

Perth and Kinross Council
Development Management Committee – 17 December 2013
Report of Handling by Development Quality Manager

Formation of a 1100kw run-of-river hydro electric generating scheme at Beinn Eagagach, Edradynate, Aberfeldy

Ref. No: 13/00466/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 Cluny Burn and Derculich Burn at Edradynate to the east of Aberfeldy. The proposal is a run of river scheme with two intake points, one on the Cluny Burn and one on the Derculich which will have a capacity of up to 1100kw.
- 2 The development includes the construction of two intakes, a 4km long high pressure buried pipeline, a tailrace to take water back to the burn, a powerhouse located on the bank of the Cluny Burn and a series of temporary construction access tracks and permanent tracks extending from existing tracks to the powerhouse and intake points.
- 3 The Beinn Eagagach is a run of river scheme which will operate without storage according to the flow of the burns. Abstracting a proportion of the flow at the intake points, passing it via the new pipelines to a conventional water turbine located within a powerhouse allows this to happen. The hydro scheme will be connected to the grid via a nearby electricity supply.
- 4 It is proposed to bury the pipeline route throughout its length and the proposal includes natural land re-instatement so that very soon after installation, the pipeline will become virtually invisible. Previous examples of approved hydro schemes in Perth and Kinross show that this is the case and can be effectively achieved.
- 5 The powerhouse is proposed in a clearing within a large area of woodland to the east of an existing access track within the estate to the south west of the Cluny Burn.
- 6 Construction compounds and laydown areas are proposed to the north west of the proposed powerhouse which are proposed to be 40m x 15m in size. These are to be temporary in nature.

ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

- 7 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'.
- 8 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.
- 9 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 not required.

NATIONAL POLICY AND GUIDANCE

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

Scottish Planning Policy 2010

- 11 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
- 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

12 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 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

13 The Development Plan for the area consist of the Approved Tayplan 2012 and the Adopted Kinross Area Local Plan 2004

Tayplan: Strategic Development Plan 2012-2032

14 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 Tayplan the principal relevant policy is:-

Policy 3: Managing Tayplan’s Assests

15 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

16 Under the Local Plan the principal relevant policies are:-

Policy 1 Highland Sustainable Development

- 17 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

- 18 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

- 19 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

- 20 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

- 21 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

- 22 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

- 23 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

- 24 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

- 25 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.

PERTH AND KINROSS PROPOSED LOCAL DEVELOPMENT PLAN 2012

- 26 On 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

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

Policy NE1: Environment and Conservation Policies

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

Policy NE1A: International Nature Conservation Sites:-

- 29 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

- 30 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

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

Policy TA1: Transport Standards and Accessibility Requirements

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

Policy HE1: Scheduled Monuments and Non-Designated Archaeology

- 33 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 ER1: Renewable and Low Carbon Energy Generation

- 34 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

- 35 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

- 36 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

- 37 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

Tayside Landscape Character Assessment (TLCA)

- 38 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

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

Scottish Environment Protection Agency Guidance for developers of run-of-river hydropower schemes

- 40 Provides guidance on the acceptability of proposed hydro developments with regards to the water environment.

Forestry Commission's Control of Woodland Removal 2008

Sets out the Commission's stance to the removal of Woodland in Scotland.

SITE HISTORY

- 41 No specific relevant planning history.

CONSULTATIONS

42

**Perth and Kinross
Heritage Trust**

No objection subject to condition

Environmental Health

No objection in relation to noise or private water supplies subject to conditions and informatives

Local Flood Prevention Authority No objection subject to conditions regarding use of flood resilient materials

Scottish Natural Heritage No objection in relation to impact on SAC subject to conditions and raised impact on Ancient Woodland Inventory and potential loss of trees.

Scottish Environment Protection Agency No objection subject to conditions

Access and Infrastructure Condition recommend regarding protection of core path

REPRESENTATIONS

43 A total of 8 letters of representation have been received all of which object to the proposal.

44 Summary of Issues raised by Representations

The representations have raised the following relevant issues: -

- Visual impact/design
- Loss of Trees
- Noise/residential amenity
- Impact on protected species/flora and fauna
- Traffic impact/access
- Impact on protected species
- Impact on burn flow
- Grid connection
- Impact on private water supplies and water for livestock
- Error in neighbour notification
- Impact on Cluny House Designed Garden and Landscape

These issues are all raised in the Appraisal section of this report.

