
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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(DEVELOPMENT MANAGEMENT)**

DEVELOPMENT PROPOSED: FULL PLANNING PERMISSION FOR THE CONSTRUCTION OF A GAUGING STATION AT LOCH KINORD, MEIKLE KINORD, DINNET, ABOYNE

REFERENCE: 06/384/CP

**APPLICANT: SCOTTISH ENVIRONMENTAL PROTECTION AGENCY (SEPA),
GRAESSER HOUSE, FODDERTY WAY,
DINGWALL BUSINESS PARK,
DINGWALL, 1V15 9XB**

DATE CALLED-IN: 6TH OCTOBER 2006

RECOMMENDATION : APPROVE WITH CONDITIONS

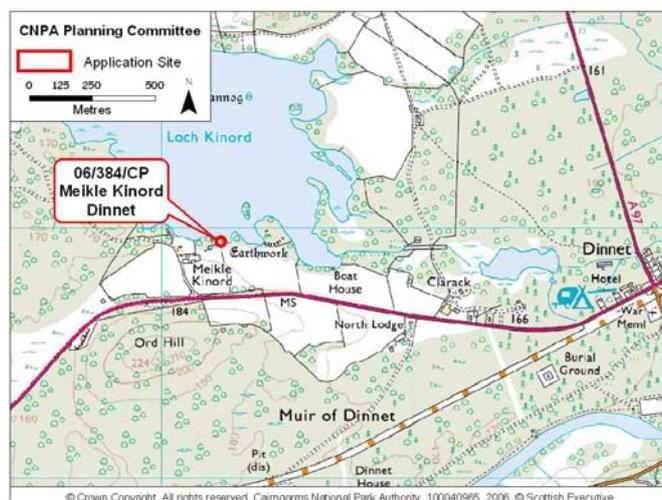


Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. The Scottish Environmental Protection Agency (SEPA) are seeking full permission in this application for the construction of a gauging station at Loch Kinord, at Meikle Kinord, near Dinnet on the eastern fringes of the Cairngorms National Park. The proposal involves the construction of a gauging station, enclosed within a timber hut; the erection of two gauge posts; and the laying of a filter drain and inlet pipe.
2. SEPA have provided the following details explaining the background to the proposal – “The purpose of installing the equipment is to comply with the requirements of the European Water Framework Directive which has been transposed into Scottish law through the Water Environment and Water Services (Scotland) Act, 2003. SEPA is the lead agency in implementing the new duties required under the act. At the heart of the legislation is the requirement to assess the impact of human activities on the water environment and through the establishment of a River Basin Management Plan ensure that there is a fair balance in the water used for these activities and that needed to sustain the aquatic ecology. In order to achieve this SEPA is required to establish a network of monitoring sites on pristine (or near pristine) rivers and lochs to act as a reference for assessing sites where there is a human activity.”
3. The proposal involves the erection of a 1.2 metre high gauging post at the loch edge and the laying of a 110 mm vPVC pipe underground for a distance of 17.5 metres from the gauging post to the base of a vertically mounted ‘Weholite’ pipe. The vertical pipe is approximately 3.9 metres in height, with just 1 metre of that projecting above the existing ground level. The area surrounding the pipe would be infilled and compacted with suitable hardcore material. It is proposed to enclose the pipe in a timber hut. The hut would be constructed on a concrete base and secured with ‘holding down bolts.’ The structure would measure 1.83 metres x 1.22 metres and extend to a height of 2.03metres. The structure is proposed to have a timber finish (tongue and groove weather boarding), which would be left untreated in order to create a natural colour in its proposed setting. The roof, which is proposed to have a 30 degree roof pitch, would have ‘Permaroof’ profile sheeting and SEPA propose to stain it ‘Merlin Grey.’¹ The clearance of some scrub in the immediate vicinity of the proposed gauging station will be necessary, although the applicants have given a commitment that any clearance would be kept to a minimum and “any reinstatement necessary on completion of the works will be done to a high standard.”

¹ The original proposal including the staining of the weather boarding in chestnut brown, with the profiles sheeting on the roof being ‘juniper green.’ The colour scheme was subsequently amended to that detailed in paragraph 3, following concerns being expressed in the course of the assessment regarding the potential visibility of the colour scheme.

