

Agenda Item	6.11
Report No	PLS-26-22

HIGHLAND COUNCIL

Committee: South Planning Applications Committee

Date: 22 March 2022

Report Title: 21/00225/FUL: RWE Generation UK Ltd
Site 480M South of Garrogie Lodge, Whitebridge, Inverness

Report By: Area Planning Manager – South

Purpose/Executive Summary

Description: Construction of adjustable weir, control cabin, kiosk; track works, borrow pit

Ward: 12 – Aird and Loch Ness

Development category: Local

Reason referred to Committee: Objection from Community Council

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

Recommendation

Members are asked to agree the recommendation to **GRANT** the application as set out in section 11 of the report

1. PROPOSED DEVELOPMENT

1.1 The proposal consists of:

- Construction of a low-profile dam which consists of an adjustable (inflatable) weir with crest approximately 2m above the existing bed level
- A control cabin - This will house control equipment for the weir and will be timber clad measuring 5m by 5m in plan and 3m in height. It will be located either approximately 84m northeast of the weir or closer to the weir on the west side of the bridge.
- Track Upgrade - There will be a minor upgrade of a 115m long stretch of the privately owned track on the east shore of Loch Killin
- Borrow Pit – located approximately 500m to the east of the weir location, which may form part of the temporary construction works to source material. However, it is anticipated that any required material would be imported from an off-site location

1.2 The site is located around 350m to the southeast of Garrogie Lodge, which itself is around 5km to the southeast of the community of Whitebridge on the eastern side of Loch Ness.

1.3 The development would increase the energy yield of the Garrogie hydro scheme by means of adding loch storage at Loch Killin, just upstream of the Garrogie intake weir.

1.4 The proposed storage enhancement scheme consists of a new dam with a variable weir on the outlet of the loch. The construction of the Glendoe Hydro Scheme, which has a total of 15 operational intakes in the catchment, has had a significant impact on the hydrology of the Garrogie system. Water levels in Loch Killin are presently lower during a spate event relative to the levels which would have been experienced prior to the construction of Glen Doe Hydro Scheme. The construction of an attenuation reservoir would enable the loch level to return to the condition prior to the Glendoe development. This would increase the hydroelectric power generation from the existing Garrogie hydro scheme.

1.5 Pre-Application Consultation: The applicant recognises that the proposal may give rise to some environmental effects and submitted a Screening Opinion (18/05037/SCRE). The assessment of this concluded that a formal Environmental Impact Assessment (EIA) was not necessary in support of an application. However, the applicant has submitted a voluntary Environmental Appraisal (EA), which includes a number of specialist environmental studies:

- Terrestrial protected species
- Terrestrial habitats
- Trees and woodlands
- Cultural heritage
- Landscape and visual impact

- Peat soils
- Traffic and transport

Other studies have been completed by others, and are not considered within the Environmental Appraisal:

- Ornithological survey
- Fisheries survey
- Bathymetry and topography
- Loch level gauging

1.6 Supporting Information:

- Cultural Heritage Assessment
- Ecology Assessment
- Environmental Appraisal
- Geological Assessment
- Killin Dam Design Basis Statement
- Killin Dam Weir Modelling
- Landscape and Visual Impact Assessment
- Transport, Traffic and Access Statement
- Ornithological Report
- Hydrology Review

1.7 Variations: Revised Site Layout Drawing 14.02.2022

2. **SITE DESCRIPTION**

2.1 The site is located at the outflow of Loch Killin (northwest corner) to the River Fechlin, near Garrogie Lodge. It lies at the end of the public road U1140, which is single track with passing places, and joins the B862 at Whitebridge. The weir will be located below the bridge which connects the end of U1140 to the east side of the Loch where there is a private track.

.2 The site is situated a short distance upstream (south) of the Garrogie Hydro Power scheme, a small operation commissioned in 2005 and managed by Innogy Renewables UK Ltd (formerly Npower Renewables). Linked to the scheme (but under different licensing arrangements), Innogy Renewables UK Ltd have proposed to build a low-profile dam at the outflow of Loch Killin on the River Fechlin.