ADDITIONAL STATEMENTS

45

Environment Statement	Not required
Screening Opinion	Yes (EIA not required)
Environmental Impact Assessment	Not required
Appropriate Assessment	Not required
Design Statement / Design and Access Statement	None
Report on Impact or Potential Impact	None submitted.

APPRAISAL

Policy

- 46 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 outlined in the policy section above. The Council's Proposed Local Development Plan 2012 is also a relevant material consideration in this instance.
- 47 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

- 48 The powerhouse is proposed in a clearing adjacent to the Cluny Burn and will be well screened by existing tree cover from the surrounding area and wider views. The powerhouse has also been designed to integrate successfully with the surrounding visual amenity and landscape character. The powerhouse is proposed as being a traditional proportioned pitched roof building, measuring 12m x 8.5m and 8.5 m in height. The building will therefore be large but within the context of the coniferous plantation its visual impact will be limited. Furthermore the use of natural stone and a slate roof will ensure it has the appearance of an estate building.
- 49 The associated infrastructure including the transformer compound is located on the eastern side of the building and will therefore not be visible when entering the powerhouse site. A pigging chamber (which is the chamber where the pipe enters the powerhouse) is proposed and this will be in the form of a concrete chamber which will have some visual impact. In order to negate this I recommend a condition to ensure this is covered over with soil, similar to a scheme by the same developer at Croftmill. A condition can cover this aspect.

Pipeline/Tree Loss

- 50 One of the main impacts will be the pipeline corridor, resulting in scarring through the landscape 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. All of these aspects can be covered by suitably worded conditions.

- 51 The southern reaches of the pipeline route are located within Ancient Woodland Inventory (AWI) together with an area next to the northern most section of the pipeline adjacent to construction area 3 and the impact on these areas has been noted by SNH in their consultation response. Ancient woodland is an extremely rare habitat in the UK. It should be noted that the Scottish Government has developed a policy on the Control of Woodland Removal which supports the Government's Scottish Forestry Strategy and the associated ambition to see Scotland's woodland resource increase by up to 25% of our land area. This policy does state that woodland removal shall only be allowed where it would achieve significant benefits and a proposal for compensatory planting may for part of this balance.
- 52 The agent has submitted additional information to clarify the loss of trees which will result from the construction of the scheme in the form of detailed site plans indicating those trees proposed for removal. There are a number of trees proposed for felling to accommodate the scheme particularly the pipeline to the west of the powerhouse.
- 53 Some discussion was then held regarding the potential for relocating the powerhouse and pipeline route outwith the woodland to reduce the number of trees felled, however this was not feasible due to a number of issues and would result in significant excavation for the a revised powerhouse location and would have a significant detrimental impact on the River Tay SAC.
- 54 The woodland which is impacted upon by the development is listed on the Ancient Woodland Inventory not Ancient Semi-Natural Woodland (ASNW) which has higher value. The woodland in question does not benefit from semi natural characteristics which can be the case in other areas of ancient woodland. The trees where the pipeline is proposed are relatively small and the ground flora is poor and displays few species associated with ancient woodland and its sensitivity has not been identified in the relevant surveys contained within the Environmental Statement. The applicant has confirmed that the intention is for the working corridors through the trees to be a narrow 10m corridor and it is recommended that this be covered by a suitably worded planning condition. The applicant has also outlined their intention to provide compensatory planting to make up for the tree loss and this can be covered by a planning condition to ensure planting is provided at both the pipeline point close to the powerhouse and on the northern section of the development.
- 55 In order to satisfy the requirements of the Scottish Government's policy on Control of Woodland Removal I consider it necessary to seek compensatory planting which goes beyond that of the trees being felled and there should therefore be no net loss of trees. Furthermore the planting of additional trees should ensure new habitat is created and this habitat should make specific reference to the protected species identified in the Environmental Statement.