4. The purpose of the timber hut is to provide weather protection and security for the instruments. In addition to the 'weholite' pipe the hut would house two small GSM data loggers, both of which are battery powered instruments. The method of operation of the gauging station involves the water level in the buried well being the same as the water level of the loch. The aforementioned instruments, which would be installed above the well, are intended to allow precise measurements of loch movements. Recorded data would be downloaded daily from the GSM data loggers, via a telemetry connection to SEPA's Hydrological Data Management System.

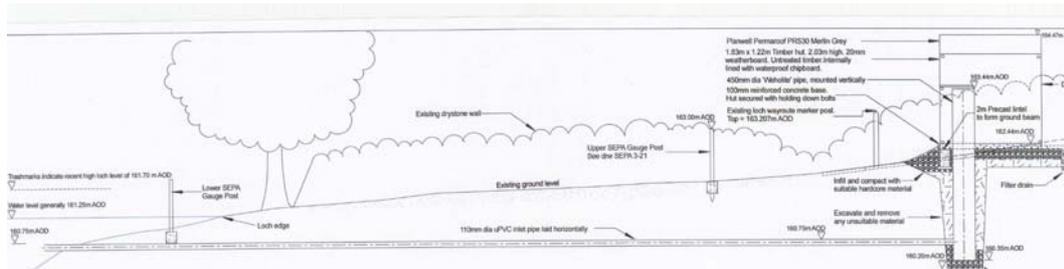


Fig. 2 : Cross section of proposed development

5. Once completed the development would not necessitate any on site employees, other than the carrying out of a routine inspection by a field hydrologist on a monthly basis. The purpose of the visit would be to confirm that the instruments are within calibration. A typical visit would have a duration of approximately 20 minutes and would not necessitate any entry into the water.
6. SEPA propose to engage the services of a local contractor² to carry out the proposed works. The contractor has previously undertaken work around the loch under the approval of **Scottish Natural Heritage** and consequently SEPA make the point in information supporting their proposal that the “contractor would be familiar with the necessary precautions needed when working at sensitive sites” and would be conscious of the environmental responsibilities.
7. A construction method statement has been submitted in the course of the application (please see a copy of statement attached to the rear of the report). In terms of construction it is stated that excavation works would be carried out in dry weather conditions in order to minimise the risk of sediment being washed into the loch.
8. A layout plan has been submitted identifying the proposed access route to the subject site. The route leads from a proposed parking area near the property known as Meikle Kinord, traversing to the south and then east of the property and then following the edge of the cultivated arable field in an easterly direction to the subject site. The presence of a post medieval drystone structure in the vicinity of the originally proposed access route was highlighted by the CNPA in the assessment and the

² J & J Lovie Ltd. of Logie Coldstone, Aboyne.

line of the route has been amended in order to ensure that there is adequate separation distance from the feature and thereby afford it adequate protection.

DEVELOPMENT PLAN CONTEXT

National Policy

9. According to **NPPG 14 - Natural Heritage** attractive and ecologically rich environments where natural heritage is valued and cherished are essential to social and economic well-being. Para. 9 advises that conservation and development can often be fully compatible, and with careful planning the potential for conflict can be minimised. **NPPG 14** details the various national and international statutory designations and the objectives of designation. Para. 46 also makes reference to the fact that natural heritage is not confined to the statutorily designated areas, but is found throughout the countryside.
10. In the **Aberdeen and Aberdeenshire Structure Plan 2001-2016 (North East Scotland Together, NEST) Policy 19** states that development which would have an adverse effect on a Natura 2000 or Ramsar site will only be permitted where there is no alternative solution and there are imperative reasons of over-riding public interest, including those of a social, environmental or economic nature. Where a priority habitat or species (as defined in Annex 1 of the Habitats Directive) would be affected, prior consultation with the European Commission (through Scottish Natural Heritage) is required unless the development is necessary for overriding public health or safety reasons.
11. In the **Aberdeenshire Local Plan 2006** the main policy that covers this location is **Policy Env1 (International Nature Conservation Sites)** where development likely to have a significant impact on a site designated or proposed under the habitats or birds directives (i.e. SAC and SPA) and not directly connected with or necessary to the conservation management of the site, must be the subject of an appropriate assessment for the implications for the site's conservation objectives. Development will only be permitted where the appropriate assessment indicates that
 - a) it will not adversely affect the integrity of the site; or
 - b) there are no alternative solutions; and
 - c) there are imperative reasons of over-riding public interest, including those of a social and economic nature.