3. **PLANNING HISTORY**

3.1	20.04.2004	03/00459/S36IN - Section 36 Consent under Electricity Act 1989 for Hydro Electric Scheme	Planning Permission Granted
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3.2	11.12.2018	18/05033/SCOP - erect low-profile dam above the existing bed at the outflow of Loch Killin on the River Fechlin.	Application Withdrawn	
3.3	23.11.2018	18/05037/SCRE - erect low-profile dam above the existing bed at the outflow of Loch Killin on the River Fechlin.	EIA required	not

4. PUBLIC PARTICIPATION

4.1 Advertised: Schedule 3 development

Date Advertised: 05.02.2021

Representation deadline: 19.02.2021

Timeous representations: 0

Late representations: 3

4.2 Material considerations raised are summarised as follows:

- a) Visual Impact
- b) Protected Species
- c) Environmental Impact
- d) Traffic and road network
- e) Water Flow
- f) Trees

4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam.

5. CONSULTATIONS

5.1 **Stratherrick & Foyers Community Council:** Object

- The B851 and the B862 are narrow, twisting, often single-track roads, not designed for heavy construction traffic. The U1140 is of an even lesser category with much longer spacing between passing places which makes it an unsuitable access for large construction vehicles.
- Considered that their existing condition is of too sub-standard a nature in many sections and for significant lengths of the B851, B862 and U1140 to be used.
- Additional, adverse impact further construction traffic will have on the structural integrity of those routes and road safety standards
- Many sections already suffer from significant verge deterioration.
- None of the existing conditions and limitations of the affected roads are formally acknowledged in the Transport Statement.

- Dispute the figures used in the TS that state that currently there are 59 HGV journeys on the U1140 pre-construction.
- Pedestrians – the TS states that no significant effects will arise for roadside settlements on the U1140 in relation to construction traffic movements, effects would be short lived, road is not close to capacity and pedestrian movements are not observed to be high with no formal pedestrian infrastructure.
- No formal pedestrian infrastructure as the U1140 is generally a very quiet road; however, TS does not acknowledge that the road forms part of the Loch Ness 360 route, which is very popular, linking to the Great Glen Way.
- Community Consultation – None and no contact with Community Council
- Visual and environmental impact in a popular walking and canoeing location
- Impact on otters, fish, eagles – not referred to in ecological assessment, or mitigation measures

If project were to receive approval, Community Council ask for consideration of mitigation measures:

- Financial contribution for maintenance and improvement works to the B851, B862 and U1140
- Protection of affected species agreed prior to the start of any construction
- Community liaison group
- Scheduling of project works and traffic management
- All site vehicles to be numbered
- Minibuses to be used where possible for construction workers

5.2 **Transport Planning:** Original response (22.02.2021) prepared in consultation with Area Roads officers who are responsible for roads operational management.

“The B roads form part of the South Loch Ness Road Improvement Strategy which seeks to bring the roads up to a modern-day standard and improve road safety for all users. Works to improve the roads have been delivered through capital funding and new developments and it is considered appropriate to secure mitigation against developments where they adversely impact on these fragile routes.

The U1140 is a narrow single-track road with passing places. A Traffic Regulation Order was passed in 1989 that applies to the whole length of the road that restricts vehicles greater than 25 tonne maximum gross weight and vehicles longer than 12 metres. The restriction is in place due to the fragile nature of the road and its ability to cope with increased traffic and large and heavy vehicles.

Given the scale of the transport impacts it would be appropriate to focus road mitigation local to the development, i.e. Scheme 44 – B862 Whitebridge Village Improvement Scheme of the Strategy. Full construction of a Village Improvement Scheme would be unreasonable, but mitigation works that fit with the longer term ‘Village Improvement Scheme’ to slow and manage traffic better through the

village will offset the inevitable transport impacts arising from this development to the B862 infrastructure and its users.

An assessment is necessary of the width and geometry of the U1140, including the location and number of passing place, improvement of sub-standard sections and the provision of new passing places where forward visibility does not meet Council standards. A schedule of Road Mitigation Works and its delivery is necessary prior to the start of construction, and includes targeted carriageway overlay and localised passing place upgrades and provision for the U1140 along with a financial contribution to the South Loch Ness – Road Improvement Strategy for the B862. The scope of these works has been agreed with the applicant for the U1140; agreement has been reached in terms new passing places, hardstanding upgrades, passing place upgrades and surfacing of driveway entrances as passing opportunities.

The B851 Flichity Bridge is not subject to a weight restriction and is being monitored. There is evidence of slow but continuing deterioration of the upstream parapet. The bridge is not capable of safely carrying abnormal loads and high intensification of HGV use must be avoided so as not to result in excessive or further deterioration. A replacement structure is planned but the timing of the works is unknown. To maximise the life of the existing structure, the approach to HGV use on the B862 must be stated in the CTMP and conveyed to contractors and suppliers.