Construction Compounds

- 56 The proposed construction compounds and pipe laydown areas are also located within a clearing close to the proposed powerhouse. These, however, are proposed for a temporary period only during construction operations and I am satisfied that given the impact is only temporary that these elements can be supported.

Intakes

- 57 The intakes are proposed to be located high on the hillside and relatively small in scale compared with the wider landscape character. It is therefore likely that they will be seen from localised viewpoints. Whilst they will clearly have some visual impact, the intakes can be designed using materials such as stone to ensure they blend in as much as possible with the landscape. The intakes are to be partially buried into the hillside with the industrial appearance partly mitigated by the use of rock armour stones to help integrate with the existing banking of the burns. A condition is recommended requesting final design details of the intakes.

Access Tracks

- 58 The development benefits from an extensive network of existing well established tracks through the estate which limits the requirement for new tracks. An existing track is proposed to reach intake 1 on the Cluny Burn and part of an existing track together with 750m on new access track is proposed to reach intake 2 on the Derculich burn.
- 59 The presence of existing tracks will significantly reduce the impact of the proposed development on landscape character. The proposed new track will follow on from an existing established track and in that respect it will appear as part of the network of established tracks throughout the estate. I am satisfied that the additional track will not have any significant impact on the visual amenity or landscape character of the area.

SEPA/CAR License

- 60 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 has been granted a CAR License subject to conditions which would protect the water environment.
- 61 SEPA has also provided recommendations within their consultation response regarding the other regulatory requirements which they are involved in. I intend to attach an informative note making the applicant aware of these regulatory requirements.
- 62 SEPA have also raised concerns in regard to the potential impact on wetland ecology including groundwater dependent terrestrial ecosystems (GWDTE). Within their consultation response they have indicated that one of the proposed borrow pits could potentially impact on one of these ecosystems and as such they are recommending that the borrow pit is relocated. This can be covered by a suitably worded planning condition.

River Tay Special Area of Conservation (SAC)

- 63 The proposal directly affects the Derculich and Cluny Burns, the lower reaches of both are part of the River Tay SAC and are accessible to the Atlantic salmon qualifying feature. However, the application is accompanied by a Construction Method Statement and the intention is to approve this document as part of planning consent granted.
- 64 If this supporting information is approved as part of the planning consent, SNH have indicated that it is unlikely that the proposal will have a significant effect on any qualifying interests of the SAC. As an appropriate assessment is not required and the proposed impact on the SAC is considered negligible.

Private Water Supply

- 65 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 a condition will be attached to the consent to secure this matter.
- 66 Concerns have also been expressed regarding the extracting of water from the burns and the potential reduction in private water supplies provided from these burns. The Environmental Statement makes specific reference to the impact on potential water supplies and indicates that water supplies will not be impacted upon during operation. It also states that close communication will be established and maintained between the operators, contractors, the estate, local farmers and residential neighbours to ensure water supply is maintained. It should also be noted that the impact on private water supplies will be fully considered by SEPA during their assessment of the CAR License application.

Flooding and Drainage

- 67 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.
- 68 In this instance the Council's Flood Risk Officer has been consulted and raised no objection subject to a condition ensuring that the powerhouse is built utilising flood resilient materials. SEPA have also requested this.

Access/Construction Traffic

- 69 Initially there will be 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. 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.
- 70 The Council's Transport Planner has been consulted on the proposal and has offered no objection subject to condition, including the provision of a Construction Traffic Management Plan which will help to ensure that vehicles movements from construction operations have as minimal an impact as possible on the local population.
- 71 It is noted that the private access for the site serves a number of residential properties and Cluny House, however I am satisfied that the required Construction Traffic Management Plan will help to ensure impact on residents and this tourist attraction can be suitably mitigated.