Where development is allowed which could affect any designated site, including beyond their boundaries, the developer must demonstrate that adequate measures will be taken to conserve and enhance the site's ecological, geological and geomorphological interest.

12. **Policy Env\2** details the policy in relation to National Nature Conservation Sites, stating that development which would have an adverse effect on a Site of Special Scientific Interest or a National Nature Reserve will be refused unless the developer proves :
- a) any significant adverse effects on the quality for which the area has been designated are clearly outweighed by social and economic benefits of national importance;
 - b) the objectives of the designation and overall integrity of the area will not be compromised; and
 - c) there is no alternative site for the development.

In the event of development being allowed which could affect any of the designated sites, including beyond their boundaries, similar measures to those detailed in **Policy Env\1** are required, in terms of the developer demonstrating that adequate measures will be taken to conserve and enhance the site's ecological, geological and geomorphological interest. The aim of both policies **Env\1 and Env\2** is to give nature conservation sites of international and national importance adequate protection from damaging development.

Cairngorms National Park Plan

13. The recently approved **Cairngorms National Park Plan** highlights the need to conserve and enhance the special qualities of the National Park. The plan details the fact that approximately 39% of the Park is designated for a particular nature conservation interest and that there are 31 areas of the Park that are currently designated as being of European importance for nature conservation through the Natura 2000 designations of Special Protection Areas and Special Areas of Conservation. A further 46 sites are designated as part of the national network of Sites of Special Scientific Interest. Strategic objectives detailed in the plan in relation to biodiversity include the conservation and enhancement of the condition and diversity of habitats and species present throughout the Park; ensuring that all designated nature conservation sites are in favourable condition and the identification and carrying out of a research programme designed to provide information and monitoring of habitats, species and ecosystems in order to guide future decision making.

CONSULTATIONS

14. **Scottish Natural Heritage** note in the consultation response that the proposed site lies within the Muir of Dinnet Special Protection Area (SPA), which is classified for its internationally important numbers of wintering geese and wildfowl. It also lies within the Muir of Dinnet Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI), both of which are identified for a range of habitats and species including lochs with aquatic vegetation and otters.

15. The **SNH** position is one of objection to the proposal in relation to the SPA and SSSI, although it is stated that the objection can be considered removed provided conditions are attached in the event of the granting of planning permission, in order to overcome **SNH** concerns. **SNH** advise in relation to the Muir of Dinnet SPA that any significant effect upon the wintering graylag goose or wildfowl populations can be avoided, provided that work only begins on site if no large groups of 50 or more geese are present on the loch. In the event that a condition of this nature is not attached to any grant of planning permission **SNH** advise that a significant effect is likely and the planning authority would accordingly be required to undertake an appropriate assessment of the implications of the proposal on this interest.
16. In relation to the potential impacts of the development on the Muir of Dinnet SSSI, **SNH** advise that the negative effects upon breeding birds using Loch Kinord can be avoided if the work is carried out between 1 August and 30 March and **SNH** therefore recommend that a condition to address this concern is attached to any planning consent.
17. **Scottish Natural Heritage** does not object to the proposal in relation to the Muir of Dinnet SAC, despite stating that the proposal is likely to have a significant effect on the qualifying interests of the site. Reference is made to the nature of the construction activity to be undertaken, including direct disturbance to the loch bed and banks. It is however noted that material disturbed at the construction stage would be reinstated after the pipe is buried. It is also recognised that whilst there will be disturbance to existing sediment, this will re-settle and no new sediment will be introduced into the loch. On the basis of the information provided, **SNH** conclude that the proposal would not adversely affect the integrity of the SAC. Also in relation to the SAC, the consultation response from **SNH** refers to an otter survey which was conducted in 2005 to check for holts / otter signs along a proposed path route, running past the location of the proposed gauging station. No otter holts signs were found in this area and **SNH** comment that the habitat in this area is not particularly suitable for otter. The development is not therefore considered likely to have a significant effect on otter in this area.
18. In a consultation response from the **Environment Officer** at Aberdeenshire Council, it is stated that the proposal is acceptable subject to a number of actions. The required actions include seeking the advice of **SNH** to establish whether or not there is likely to be a significant impact on the SAC or whether an appropriate assessment is required. The submission of a method statement and an otter survey are further actions required in order to ensure that the proposed works will not have a negative impact on the nature conservation interests of the site and to ensure that adequate measures would be undertaken in order to protect those interests. A further recommendation relates to

the provision of public access and the need to ensure that existing and potential public access is protected.

