

Perth and Kinross Council  
Development Management Committee – 13 November 2013  
Report of Handling by Development Quality Manager

**Installation of a run of river hydro scheme and powerhouse at Pitcastle,  
Strathtay**

Ref. No: 12/00709/FLL  
Ward No: 4 - Highland

**Summary**

This report recommends approval of the application for the installation of a run of river hydro scheme and powerhouse as the development is considered to comply with the relevant provisions of the Development Plan.

**Background and Description**

- 1 Full planning consent is sought for the installation of a run of river hydro scheme on the River Tay at Grandtully/Strathtay. The proposal is a run of river scheme with a single intake point, utilising an existing weir on the River Tay which will have a capacity of up to 250kw.
- 2 The development is proposed to utilise an existing weir on the River Tay which is proposed to be upgraded, it is also involves the construction of a new headrace to transfer water downstream to the powerhouse. The proposed new powerhouse will replace an existing derelict building which housed a hydro scheme in the 1960s and will house an Archimedean Screw Turbine (AST).
- 3 The Pitcastle Scheme is a run of river scheme which will operate without storage according to the flow of the river. Abstracting a proportion of the flow at the intake point, passing it via the new headrace to a powerhouse allows this to happen. The water would then be discharged through an AST, which would drive a generator to produce electricity. The hydro scheme will be connected to the grid via a nearby electricity supply. A new access track is proposed along the route of the headrace.
- 4 The existing headrace which served an older hydro scheme at this location is proposed to be blocked off and filled in. A new headrace is proposed which will be in the form of an open channel crossing the fields to the north of the River Tay.
- 5 The powerhouse is located to the west of the bridge over the River Tay which links Grandtully to Strathtay and is located within the Conservation Area. A construction compound is proposed adjacent to the powerhouse.

## National Policy and Guidance

### Scottish Planning Policy 2010

- 6 This 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.

#### The most relevant paragraphs of the above are as follows:

- Paragraphs 45 - 51 Economic Development
- Paragraphs 92 - 97 Rural Development
- Paragraphs 110 - 124 the Historic Environment
- Paragraphs 115 - 117 Conservation Areas
- Paragraph 123 Archaeology
- Paragraphs 125 - 148 Landscape & Natural Heritage
- Paragraphs 134 - 136 International Designations (SPA's & SAC's)
- Paragraphs 142 - 145 Protected Species
- Paragraphs 146 - 148 Trees & Woodland
- Paragraphs 165 - 181 Transport
- Paragraphs 182 - 195 Renewable Energy
- Paragraphs 196 - 211 Flooding and Drainage

## DEVELOPMENT PLAN

- 7 The Development Plan for the area consist of the Approved Tayplan 2012 and the Adopted Highland Area Local Plan 2000

### Tayplan: Strategic Development Plan 2012-2032

Under the Tayplan the principal relevant policy is:-

#### 8 Policy 3: Managing Tayplan's Assests

Understanding and respecting the regional distinctiveness and scenic value of the TAYplan area through: ensuring development likely to have a significant effect on a designated or proposed Natura 2000 sites (either alone or in combination with other sites or projects), will be subject to an appropriate assessment. Appropriate mitigation requires to be identified where necessary to ensure there will be no adverse effect on the integrity of Natura 2000 sites in

accordance with Scottish Planning Policy; and safeguarding habitats, sensitive green spaces, forestry, wetlands, floodplains (in-line with the water framework directive), carbon sinks, species and wildlife corridors, geodiversity, landscapes, parks, townscapes, archaeology, historic buildings and monuments and allow development where it does not adversely impact upon or preferably enhances these assets;

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

Under the Local Plan the principal relevant policies are:-

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

- 9 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**

- 10 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, compatibility with its surroundings in land use terms and should not result in a significant loss of amenity to the local community, the local road network should be capable of absorbing the additional traffic generated by the development and a satisfactory access onto that network provided, there should be sufficient spare capacity in drainage, water and education services to cater for the new development, the site should be large

enough to accommodate the impact of the development satisfactorily in site planning terms and new development should be designed so as to be energy efficient

### **Policy 3 Highland Landscape**

- 11 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**

- 12 Details of landscape treatment should be submitted with development proposals including, where appropriate, boundary treatment, treatment of settlement edges, and impact on key views. 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**

- 13 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.