Archaeology

- 72 An archaeological desk-based assessment and walk-over survey has been carried out by Jennifer H Robertson to inform this application. The survey identified 41 archaeological sites within the development area, many of which do not require mitigation. However, a number of these sites, including boundary walls, a 19th Century Saw Mill, a building and a possible cairn will be directly impacted upon or may be vulnerable to damage during construction.
- 73 The mitigation measures included within the Archaeology Statement are considered appropriate by Perth and Kinross Heritage Trust (PKHT) and they have recommended a condition to cover this aspect.

Environmental Benefit

- 74 The submission states that the proposed 1100kw scheme could generate an annual electricity output of 2,785Mw hours and result in a saving of 1197 tonnes of CO₂ 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.

Noise/Residential Amenity

- 75 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.

- 76 A noise survey has accompanied the application which indicates that the proposal is unlikely to give rise to nuisance complaints. The nearest property, Edradynate House is located 170m from the powerhouse. Any low frequency noise created by the scheme can be controlled by suitably worded planning conditions which have been recommended by Environmental Health.

Flows

- 77 The falls on the burns are an attractive feature and therefore the impact on these falls of the abstraction of water requires to be considered. The flow data submitted indicates that there will be an impact on average flow conditions which would have some visual impact on the actual flow over the falls, however the impact on high flows when it can be argued that views of the falls would be the most spectacular would be minimal as the scheme would only be abstracting a very small percentage of the available flow. Additionally there is little actual evidence to suggest that a small reduction in the flow of water would have an adverse impact on visitor experience. Tourism visits are likely to be greatest during the summer months when flows are at their lowest level in any case.
- 78 Currently the site offers the opportunity for visitors to experience the river's water features (waterfalls, cascades etc) under the full range of natural flow conditions (i.e very low to very high flows). The opportunity to experience the features under the full range of different natural flows conditions contributes to the quality of the recreational experience. The natural sense of the water features and knowledge that they are changeable in appearance is part of the appreciation of the site. Currently visitors with preference for experiencing water features under certain flow conditions may exercise those preferences when timing their visit. Others can visit on multiple occasions to experience the features under a range of flow conditions. One off visitors can experience the water features under flow conditions in keeping with weather conditions immediately preceding the visit. There is no preference shared by all which would elevate the recreational value of the site when at a particular flow condition compared with its value at any other flow condition. I am therefore satisfied that the proposed hydro scheme will not have any significant impact on the visual amenity of the fall on the burns.

Species and Habitats

- 79 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.

- 80 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. I am satisfied that the mitigation measures contained within the Environmental Statement are sufficient to address the relevant policy considerations.

Public Access

- 81 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.

Grid Connection

- 82 The proposal is to connect the scheme to the National Grid buried private line that connects to a single phase 11kV overhead line at Easter Cluny, which will be upgraded to a three phase line as part of the scheme. The exact details of this can be requested through a suitably worded planning condition.

83 Neighbour Notification

Letters of representation have raised concern regarding the accuracy of the neighbour notification. Having checked the notification I can confirm it has been carried out correctly.

LEGAL AGREEMENTS

- 84 None required.

DIRECTION BY SCOTTISH MINISTERS

- 85 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

- 86 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

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.

- 3 Development shall not commence until an independent and suitably qualified Ecological Clerk of Works (ECoW) or Environmental Manager has been appointed at the developers expense. Details of this appointment shall be subject to the prior written approval of the Planning Authority. The appointed person will remain in post for the duration and subsequent restoration of the proposed development. The ECoW or Environmental Manager in representation of the Planning Authority relating to this development shall have responsibility for the following:

- a) Implementation of the Construction Environmental Management Plan (CEMP) approved by this permission.
- b) 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.
- c) Prior to the commencement of development they shall provide an environmental / ecological tool box talk for construction staff.
- d) They will have authority to amend working practices where required. Any amendments shall be submitted to the Council as Planning Authority as an addendum to the approved CEMP.
- e) They shall make weekly visits to the development site at a time of their choosing. No notification of this visit is required to be given to the developer or contractor.
- f) They are required to submit a detailed monthly report for the review of the Planning Authority in consultation with SEPA for the duration of development.
- g) They shall notify the Council as Planning Authority in writing of any requirement to halt development in relation to this condition as soon as reasonably practicable.