19. The initial consultation response received from the CNPA's **Natural Heritage Group** details the various natural heritage designations affecting the proposed site and their qualifying features. In assessing the implications of the development process, **NHG** comment that most disruption would be caused during the construction phase. Human activity levels would be at their highest at this time, the maximum amount of land area would be impacted upon and this is the period within which sediment disturbance within the loch is most likely to occur.
20. Further to the receipt of additional information, in particular details of the proposed construction methods, **NHG** re-examined the proposal and carried out the required appropriate assessment, relating to potential effects of the development on the Muir of Dinnet Special Protection Area, Site of Special Scientific Interest and Special Area of Conservation.
21. In relation to the Muir of Dinnet SPA and SSSI, **NHG** noted that the qualifying interests are greylag geese and wintering waterfowl assemblages. **NHG** consider that there is potential for increased disturbance of any geese roosting or feeding on the loch due to the noise and / or the presence of people in the course of construction. It is however unlikely to have a significant effect and it is noted that there have been few geese on the loch in recent years. Any disturbance to the birds would be temporary and the site integrity would not be affected in the long term. There would however be a greater chance of disturbance in the event of geese returning to the loch to roost in large numbers. Should this occur, **NHG** recommend that work should be delayed until the geese leave the loch.
22. In terms of the impact on wintering waterfowl assemblages, the minor disturbance resulting from noise and / or the presence of construction workers is unlikely to have a significant effect. Any disturbance would be temporary and the integrity of the site would not be affected in the long term. In the interests of protecting the qualifying features of the SPA and SSSI, **NHG** recommend that the proposed works are carried out between mid July and mid-September, in order to avoid disturbance to wintering waterfowl and geese.
23. In carrying out the appropriate assessment in relation to the SAC, four qualifying interests were detailed – oligotrophic or mesotrophic standing waters with vegetation of the Littorelletea uniflorae and / or the Isoeta-Nanojuncetea; European dry heaths; transition mires and quaking bogs; and degraded raised bogs still capable of natural regeneration. The development is considered likely to have an effect only on the first qualifying interest in the short term due to the release

of silt in the construction phase. It is not considered likely to have any significant effect on the heaths or bogs.

24. **NHG** comment in the appropriate assessment that the likely impacts on the qualifying features of the SAC relates to the sedimentation of a clear water loch with aquatic vegetation and poor to moderate nutrient levels. It is noted that the applicants construction method statement outlines steps to be taken to minimise the release of sediment and other pollutants into the loch during all phases of the proposal. The effects of any released sediment would very likely be short term and reversible in that sediment will quickly settle so as not to have long term effects on water quality. Given the limited scale of the proposed development and the nature of the habitat at the site, for example no flowing water, the extent of any impacts of the development would be very localised. As a result **NHG** consider the application unlikely to run counter to the site's conservation objectives. It is recommended in the event of the granting of planning permission that a condition be attached to ensure that the development is undertaken in accordance with the construction method statement supplied by the applicants.
25. **NHG** also expressed concern in the initial stages regarding the originally proposed colour finishes of the hut (chestnut brown staining and juniper green roof), describing such colours as visually obtrusive. Unstained timber weatherboard and a grey roof are described as being less obtrusive. In addition, **NHG** suggest that the planting of ten broom shrubs between the hut and the drystone dyke, which would "in time serve to soften and screen the straight lines of the hut."

