

AGENDA ITEM 6

APPENDIX 6

PA-0272

SCOTTISH NATURAL
HERITAGE RESPONSE



Scottish Natural Heritage Dualchas Nàdair na h-Alba

All of nature for all of Scotland
Nàdar air fad airson Alba air fad

BY EMAIL

Andrew McCracken
Planning Officer
The Highland Council

Our reference: CDM131782
Your reference: 14/02344/FUL

15 May 2015

Dear Mr McCracken

Proposed River Pattack hydro-electricity scheme, nr Loch Laggan, Newtonmore Town & Country Planning (Scotland) Act 1997

Thank you for your consultation on the above proposal.

1. Summary

- We advise that although the landscape impacts of the development would be significant, they would be localised along part of the River Pattack and would be unlikely to have a significant impact across the wider area (which includes the Rannoch-Nevis-Mamores-Alder Wild Land Area and the Cairngorms National Park), provided good construction practice is followed and effective mitigation applied. We provide further advice on the landscape and visual impacts in sections 3.a-c.
- We provide updated advice on the ecological issues raised in our 7 July 2014 letter to you. A compilation of our recommended measures is provided in Annex I.

2. Background

We previously provided you with ecological advice in July 2014. We are pleased to note that the applicant has sought to address the issues raised in our July letter, by providing updated protected species surveys, clarification for black grouse, lower plant and deer assessments. We provide you with updated advice on these issues below. We are also now able to provide you with our landscape and visual impact advice.

3. Advice on natural heritage impacts

a. Landscape and visual impacts; general

The closest, adjacent viewers of the development would be users of the route that leads from Loch Ericht along the River Pattack. Although impacts would be localised, along a short section of this route there would be significant adverse visual impacts. The size and height of the dam would be a dominant feature in the gorge and, upstream, the reservoir draw-down would be visible at close range. The extent and nature of these impacts would depend on the exact route of the diversion of the route from the dam. Our advice is that a diversion of the walking path further upstream should aim to balance intentions to avoid loss of river walk along the landscape feature of the gorge whilst avoiding close up visibility of the dam.



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Further consideration of the diversion, to maintain the interest and variety provided by the gorge along this section of the route has been discussed with the developer on site. Amendments that take this into account should be included in the final micro-sited design, based on advice from the developer's landscape advisor.

The abstraction of water would have an effect on the amount of flow on the series of waterfalls along the Pattack. These are features of this landscape and popular visitor destinations. The ES suggests that changes in appearance due to changes in flow rates would be of low magnitude, and that the flow rates most affected would be high flow rates. Our advice is that it will be important to ensure that adequate flow rates are maintained to ensure the amenity value of the waterfalls and the river.

The proposal to mitigate tracks by integrating them into the natural landform is welcomed, especially for the new tracks leading up to Allt Mhainisteir intakes. Our advice is that appropriate restoration of new and upgraded tracks to landrover track size, and allowing natural regenerations of vegetation along the edges and centre of the tracks should also reduce the visual impacts.

In conclusion, our advice is that the most significant general landscape and visual impacts will be localised. However, the mitigation measures identified above would help reduce these impacts on sensitive receptors (such as visitors to the waterfalls and those travelling beside the River Pattack to/from Loch Ericht). The track restoration measure should also help reduce the visual impacts over the wider area.

b. Landscape and visual impacts; Cairngorms National Park (CNP)

The walking-route along the Pattack past the proposed development site leads into the CNP via the popular Falls of Pattack, Pattack Falls and Lin of Pattack, but it is not a major approach-route into the Park. The development would be located close to the edge of the CNP, with the dam and the reservoir at a distance around 4km from the Park boundary. The undergrounded pipeline would run along the edge of the park at a closer distance of around 0.2km. In this section the pipeline would be buried and the track reinstated, so there should be no residual landscape and visual impacts, provided the restoration is carried out properly. The proposed advance tree planting to mitigate visual effects on the CNP by screening should also help alleviate some of these effects, and is welcome. There would also be visibility of the proposed development from higher ground from within the CNP, although this would be limited.