The above shall be implemented to the satisfaction of the Council as Planning Authority until completion of development.

- 4 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.
- 5 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.
- 6 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.
- 7 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.

- 8 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 scheme shall also include appropriate habitat creation and shall take account of the protected species identified in the Environmental Statement. 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.
- 9 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 5.
- 10 All vehicles associated with the development shall park within the designated compound areas only to the satisfaction of the Council as Planning Authority unless otherwise agreed in writing with the Planning Authority.
- 11 Prior to the commencement of any development full details and samples of the stonework, timber cladding, roof slates 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.
- 12 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.
- 13 Prior to the commencement of any development, a revised site plan and elevations of the powerhouse shall be submitted which shows the pigging chamber buried under soil to reduce its visual impact. The details as approved, shall be implemented as part of the site development.

- 14 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.
- 15 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.
- 16 The pipeline corridor through areas of woodland shall be a maximum width of 10 metres to the satisfaction of the Council as Planning Authority.
- 17 The core path shown in PURPLE on plan 13/00466/24 must not be obstructed during building works or on completion. Any damage done to the route and associated signage during building works must be made good before the development is commissioned.
- 18 Prior to the commencement of construction, a full detailed construction method statement giving details of measures to prevent harmful materials entering the watercourses shall be submitted and agreed in writing by the Council as Planning Authority in consultation with SNH and SEPA. The details shall include:
 - Pollution prevention safeguards, including drainage arrangements and the possible use of use of siltation traps, settlement tanks and bunds, their locations, operation and management.
 - Storage and disposal of materials, including the siting of stock piles, use of buffer strips and disposal methods.
 - Construction site facilities, including extent and location of construction site huts, vehicles, equipment and materials compound.
 - Timing, duration and phasing of construction, particularly in relation to salmon and lamprey migration/spawning.
 - measures to address wetland ecology (GWDTEs) as outlined in SEPA's consultation response dated 28 November 2013

The details as approved shall be strictly adhered to during the development of the site.

- 19 The borrow pit located close to Ground Water Dependent Terrestrial Ecosystem (GWDTE) M6/M23 which is referred to in Section 2.2 of SEPA's consultation response dated 28 November 2013 is not approved. This borrow pit shall be relocated at least 50m from this M6/M23 habitat. A revised plan detailing this change shall be submitted for the written approval of the Planning Authority in consultation with SEPA. The details, as approved, shall be implemented as part of the site development.

Reasons

- 1 To ensure that the development is carried out in accordance with the plans approved.
- 2 In the interests of pedestrian and traffic safety.
- 3 To ensure a suitably qualified person oversees management of ecological interests on the site.
- 4 To ensure that the site is reinstated to the satisfaction of the Planning Authority.
- 5 To ensure a suitably qualified person oversees management of ecological interests on the site.
- 6 In order to ensure the protection of all retained trees on the site.
- 7 To ensure that the plant is capable of exporting electricity to the national grid.
- 8 To ensure that the proposed development does not prejudice the appearance of the locality and to preserve and enhance nature conservation interests.
- 9 To ensure the development is decommissioned and the site reinstated when ceased to generate electricity.
- 10 In the interests of pedestrian and traffic safety.
- 11 In the interests of visual amenity and to protect the landscape character of the area.
- 12 In order to protect sites of archaeological interest.
- 13 In the interests of visual amenity and to protect the landscape character of the area.
- 14 In order to protect existing private water supplies.
- 15 In order to minimise flood risk.
- 16 In order to limit tree felling required and in the interests of protecting the landscape character and natural habitat of the woodland.
- 17 In order to ensure continued public access along the core path.
- 18 In order to minimise the impacts of the construction works on the environment.
- 19 In order to maintain ground water flows and protect habitat.

B JUSTIFICATION

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

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 your 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 make contact with Perth and Kinross Heritage Trust so that the procedure of works required for the archaeological condition can be discussed.
- 8 The applicant should be aware of the regulatory guidelines indicated by SEPA in their consultation response dated 26 November 2013.