Due to the substandard nature of the roads, the developer is required to enter into a formal Section 96 agreement with the Council to safeguard the U1140 and the B862 in the vicinity of Whitebridge Village.”

5.3 **Contaminated Land:** No objection.

5.4 **Flood Risk Management Team:** No objection.

5.5 **Forestry Team:** No objection.

The proposed new weir, GRP control kiosk, compound, borrow pit and cable/ pipework are proposed outwith trees/ woodland and should have no adverse impact.

The minor track upgrade is adjacent to woodland listed on the Native Woodland Survey of Scotland as upland birchwood of mixed age and the woodland is also partly within an area listed on the Ancient Woodland Inventory as Ancient semi-natural origin (ASN01750). The extent of the works associated with raising the level of the existing track needs to demonstrate no significant adverse impact on existing woodland and to show how the woodland would be safeguarded from construction.

There are mitigation proposals in the Environmental Appraisal which includes Planting or encouragement of small areas of native tree species reflecting the existing species found along the banks of the loch to retain the landscape character in the longer term. This could also include planting around the control kiosk.

- 5.6 **SEPA:** No objection. on flood risk grounds. Developer has provided hydrographs associated with reservoir operations.
- 5.7 **NatureScot** do not offer formal comment on this proposal as it does not meet its criteria for consultation.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland Wide Local Development Plan 2012

- 28 - Sustainable Design
- 29 - Design Quality & Place-making
- 30 - Physical Constraints
- 31 - Developer Contributions
- 36 - Development in the Wider Countryside
- 51 - Trees and Development
- 56 - Travel
- 57 - Natural, Built & Cultural Heritage
- 58 - Protected Species
- 59 - Other important Species
- 60 - Other Importance Habitats
- 61 - Landscape
- 63 - Water Environment
- 64 - Flood Risk

6.2 Inner Moray Firth Local Development Plan 2015

No specific policies apply

6.3 Highland Council Supplementary Planning Policy Guidance

- Developer Contributions (March 2018)
- Flood Risk and Drainage Impact Assessment (Jan 2013)
- Highland's Statutorily Protected Species (March 2013)
- Highland Renewable Energy Strategy and Planning Guidelines (May 2006)
- Physical Constraints (March 2013)
- Trees, Woodlands and Development (Jan 2013)

7. OTHER MATERIAL POLICY CONSIDERATIONS

7.1 Scottish Government Planning Policy and Guidance

Scottish Planning Policy

8. PLANNING APPRAISAL

- 8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

Determining Issues

- 8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

Planning Considerations

- 8.3 The key considerations in this case are:
- a) compliance with the development plan and other planning policy
 - b) siting and design, including landscape and visual effects
 - c) impact on natural, built and cultural heritage features
 - d) impact on the road network
 - e) any other material considerations

Development plan/other planning policy

- 8.4 The Development Plan recognises the potential for renewable energy development in Highland. Policy 67 (Renewable Energy Developments) of the Highland-wide Local Development Plan gives general support to this type of renewable energy development and is the key policy consideration in assessing this application. However, various considerations and safeguards are built into the policy wording. Policies 28 (Sustainable Design), 57 (Cultural and Built Heritage), 58 (Protected Species) and 61 (Landscape) are all relevant to this application and require to be given due weight. As an impoundment of water due consideration needs to be had to Policy 64 (Flood Risk) that outlines that development proposals should avoid areas susceptible to flooding and promote sustainable flood management.
- 8.5 The proposal needs to be assessed against other policies of the Development Plan and have regard to other material considerations, including economic benefits of renewable energy.
- 8.6 Scottish Planning Policy (SPP) provides strong support for renewable energy but recognises that such support and the need to protect and enhance Scotland's natural and historic environment must be regarded as compatible goals. The planning system has a significant role in securing appropriate protection to the natural and historic environment without unreasonably restricting the potential for renewable energy. National policies highlight potential areas of conflict but also advise that detrimental effects can often be mitigated and or effective planning conditions can be used to overcome potential objections to development.
- 8.7 Taking into account any mitigation measures, proposals can be supported where they are located, sited and designed such that they will not be significantly detrimental overall, either individually or cumulatively with other developments having regard in particular to any significant effects on the following relevant issues to this application:
- natural, built and cultural heritage features;

- species and habitats;
- visual impact and impact on the landscape character of the surrounding area

8.8 Providing that the proposal does not have a significantly detrimental impact upon the landscape resource or visual amenity, the natural, built and cultural heritage of the area or individual and community residential amenity and does not adversely impact on existing infrastructure then the development would be seen to be compatible with Scottish Government policy and the Development Plan and Supplementary Guidance.

