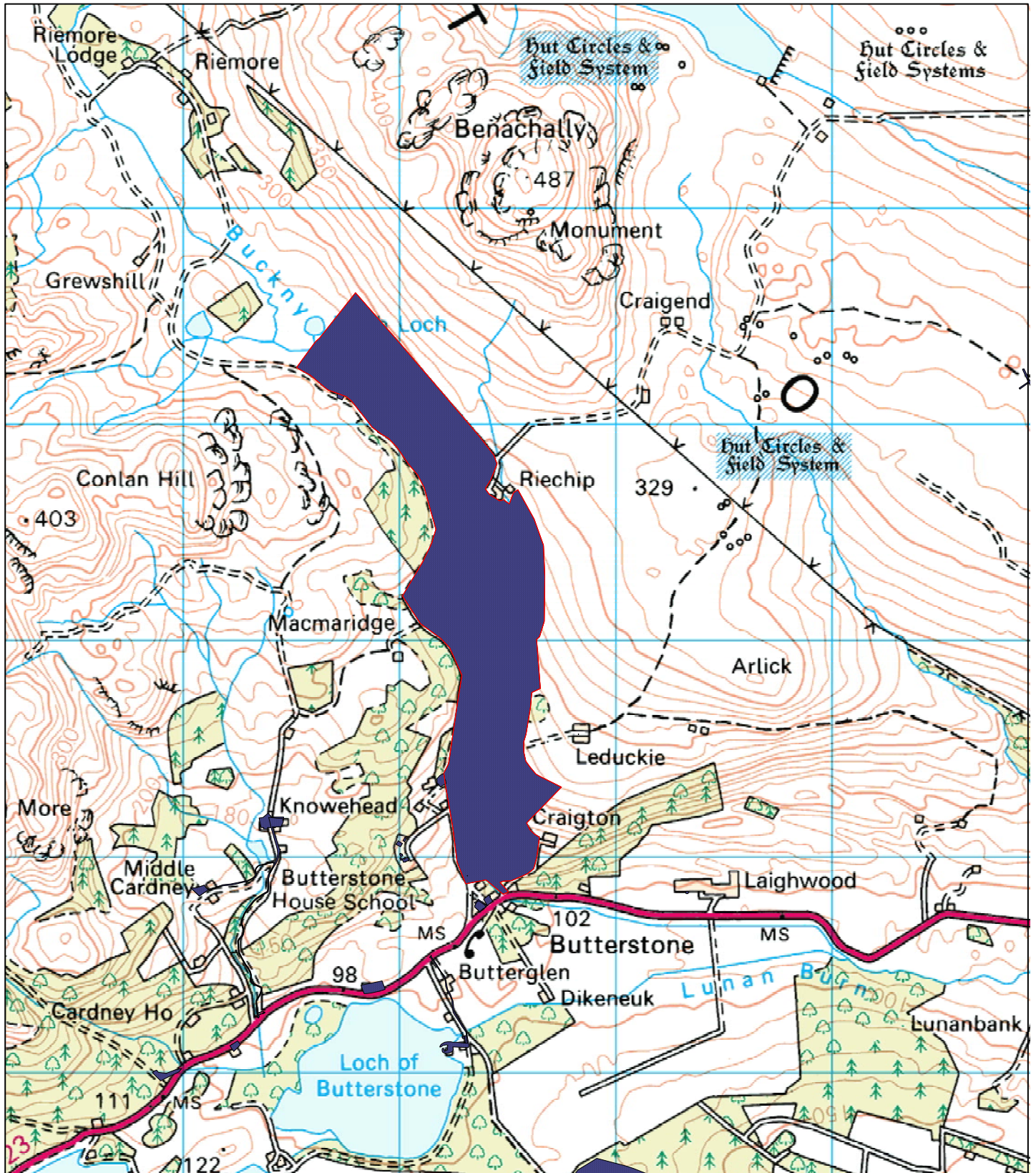
- 5 The applicant is advised that the works are likely to need a license under the Water (Controlled Activities) Regulations 2011 (CAR). The applicant should contact SEPA's Perth Environmental Protection and Improvement Team (Tel: 01738 627989) in regard to this. The applicant should ensure that all works on site comply with the best practice guidelines laid out in SEPA's published Pollution Prevention Guidance, found at [www.sepa.org.uk](http://www.sepa.org.uk)
- 6 As soon as practicable after the development is complete, the person who completes the development is obliged by Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.

Background Papers: 16

Contact Officer: John Russell Ext 75346

Date: 21 December 2012

**Nick Brian**  
**Development Quality Manager**



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↑ Scale  
1:25000