Background Papers: 11 letters of representation

Contact Officer: John Williamson – Ext 75360

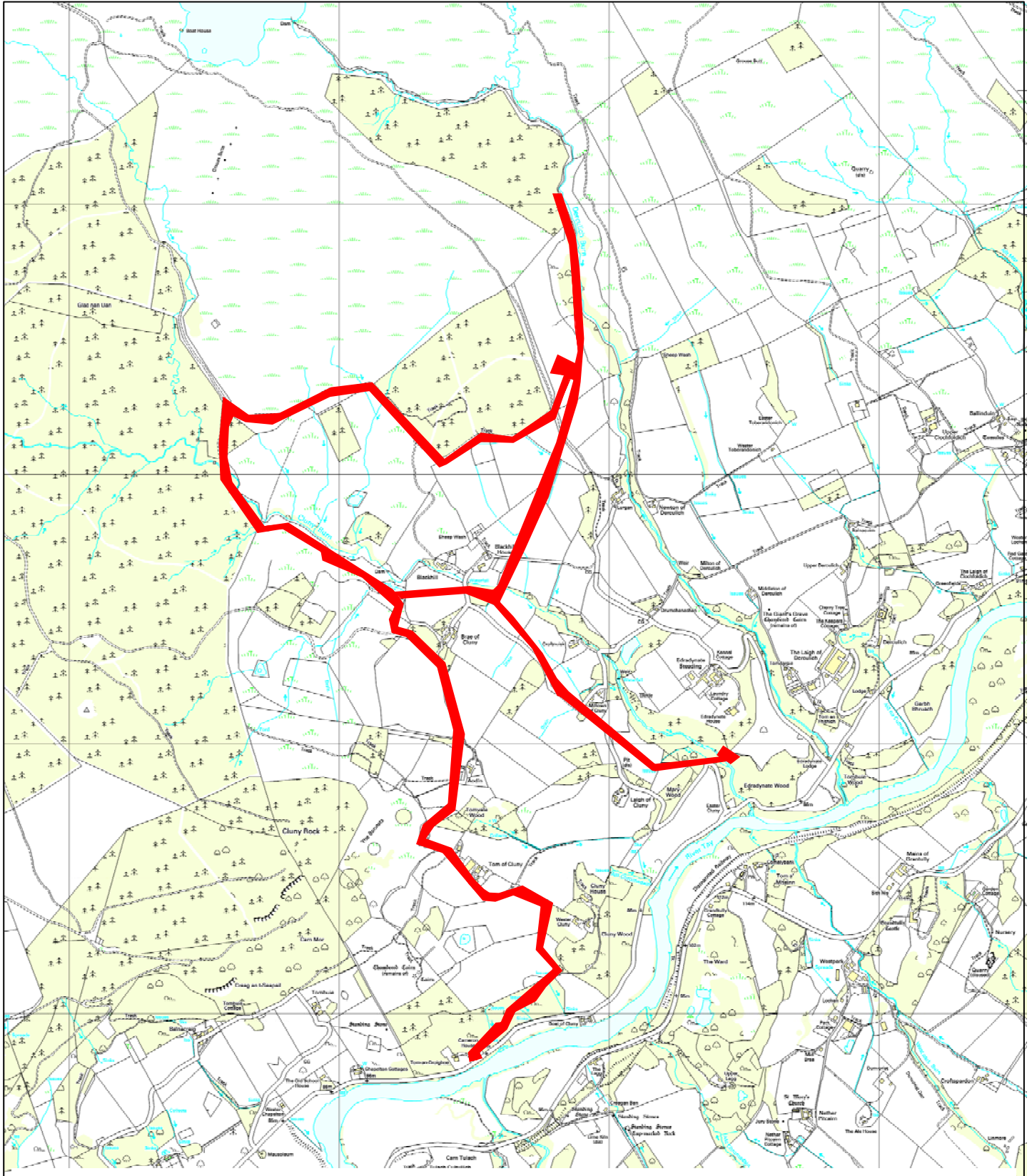
Date: 28 November 2013

Nick Brian
Development Quality Manager

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