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 11 Highland Renewable Energy**

- 14 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**

- 15 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 15 Highland Nature Conservation**

- 16 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 25 Highland Archaeology**

- 17 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 96 Conservation Areas**

- 18 New development will only be acceptable when it is compatible with the character and density of the surrounding areas and does not result in the loss of significant trees.

## **PERTH AND KINROSS PROPOSED LOCAL DEVELOPMENT PLAN 2012**

- 19 On the 30 January 2012 the Proposed Plan was published. The Council's current adopted Local Plans will eventually be replaced by the Local Development Plan. The Council's Development Plan Scheme sets out the

timescale and stages leading to adoption. The Proposed Local Development Plan has undergone an Examination following which a report was published on 11 October 2013 containing the Reporter's recommendations. The Council has a three month period to consider the Reporter's recommendations and the modified Plan will be published by 11 January 2014. This will be the Plan that the Council intends to adopt, subject to agreement by Scottish Ministers. Prior to adoption, the Proposed Local Development Plan 2012 is a material consideration in the determination of this application, reflecting a more up to date view of the Council than those contained in the relevant adopted Local Plan.

The most relevant policies of the above are as follows:-

**Policy PM1: Placemaking**

- 20 Design and siting of development should reflect the character and amenity of place.

**Policy NE1: Environment and Conservation Policies**

- 21 National, local and European protected species should be considered in development proposals.

**Policy NE1A: International Nature Conservation Sites:-**

- 22 Development which could have a significant effect on a site designated or proposed under the Habitats or Birds Directive (Special Areas of Conservation and Special Protection Areas) or a Ramsar Site will only be permitted after an Appropriate Assessment indicates certain criteria.

**Policy NE2: Forestry, Woodlands and Trees**

- 23 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: Bio Diversity**

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

**Policy HE3: Conservation Areas**

- 25 There is a presumption in favour of development in conservations areas that preserves or enhances its character or appearance.

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

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

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

- 27 The 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 ER1: Renewable and Low Carbon Energy Generation**

- 28 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 in to account.

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

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

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

- 30 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 EP8: Noise Pollution**

- 31 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**

### **Grandtully/Strathhtay Conservation Area Appraisal**

### **Tayside Landscape Character Assessment (TLCA)**

- 32 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 Heiritage Version 1 – December 2010**

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

## SITE HISTORY

34 No specific relevant planning history.

## CONSULTATIONS

<b>Perth and Kinross Heritage Trust</b>	No objection subject to condition
<b>Environmental Health</b>	Initial objection due to noise, addressed through submission of further noise assessment and subject to conditions
<b>Local Flood Prevention Authority</b>	No objection subject to conditions
<b>Scottish Natural Heritage</b>	No objection
<b>Scottish Environment Protection Agency</b>	No objection

**Scottish Canoe Association** No response received

## REPRESENTATIONS

35 A total of 15 letters of representation have been received over three separate advertisement periods following the submission of additional information on two occasions by the application. This additional information included the submission of a report to address comments made in letters of representation in August 2012 and the submission of a Noise Survey in September 2013.

36 The representations have raised the following relevant issues: -

- Visual impact/design
- Conservation Area character/loss of lade
- Trees
- Noise/residential amenity
- Loss of trees
- Lack of community benefit
- Impact on other recreational river users
- Impact on designated sites.
- Impact on protected species.
- Traffic impact

These issues are addressed in the appraisal section of this report.



## ADDITIONAL STATEMENTS

Environment Statement	Not required
Screening Opinion	Undertaken
Environmental Impact Assessment	Not required
Appropriate Assessment	Not required SNH advise that the proposal is unlikely to have a significant effect on any qualifying interests of the SAC.
Design Statement / Design and Access Statement	None
Report on Impact or Potential Impact	Reports submitted as part of submission.

## APPRAISAL

### Policy

- 37 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 determining issues in this case are whether: - the proposal complies with development plan policy; or if there are any other material considerations which justify a departure from policy. The most relevant policies of the Highland Area Local Plan (HALP) in this instance are Policies 1, 2, 3, 4, 5, 11, 13, 14, 18, 25, 26 and 96. The Council's Proposed Local Development Plan 2012 is also a relevant material consideration in this instance.
- 38 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.