Siting and design, including landscape and visual effects

8.9 The development is sited in a steep sided valley which is at the north western end of Loch Killin and is nestled on the north western edge of the Monadhliath Mountains.

8.10 The site is accessed from the end of the single-track public road and is near to Garrogie Lodge. The single-track road joins the B862 to the southern end of Whitebridge.

8.11 The end of the single-track road is formed into a turning head/parking area. From here, a private estate road crosses an existing plate bridge over the River Fechlin flowing out from Loch Killin. To the east and west of the bridge the land rises, narrowing to the north and downstream, and opening up to the north over the loch.

8.12 The existing bridge is a relatively low structure above the river and is approximately 38m in total length, with the span over the water of around 10m. It provides a visual focus to the north western point of the loch, although this is considerably softened by the trees to the west and downstream of the structure, where the river is constrained by the narrowing of the glen.

8.13 The proposal consists of the following elements:

- Low-profile dam with adjustable (inflatable) weir
- Control cabin
- Track upgrade
- Borrow pit

8.14 In addition to these main elements, during construction, an area adjacent to the tuning head/parking area is proposed to be extended and used for laydown and equipment. A further area adjacent to the entrance of Garrogie Lodge may also be used.

8.15 The principal element of the development is the introduction of a new low-profile concrete dam with adjustable (inflatable) weir. The dam would be located around 17m upstream (south) of the bridge adjacent to the existing ford.

- 8.16 The purpose of this is to enable a raising of the water levels in Loch Killin to allow for increased generating capacity over a longer period of time. The developer has noted that the capacity and the period for generation of the existing scheme has decreased following the commissioning of the Glendoe hydro scheme
- 8.17 The proposed weir would be of an inflation type design (an Obermayer weir) with a maximum height of around 2m above the existing riverbed. The design features a bottom hinged spillway gate with a row of steel gate panels supported on their downstream side by inflatable air bladders; controlling the pressure in the bladders allows the gate to be raised/lowered and thus the water levels to be varied. It has a low-profile visual profile, with the top of the weir structure sitting around 2.9m below the bottom of the existing bridge.
- 8.18 The weir would enable water to be held in Loch Killin in periods of rainfall and to be released in a controlled manner to increase the generation of the downstream Garrogie run-of-river hydroelectric scheme. In flood conditions, the weir would lie flat to allow the water to flow unimpeded. Therefore, there would be no increase in loch level beyond existing flood levels.
- 8.19 Rock armouring is proposed at the dam; there are stones around the existing loch outfall which provide some protection to the existing bridge.
- 8.20 The applicant has indicated that it has considered alternative locations for the development. The creation of a dam further south into Loch Killin would require significantly greater works and would likely give rise to greater visual impact. A location further downstream to the north, would provide minimal additional attenuation and may require removal of woodland on the east bank of the river. Given the nature of the development, the developer considers that is location at the mouth of Loch Killin, where it feeds into River Fechlin, is the only practicable location. The maximum operating level of the loch created by the dam at the proposed location would be consistent with the existing floodplain and is more in-keeping with natural conditions.
- 8.21 The developer has confirmed that the dam has been designed with a likely weir crest level of 319.90m AOD (the upper weir level), this will define the Top Water level (TWL). Survey information has confirmed that the existing riverbed level at the site is approximately 2.3m below TWL at a level of 317.60m AOD.
- 8.22 The top 2m of water below upper weir level (317.9 - 319.9) will be used for storage to supply the downstream Garrogie hydro scheme. The reservoir will generally be drawn down as early as possible using the appropriate generation flows to maximise available loch storage under high flow events.
- 8.23 There is a requirement to hold 0.4m of water during the September to March period. This means that the Loch will not be drawn down below 31B.3m AOD during these months.
- 8.24 The control cabin will house control equipment for the weir and will be timber clad measuring 5m by 5m in plan and 3m in height. The building design and materials are considered to be acceptable.