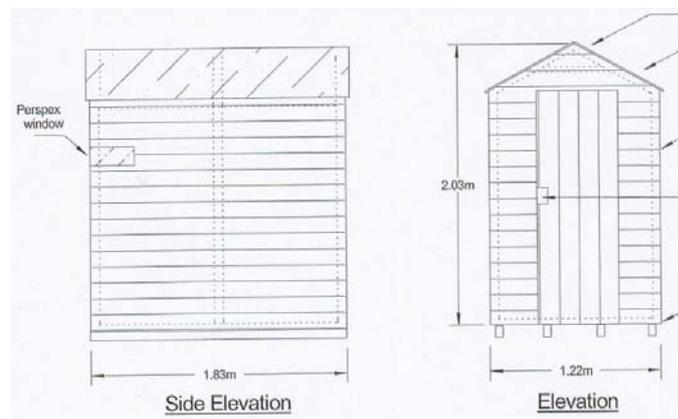


Fig. 3 : proposed hut

REPRESENTATIONS

26. No representations have been received in respect of the proposed development.

APPRAISAL

27. The proposed development is small scale and involves relatively limited works. The applicants, **SEPA**, have provided information on the background to the proposal, where data will essentially be collected from the equipment that would be installed in order to assist in assessing the impact of human activities on the water environment.
28. The issues to assess in relation to the proposal are whether or not the principle is acceptable and accords with relevant planning policy, and to consider the impact of the development on the natural heritage designations in the area. The planning policies detailed in paragraphs 9 – 12 of this report largely relate to natural heritage and nature conservation issues. The appropriate assessments carried out by the CNPA's **Natural Heritage Group** indicate that the limited nature of the works proposed and the relatively short construction period would not be likely to have any significant impact. Disturbance to birds would be temporary, and the effect of any released sediment would be short term and reversible as the sediment will quickly settle. The views expressed by the CNPA's **Natural Heritage Group** in relation to the inclusion of appropriate conditions in the event of the granting of planning permission (regulating the period within which development can occur as well as the construction methods employed), generally concur with the views expressed by **Scottish Natural Heritage** on the use of appropriate conditions to alleviate the natural heritage concerns.³
29. The visual impact of the proposed development will be minimal, given the fact that the only structure would be a small timber hut, which SEPA intend to stain in colours which will blend into the landscape, and also having regard to the fact that the site is relatively well screened by existing vegetation from the landward approaches from the south, east and west. One of the many walking routes around Loch Kinord passes close to the site, but it is not considered that the proposed development will hinder the enjoyment of users of this route. The site is also low lying relative to the A93 public road which runs a short distance to the south and the development does not have the potential to become a prominent feature in this location.

³ SNH originally suggested a condition restricting the carrying out of work between 1 August and 30 March. Further to the CNPA's Natural Heritage Group carrying out an appropriate assessment, the suggested time period was discussed by an NHG officer with an official from SNH. It was concluded that any activity of breeding birds on the loch would generally have ceased by mid July, and geese would not normally be expected to arrive in the area until at least mid September.



Figure 4 : view towards the proposed site from the A93 public road

30. In conclusion the proposed development is essential to SEPA's work in assessing the impact of human activity on the water environment. It will not have a detrimental impact on the natural heritage designations of the area, nor will it interfere with existing access opportunities in this location.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

31. The proposed development is within an area which has a number of natural heritage designations. The proposal would not have any negative impact on the qualifying features of the designations, subject to being carried out in accordance with recommended conditions. The route of the construction path has also been designed to avoid the nearby post medieval stone enclosure and is not therefore considered to affect the cultural heritage of the area.

Promote Sustainable Use of Natural Resources

32. The source of the material for the proposed timber hut is not known and it is not therefore possible to assess whether or not the development complies with this aim.

Promote Understanding and Enjoyment of the Area

33. The proposed development whilst not making any direct contribution to this aim would not hinder the promotion of promotion of the understanding and enjoyment of the area by the general public.

Promote Sustainable Economic and Social Development of the Area

34. The proposed development is not of any particular relevance to this aim.

RECOMMENDATION

35. That Members of the Committee support a recommendation to:

Grant Full Planning Permission for the construction of a gauging station at Loch Kinord, Meikle Kinord, Dinnet, Aboyne subject to the following conditions : -

1. The development to which this permission relates must be begun within 5 years from the date of this permission.
2. The development shall be undertaken in accordance with the construction method statement submitted in conjunction with the planning application.
3. Construction work shall only be carried out between mid July and mid September in order to avoid negative effects on breeding birds and geese using Loch Kinord.
4. In the event that any deviation of existing access routes becomes necessary in order to facilitate the carrying out of the works, details of the proposed deviation shall be submitted for the written agreement of the Cairngorms National Park Authority acting as Planning Authority prior to the commencement of development. Otherwise all existing access in the area shall be protected and maintained.

Mary Grier
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28 March 2007

The map on the first page of this report has been produced to aid in the statutory process of dealing with planning applications. The map is to help identify the site and its surroundings and to aid Planning Officers, Committee Members and the Public in the determination of the proposal. Maps shown in the Planning Committee Report can only be used for the purposes of the Planning Committee. Any other use risks infringing Crown Copyright and may lead to prosecution or civil proceedings. Maps produced within this Planning Committee Report can only be reproduced with the express permission of the Cairngorms National Park Authority and other Copyright holders. This permission must be granted in advance.