### Landscape and Visual Impact

#### Powerhouse

- 39 The powerhouse is proposed on the north west bank of the River Tay to the south west of the bridge which links Grandtully with Strathtay. The powerhouse is located on the bank of the river in a similar location to the existing derelict hydro powerhouse building. The actual powerhouse building is proposed to be 6.5m x 8m in footprint and 8m in height and is proposed to be finished in timber panelling with a slate roof in an attempt to relate to the surrounding visual character. The design of the powerhouse has been subject to significant discussion. Following objections from residents the developer has stated that they are willing to clad the powerhouse in any materials necessary in order to satisfy the local population. I don't believe a stone clad building would be appropriate in this location. The proposed timber cladding relates to the style

and type of building proposed and will also help to blend the building in to the rural/woodland backdrop. I am satisfied with the materials proposed in the submission.

- 40 The AST is proposed to extend down from the building on the bank of the river and the screw is to be enclosed in timber to reduce noise and provide visual screening. The AST is to be 17m in length and approximately 4m in width. It will therefore be a large structure and will have a visual impact. Whilst I note that the letters of representation do not consider the presence of an earlier, now out of use, hydro scheme to have any bearing on this application I believe this is a relevant consideration. There is an existing ruinous concrete structure at the site of the powerhouse which housed infrastructure for a 1960s hydro scheme and I believe the replacement powerhouse building and AST is a significant visual improvement over the existing situation. I do not disagree that the AST will have a visual impact but I am satisfied that it is no more significant than the existing concrete structure.
- 41 Retaining walls are proposed on the river bank to contain the AST and these are proposed to be finished in natural stone rather than being concrete faced in order to reduce visual impact. The spillway and tailrace are also to be faced in stone to reduce their visual impact. The banking around these concrete structures is to be re-instated to ensure the visual impact, particularly from the opposite bank of the river is mitigated as much as possible. Whilst the powerhouse building and associated infrastructure in this location will be clearly visible from within the Grandtully/Strathtay Conservation Area I believe the choice of materials and careful design will ensure the visual impact is minimal. The Council's Conservation Officer has also commented on the proposal and offered no objection to this element of the proposal subject to conditions regarding receipt of full details of the stonework, timber cladding, roof slates and the colour finish of the AST. This should include details of the stone work and pointing to be provided on site for inspection. Whilst I appreciate that this scheme is introducing an industrial element into a rural village location I believe the scheme has been well designed to ensure it can integrate with the existing character. Furthermore it also involves the removal of the existing dilapidated hydro building.
- 42 I am satisfied that this element of the proposal complies with Policy 96 of the HALP and Policy HE3A of the PLDP.

### **Construction Compound**

- 43 This is proposed adjacent to the powerhouse area on the opposite side of an existing access track in an area currently a field. It will also be visible from the village, however it will only be temporary in nature and therefore the visual and landscape impact will only be for a temporary period. I intend to request full details of restoration by condition.

## **Headrace/Lade**

- 44 The headrace is proposed to travel in a north easterly direction across an existing field from the intake point to the powerhouse. The existing lade was considered as a potential option in the early stages of development however it is in very poor condition and it would have been difficult to widen without removing a large number of trees, its is therefore proposed to block off and fill in the existing lade.
- 45 Queries have been raised through letters of representation regarding the size and width of the proposed lade. The agent has confirmed that it has been sized in order to keep velocities to a minimum to limit erosion. The application has also provide some photographs of a similar lade from a scheme in Northern Ireland which demonstrates the lade being well finished with natural banks in order to minimise its visual impact. Although the lade is relatively large and will occupy a large area I am satisfied that appropriate landscape mitigation, similar to that carried out on the scheme in Northern Ireland will ensure its visual impact is minimised. Details of the landscape mitigation will be requested by condition.
- 46 Concerns have also been expressed regarding the removal of the lade. Whilst it has some minimal historic value associated with a now defunct 1960s hydro scheme I do not consider the lade to have such significant value to the conservation area to merit its retention. It no longer serves the function it was constructed for and I therefore believe it is reasonable for it to be filled in and replaced.
- 47 The location of the lade potentially requires the removal of a small detached boathouse. I have no objections to this provided that the fish shaped door handle features are salvaged. It should be noted that a separate permission for Conservation Area Consent to demolish the boathouse will be required and an informative is recommended to make the applicant aware of this. The archaeology report indicates that the door handles should be retained and preferably re-used in any new structure. Details of the proposed re-use of these features should be submitted and can be covered by condition.