In conclusion, due to the distance, type of development and proposed mitigation (identified in the ES and section 3.a above), overall, we do not consider that there would be significant impacts on the integrity or special landscape qualities of the CNP.

c. Landscape and visual impacts; Rannoch-Nevis-Mamores-Alder WLA

The proposal would be located within the north-eastern edge of the Rannoch-Nevis-Mamores-Alder WLA. Although the river itself has a high degree of perceived naturalness, the sense of wildness in this location is reduced by land uses such as forestry and the presence of human artefacts (such as land rover tracks and retaining wall, railings, fencing, etc). The proposed dam and reservoir would result in significant additional impacts on the perceived naturalness of a short stretch of the upper river Pattack gorge. If the dam was located at the downstream-end of the micro-siting zone, as illustrated in the Environmental Statement (ES) drawings, significant effects and much of the visibility of the dam would be restricted to the immediate surroundings.

The secondary intakes proposed on the Allt Mhainisteir tributary are in close proximity to the WLA (approximately 1km). Here, there is evidence of land management and tracks nearby, but locally the experience of wildness is higher.

The proposal includes less than 1km of new permanent access track, which is proposed to be restored to a land rover track. This should help reduce the impacts of the proposed development. Consideration should also be given to the establishment of native broadleaved regeneration and planting near the intakes.

In conclusion, we consider that the impacts on wildness would be localised and should not have significant effects on the wider WLA. The impact of the new and upgraded tracks could be mitigated by suitable restoration and tree planting. The significant effects of the dam on the wider WLA can be substantially mitigated through appropriate design and micro-siting, in combination with appropriate planting and/or regeneration of trees:

- The design of the dam (choice of form, colours and materials) should aim to integrate with the landscape context as much as possible. Muted colours and a curved dam design (to create a more naturalistic shape of the reservoir) could help to achieve this. The ES suggests a margin of 100m for the micro-siting of the dam. The siting of the dam 100m further upstream would approximately double its width and change how it would integrate in the surrounding landscape. Design and mitigation considerations for this scenario would become more important as the dam would be bigger and more open to views, and would create a larger edge to the reservoir. For example, the larger linear edge of the reservoir could be mitigated by design, such as giving the dam a curved shape.
- Appropriate tree planting and regeneration, as identified in above and in section 3.b, is an important mitigation measure for this development. Alongside native broadleaved species, native coniferous trees should be considered. These would be more in keeping with the traditional presence of coniferous woodland in the wider area. Groups of trees should aim to resemble the existing loose woodland formations, rather than form dense rings of planting around developments, or create straight linear features. In addition, our advice is that tree planting and regeneration, particularly along the pipeline, should avoid forming a large scale linear feature in the landscape, by dividing the trees in groups.

d. Protected species

The applicant's consultant has carried out more up to date protected species surveys for mammals, as requested. We are broadly content with the mitigation proposals for water vole, a protected species, subject to the process being monitored by a suitably experienced (and licenced if required) ecologist. With regard to otter, a European Protected Species, we are broadly content with the proposed mitigation. However, we reiterate our recommendation that the alternative holt should be created well before anything is done to the existing holt. This is to allow the otters the opportunity to investigate and become familiar with the new holt before the loss of their existing holt.

Our advice is that if you approve this application, even with the mitigation set out in the species protection plan, it is likely that licence(s) from Scottish Natural Heritage will still be required by the applicant before they can proceed with the development. This is because of the likely disturbance and potential destruction of an otter resting place and water vole burrows, both of which would be an offence without an appropriate license.

If you are minded to approve this application, you must satisfy yourself that the tests for a species licence under the relevant protected species legislation are likely to be met. If not, you could risk the applicant being unable to make practical use of the planning permission or committing an offence. (For otter, this means that if you are minded to approve this application you must satisfy yourself, in line with your statutory duties under the Habitats Regulations 1994 (as amended), that the licensing tests set out in those regulations are likely to be met before approving the application.) See <http://www.snh.gov.uk/protecting-scotlands-nature/species-licensing/> for more information on licensing for otter and water vole.