## **Intake**

- 48 As outlined above the intake involves alterations to an existing intake structure and therefore the visual alterations to this element will be relatively minor. The intake is located on a more remote part of the river bank away from the centre of the village. A small timber footbridge is also proposed. I am satisfied that the additional works required will not be of significant detriment to the visual amenity of the area.

## **Access Tracks**

- 49 A new access track is proposed alongside the new headrace to allow for maintenance. As this will follow the line of the headrace and its width is not to be significant I am satisfied this new track will not have any significant impact.

## **Bridge Crossings**

- 50 Two new bridge crossings are proposed over the headrace at the east and west ends of the scheme. Details of the general design of these bridges have been submitted but the actual size has yet to be confirmed. I intend to request this by condition.

## **Trees**

- 51 There are a number of mature trees which occupy the river bank in this location. Concern was expressed upon submission of the application regarding the potential trees loss from the scheme. This was also expressed by the Council's Conservation Officer. Further detail was sought in order to establish the overall impact of tree loss. A number of trees are proposed for felling around the intake point and to accommodate the headrace. Whilst these trees will be felled the immediate area to the north is occupied by a large expanse of woodland which provide a backdrop to the proposed works. Therefore whilst the preference would be to avoid the felling of these trees I am satisfied that the existing adjacent woodland will provide suitable back drop to ensure the trees loss is not visually significant. The developer has offered to provide compensatory planting around the headrace in this location and this can be requested by a suitably worded planning condition.
- 52 There are a number of trees on the bank of the river adjacent to the proposed powerhouse and screw location. A plan has been submitted indicating that limited tree removal is proposed from this bank, however it is not particularly detailed. It appears as if only one tree is proposed for felling. In that respect I intend to request a more detailed tree plan for this location by condition to ensure full details of tree felling and re-planting is submitted for the powerhouse location. This will ensure any felling is minimised and compensatory planting is provided for any trees which do require to be felled. It should be noted, however that the trees located around the powerhouse aren't significant and are smaller saplings in comparison to the more mature woodland to the south. It would appear that this area was clear felled to accommodate the now derelict 1960s hydro scheme and only some limited re-growth has occurred. The loss of trees in this area, is therefore not considered to be significant.

## **River Tay Special Area of Conservation (SAC)**

- 53 Scottish Natural Heritage have been consulted on the application in regard to the potential impact of the scheme on the River Tay SAC. They have indicated that they do not consider the proposal to have any significant impact on the qualifying interests of the SAC. The development proposes a compensation flow which will ensure fish passage is maintained, as well as continuing the use of this stretch of the river by canoesits and rafters. There is potential for there to be indirect impacts during the construction phase, however these have been addressed within the submitted Construction Method Statement. Furthermore, re-locating the headrace, away from the river will reduce the potential for sediment and contamination to enter the river during the construction phase.

## **SEPA/CAR Licence**

- 54 The applicant is required to submit a CAR application for the proposed development under the Water Environment (Controlled Activities) Regulations 2005 (as amended). SEPA have been formally consulted on this application and have offered no objections. They have advised that the proposal is capable of being granted a CAR License.

### **Private Water Supply**

- 55 Consultation with Environmental Health confirms that properties in the vicinity of the development are served by private water supplies. 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 an informative will be attached to make the applicant aware of the existing private water supplies.

### **Flooding and Drainage**

- 56 Policy 7 of the Highland Area Local Plan relates to floodrisk. 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.
- 57 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.

### **Archaeology**

- 58 Perth and Kinross Heritage Trust (PKHT) have indicated that they have no objection in terms of archaeological impact but have stated that there is a stone wheel from an old local mill site which they would like to see either preserved in situ or moved somewhere nearby or suitably preserved elsewhere. I intend to attach a condition to ensure details of this are agreed in writing.

### **Economic Development/Community/Environmental Benefit**

- 59 No community benefit for this scheme is indicated within the submission. Letters of representation have raised concerns regarding this aspect and highlighted that other renewable energy schemes have provided local community funding such as that provided at Griffin Windfarm. Obviously the development proposed here is considerably smaller in scale and electricity generation than Griffin Wind Farm and therefore it may not be prudent to seek

this type of benefit for a scheme which generates a limited amount of electricity. Nonetheless policy ER1 of the PLDP requires the positive and negative effects which the development may have on the economy of Perth and Kinross to be considered.

- 60 Clearly the construction of a scheme of this nature will involve considerable employment within the construction industry which will provide a temporary boost to the economy of the area.
- 61 The submission states that the proposed 250kw scheme could generate an annual electricity output of 1,500Mw hours and result in a saving of 821 tonnes of CO<sub>2</sub> compared to energy generation by conventional fossil-fuel mix in the UK. This would make a contribution towards the Scottish Government's target of 100% electricity generation from renewable energy sources by 2020. It would also assist one of the aims of TAYplan policy 6 which seeks to deliver a low/zero carbon future for the Region through a reduction in fossil fuels.

### **Species and Habitats**

- 62 The submission 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 submission, 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.
- 63 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.

### **Public Access**

- 64 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.
- 65 In this instance whilst it is noted that the access serving the development is used by dog walkers it is not identified as part of the core path network and as such no condition is required in this instance.

## **Residential Amenity/Noise**

- 66 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.
- 67 Following on-going discussions with Environmental Health a noise survey has been submitted to establish the potential noise impact of this type of scheme and an indication of noise levels from a similar scheme in Cumbria have been provided. Environmental Health have confirmed they are satisfied with the data received from the applicant in regard noise.
- 68 The applicant engaged Vibrok to undertake an assessment of the noise from this scheme in terms of BS4142, which compares predicted noise levels against the existing  $L_{A90}$  background level. Vibrok measured the background levels over the 9<sup>th</sup> and 10<sup>th</sup> of July this year, which due to lower river levels should ensure lower background levels and thus be more indicative of a worst case scenario.
- 69 The background level at Kindrocket Cottage, the closest dwellinghouse was  $L_{A90}$  54dB during the daytime period and 53dB at night. This was compared to operational measurements taken at an equivalent site at Low Wood, Haverthwaite. This led to predicted levels at Kindrocket cottage of  $L_{Aeq}$  42dB which should be corrected to 47dB for acoustic features in line with BS4142 in the opinion of the Environmental Health Officer. This is 6dB below the background level measured here.
- 70 BS4142 states that 10dB over the background means complaints are likely and 10dB below background means they are very unlikely, this is much closer to 10dB below the background, therefore I believe complaints are unlikely to arise from this proposal.
- 71 Environmental Health therefore 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.
- 72 Environmental Health recommend conditions be included on any given consent to set acoustic and vibration levels.

## **Transport**

- 73 Initially there will be plant deliveries and then deliveries of pipes and ready mixed concrete trucks on a periodic basis and the one off delivery of the turbine and generator during the construction period. In addition there will also be regular daily site personnel and delivery van movements during construction. As a consequence of this 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.
- 74 The site is to be accessed by construction traffic along the A827 from the A9. Details of construction figures have been submitted with the application and whilst it is noted that construction traffic will have some impact this will only be for a temporary period.
- 75 The Council's Transport Planner has been consulted on the proposal and has offered no objection subject to conditions.

### **Vibration**

- 76 The Council recognises that vibration could be an issue in regard to the power house and proximity to housing. However, having discussed this with Environmental Health, a condition to control the levels of vibration from the powerhouse will ensure that vibration is suitably mitigated and to an acceptable level.

### **Recreational Use of River**

- 77 This part of the river used is frequently canoeists and rafters. The Scottish Canoe Association have been formally consulted on the application and offered no objection to the scheme. Whilst a percentage of water will be extracted from the river it is, in my opinion, not considered to be so significant to detrimentally impact on the use of the river by canoeists and rafters. The scheme has been designed to limit output (and water take) to ensure that the required water level (equivalent to 0.7 on the gauge board at Pitnacree) is available in the depleted section of the river between the intake and the tailrace at agreed times. Furthermore the developer has indicated that they will allow canoeists to use the headrace to paddle back up stream to the start of the course.

### **Potential Expansion of Scheme**

- 78 Letters of representation have raised concerns regarding the potential expansion of the scheme with mention that the lade has been designed to feed a system up to three times that currently proposed. Any expansion of the scheme would require a further planning application which would be considered on its own merits. This report assesses solely the development as submitted and cannot go beyond that at this stage.