Based on the information currently available to us, our advice is that it is likely that the tests would be met and therefore that licences would be granted for otter and water vole. Please note that this advice is given without prejudice to any later consideration of an application(s) for licence(s).

e. Black grouse

We are pleased to note the altered route taken to avoid destruction of the habitat that forms a black grouse lek. Our advice is that during construction and operation, a 500m buffer should be applied around the leks where no construction/maintenance activity is allowed (including vehicle movements along tracks) before 9am in the months of April and May. This is to avoid causing disturbance to lekking birds during the sensitive breeding season.

f. Lower plant and deer assessments

We are pleased that the applicant has carried out lower plant and deer assessments as requested. Our advice is that no further work is required for lower plants.

We note the content of the deer assessment and tend to agree with the conclusions. However, we recommend that the estate head keeper and Ecological Clerk of Works monitor the impacts on deer and caused by deer during construction. This will allow any unexpected impacts to be recognised and mitigated if required.

4. Concluding remarks

Should you have any queries about this letter, please contact me at our Inverness office.

Yours sincerely

Nina Turner

Renewable Energy Casework Advisor (North)

Annex I – Recommended measures

1. We recommend that the full range of ecological mitigation and enhancement measures identified in the ES and Addendum are implemented, subject to the below additional/enhanced measures to further reduce the impacts on the natural heritage. You may decide to impose conditions to secure these measures, but this would be for you to determine within the context of your own policies:

- a. To ensure that impacts on carbon rich soils, peat and peatland habitats are minimised, we recommend that a draft Peat Management Plan is produced prior to construction commencing, for the approval of the Highland Council in consultation with SEPA. The PMP should identify the volumes of the different types of peat expected to be excavated; how much of each type will be reused, where and how; and how and where it will be stored until it can be reused. The PMP should take sensitive habitats (including watercourses) and areas used by protected species into account when considering peat storage and reuse.
- b. We recommend that a pre-construction survey for legally protected species is carried out at an appropriate time of year for the species, at a maximum of 8 months preceding commencement of construction. The pre-construction surveys should be carried out by suitably experienced (and licensed if necessary) surveyor(s), using recognised methods at the appropriate time of year for the species, at a maximum of 8 months prior to construction commencing.

The species that should be surveyed for include, but are not limited to, breeding birds and mobile mammal species where there is suitable habitat and that may have moved into the area since the time of the ES survey (eg otter, water vole). The area that is surveyed should include all areas directly affected by construction plus an appropriate buffer to identify any species within disturbance distance of construction activity and to allow for any micro-siting needs.

Depending on the survey results, it may be necessary for Species Protection Plans to be produced prior to construction commencing, and licences may also be required to allow construction to proceed without committing an offence. The ECoW should have a role in drafting any Plans that are required, using the information from the ES and preconstruction surveys. The ECoW should also oversee implementation of the species plans and any licensing requirements. A watching brief should also be implemented by the ECoW during construction, in case of unexpected activity on site by protected species.

- c. During construction and operation, a 500m buffer should be applied around black grouse leks, where no construction/maintenance activity is allowed (including vehicle movements along tracks) before 9am in the months of April and May.
- d. We recommend that the water flow levels; track restoration; dam design, location and colour; tree planting and regeneration; and the Loch Ericht/River Pattack route diversion measures identified in sections 3a-c are implemented under the advice of the developer's landscape and ecological advisors.
- e. With respect to deer, we recommend that the estate head keeper and Ecological Clerk of Works monitor the impacts on deer and caused by deer during construction, to allow any unexpected impacts to be recognised and mitigated if required.
- f. With reference to the Land Reform (Scotland) Act 2003, where access requires to be restricted at any time, we recommend that clear signage following the Scottish Outdoor Access Code branding guidelines is used.

Annex I – Recommended measures

- g. We strongly recommend that an outline decommissioning plan is produced prior to construction, and an additional consultation is carried out well in advance (eg 3-5 years) of the year of decommissioning to ensure all natural heritage considerations are taken into account. Further survey work is likely to be required in the year or more prior to decommissioning to fully assess the likely impacts, particularly on legally protected species.