### **LEGAL AGREEMENTS**



79 None required.

### **DIRECTION BY SCOTTISH MINISTERS**

80 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**

81 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 proposed development must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed on the planning consent.
- 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 and the measures to be put in place to avoid other routes being used;
  - (b) timing of construction traffic to minimise impact on local communities particularly at school start and finishing times, on days when refuse collection is undertaken, on Sundays and during local events;
  - (c) a code of conduct for HGV drivers to allow for queuing traffic to pass;
  - (d) arrangements for liaison with the Roads Authority regarding winter maintenance;
  - (e) emergency arrangements detailing communication and contingency arrangements in the event of vehicle breakdown;
  - (f) arrangements for the cleaning of wheels and chassis of vehicles to prevent material from construction sites associated with the development being deposited on the road;
  - (g) arrangements for cleaning of roads affected by material deposited from construction sites associated with the development;
  - (h) 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;

- (i) details of information signs to inform other road users of construction traffic;
  - (j) arrangements to ensure that access for emergency service vehicles are not impeded;
  - (k) co-ordination with other major commercial users known to use roads affected by construction traffic;
  - (l) traffic arrangements in the immediate vicinity of temporary construction compounds;
  - (m) the provision and installation of traffic counters at the applicant's expense at locations to be agreed prior to the commencement of construction;
  - (n) monitoring, reporting and implementation arrangements; and
  - (o) arrangements for dealing with non-compliance.
  - (p) details of HGV movements to and from the site
- 3 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 unless otherwise agreed in writing.
- 4 The public road shall be kept free from mud, debris etc. at all times and suitable wheel cleaning facilities shall be provided within the site to prevent the deposition of mud, debris etc on to the public road to the satisfaction of the Council as Planning Authority.
- 5 An independent Ecological Clerk of Works (ECW) or Environmental Manager shall be appointed during the construction of the hydro scheme and for the subsequent restoration of the site. Written details of this appointed person shall be submitted to the Council prior to the commencement of development. This person shall have the authority to stop operations or to alter construction methods should there be any works occurring which are having an adverse impact on the natural heritage. The ECW or Environmental Manager shall have responsibility for the following:
- The Council as Planning Authority shall be notified in writing of any requirement to stop or alter works in relation to this condition.
  - They are required to make weekly visits to the development at a time of their choosing. No notification of this visit is required to be given to the developer.
  - They are required to submit a monthly report for the review of the Planning Authority in consultation with SEPA during construction operations.
  - They will have the power to amend the Construction Method Statement, where required, with any amendments submitted to the Council as Planning Authority.
- 6 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. 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.

- 7 Any approved Decommissioning Method Statement shall be implemented and overseen by an independent Environmental Manager who shall have powers similar to the Environmental Manager/Ecological Clerk of Works employed during the construction phase.
- 8 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 Design, Demolition and Construction" shall be submitted for the written approval of the Council as Planning. 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.
- 9 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.
- 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. 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 Power generating equipment shall be acoustically enclosed to attenuate sound therefrom, such that any noise therefrom shall not be detectable in any nearby noise-sensitive property.
- 12 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  $\text{m/s}^{1.75}$  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.

- 13 Prior to the commencement of development details of the flood resistant and resilient materials to be incorporated into the design of the powerhouse 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.
- 14 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.
- 15 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 5.
- 16 Prior to the commencement of any development on site, a written statement which outlines the steps to retain/preserve the stone mill wheel located to the south west of the proposed powerhouse shall be submitted for the written approval of the Planning Authority in consultation with Perth and Kinross Heritage Trust. These details shall ensure the stone mill wheel is preserved and re-sited elsewhere in the local area and the written statement shall include details of this new location. The details as approved shall be implemented prior to the hydro scheme becoming operational.
- 17 All vehicles associated with the development shall park within the designated compound areas only to the satisfaction of the Council as Planning Authority.
- 18 Prior to the commencement of any development full design details including sectional drawings and landscaping/restoration details to minimise visual impact of the headrace shall be submitted for the written approval of the Planning Authority. The details, as approved, shall be implemented as part of the site development and completed in their entirety prior to the hydro scheme becoming operational.
- 19 Prior to the commencement of any development full details and samples of the stonework, timber cladding, roof slates and the colour finish of the AST at the powerhouse/outfall area shall be submitted for the written approval of the Planning Authority. The details, as approved, shall be implemented as part of the site development and completed in their entirety prior to the hydro scheme becoming operational.

## **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 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.
- 2 This development will require the 'Display of notice while development is carried out', under Section 27C(1) of the Town and Country Planning Act 1997, as amended, and Regulation 38 of the Development Management Procedure (Scotland) Regulations 2008. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for guidance. According to Regulation 38 the notice must be:
  - Displayed in a prominent place at or in the vicinity of the site of the development
  - Readily visible to the public
  - Printed on durable material.
- 3 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.
- 4 The applicant should ensure that any existing wayleaves for maintenance or repair to existing private water supplies or septic drainage infrastructure in the development area are honoured throughout and after completion of the development.
- 5 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)).
- 6 No work shall be commenced until an application for building warrant has been submitted and approved.
- 7 The applicant should be aware that a separate Conservation Area Consent will be required for the demolition of the boathouse to make way for the proposed

lade and that no demolition of the boathouse should take place until this has been granted.

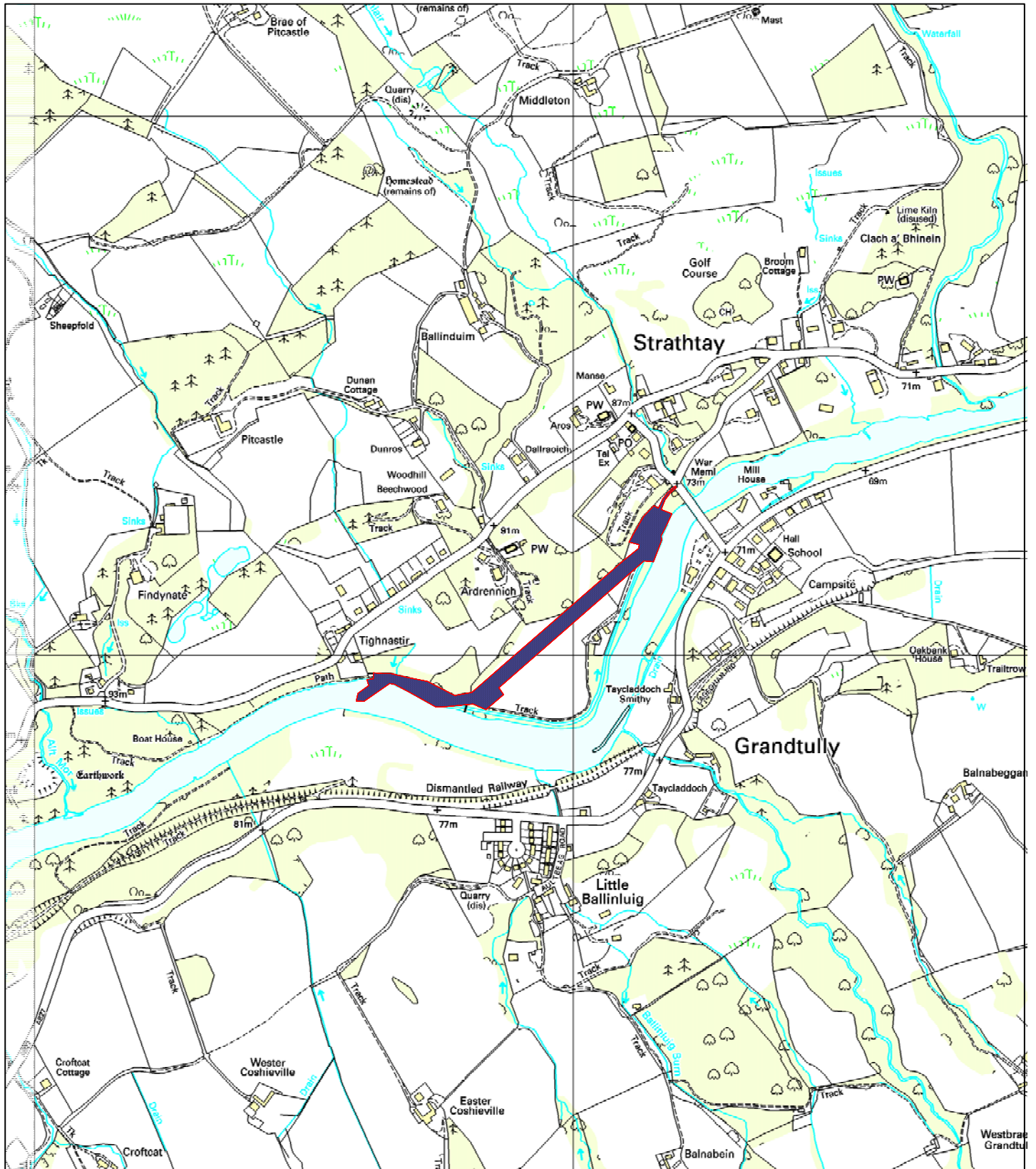
**NICK BRIAN**  
**DEVELOPMENT QUALITY MANAGER**

Background Papers: 15 letters of representation  
Contact Officer: John Williamson – Ext 75360  
Date: 22 October 2013

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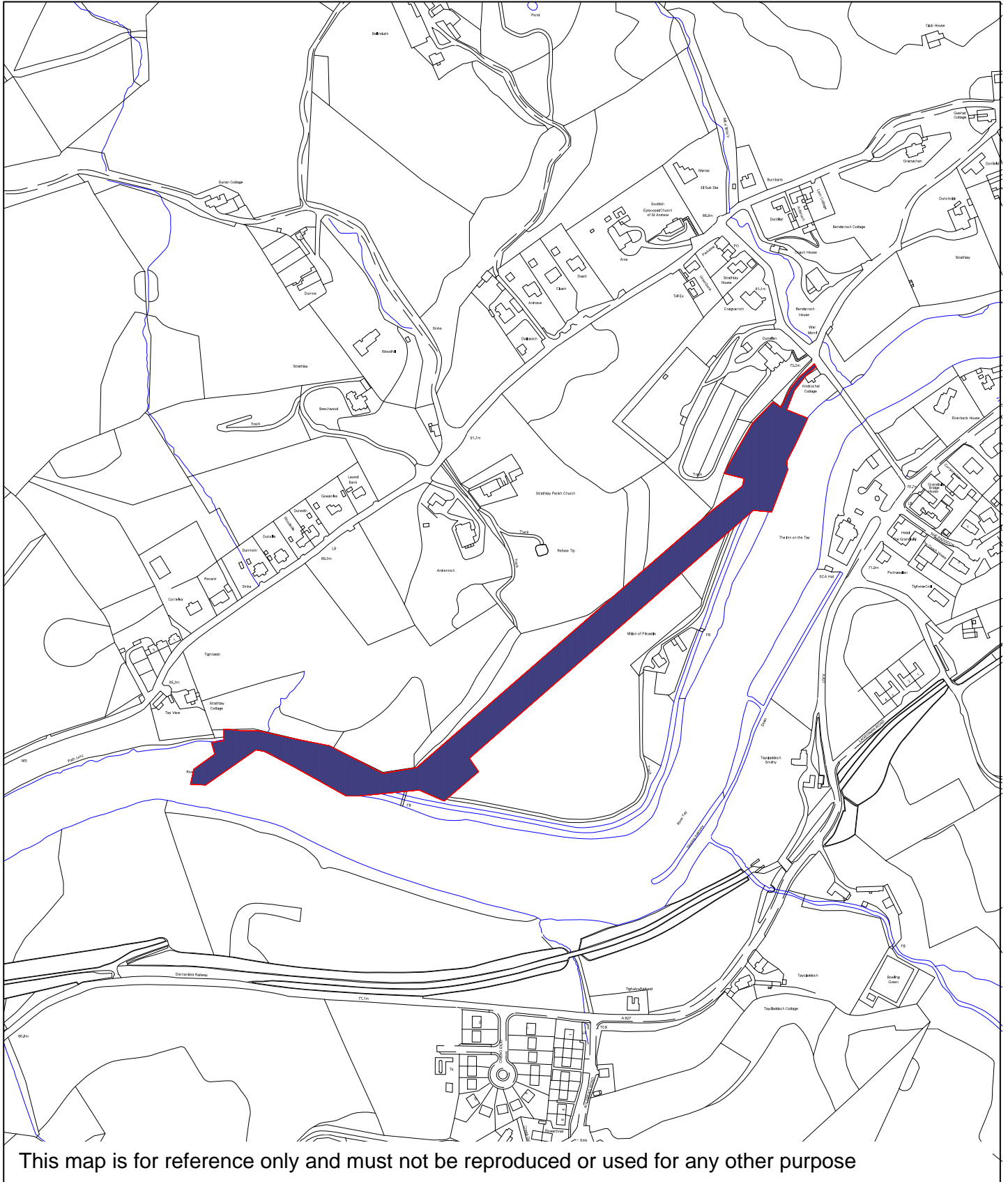


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