- 8.25 The developer has indicated two potential locations for this modestly sized cabin, either approximately 84m northeast of the weir, or closer to the weir on the west side of the bridge.
- 8.26 The location on the west side of the bridge lies on a flat area of grass adjacent to the public road and nestles below a raised back and is only immediately visible from the road rather than longer distances. The Forestry Officer has suggested further tree planting to screen the cabin but given the scale of the building and limited visibility this is considered to be unnecessary.
- 8.27 The alternative location to the northeast of the proposed weir would be sited over the ridge of a hill and close to a steading not visible from the public road at Loch Killin.
- 8.28 The siting of a modestly sized control cabin in either location is considered to be visually acceptable. In order to provide some flexibility for the developer, and to allow the Planning Authority to retain control the final siting of the control cabin, a condition relating to its final agreed siting is considered to be appropriate.
- 8.29 The application has been accompanied by an assessment of the zone of theoretical visibility (ZTV) of the development.
- 8.30 The weir and control building would be located at a natural transition in the landscape where existing features including the road bridge already influence the character.
- 8.31 The ZTV suggests that visibility of the proposed weir would be largely contained within the valley floor and valley sides with only a few areas of potential visibility indicated on higher slopes to south-east and north. It indicates that the visibility of the weir from the lower areas of the valley to the south would be limited, as the adjustable weir crest would almost always be concealed by the impounded water.
- 8.32 With regard to the control building, given its small size, and potential to be hidden behind the existing road bridge, it is considered that it is likely that intervisibility with this structure would be relatively limited. In addition, the minor upgrades to the road would be likely to appear similar to the existing road.
- 8.33 There would be periodic increase in loch levels leading to more frequent higher water levels of the loch, though the maximum operating water level would not be greater than existing natural flood levels which occur. Increased fluctuation would lead to an area of around 200 - 250m horizontally at the southern end being inundated more frequently than currently experienced. It is understood that reservoir modelling has shown that this increased fluctuation would not routinely take place over the summer months, which is anticipated to limit possible erosion likely to cause a drawdown scar. However, it is anticipated that some evidence of drawdown would be evident some of the time.
- 8.34 Longer term landscape effects would therefore be limited to the effects of the attenuation and potential drawdown. When water is high, there would be no noticeable change in character as the attenuated waters would appear consistent with the existing loch. When waters are reduced it is anticipated that there would

be some evidence of drawdown at least some of the time. However, it is understood from reservoir modelling that this is unlikely to lead to permanent erosion or scarring. This could be more noticeable in the winter months when fluctuations are anticipated to be greater but in the summer months without routine fluctuation it is anticipated that vegetation growth would reduce this evidence. Overall, it is anticipated that fluctuating waters would give a slightly more managed appearance to the loch during some periods.

- 8.35 Accordingly, the impact on the landscape is considered to be minor during the operation of the development.
- 8.36 There will be a minor upgrade of a 115m long stretch of the privately owned track on the east shore of Loch Killin, not accessible to public vehicles. This section of track nestles at the bottom of a slope covered in coniferous woodland and is visible at a distance from the bridge at the loch side. The track works are required so that it is raised above the ground that would be at increased risk of inundation. The track works are considered to be visually acceptable within the context of the existing loch and its private loch side track.
- 8.37 The developer has indicated that a source of locally won materials for the works would be welcomed as it would reduce the movement of aggregates on the single-track public road. A potential borrow pit site for this has been identified approximately 500m to the east of the weir location.
- 8.38 The siting of a borrow pit to source construction materials is considered to be a significant betterment to the area, particularly as it would reduce the requirement for large aggregate movement on the single-track public road. However, it should be noted that the final decision on the development of such a source of materials has not been made.
- 8.39 In order to provide some flexibility for the developer, and to allow the Planning Authority to retain control of the borrow pit, including its restoration, reinstatement and landscaping, conditions relating to its final agreed siting, its restoration, reinstatement and landscaping works are considered to be appropriate.
- 8.40 To enable the development, a compound to act as a site lay-down and construction area near to the dam location is required.
- 8.41 The developer has identified potential locations for this compound at either the area of bank / shoreline directly southwest of the existing bridge at the loch outflow and adjacent to the public road; or in the 'wedge' of open ground formed by existing access tracks to the north of the weir.
- 8.42 The location southwest of the weir, currently acts as a parking area, and could be expanded to accommodate a compound. This would have the advantage of avoiding the need for all construction traffic to cross existing bridge and reduce potential disruption to the access tracks which serve the buildings at Garrogie Lodge. The alternative location, north of the weir, would avoid removal of the parking area next to the loch, retaining it for visitors. Both of these locations are considered to be acceptable for such use on a temporary basis.

Natural, Built and Cultural Heritage

- 8.43 Prior to submission, the applicant submitted an application for Screening Opinion to determine whether the proposed development constituted Environmental Impact Assessment (EIA) development. It was determined that the proposal would not be subject to EIA.
- 8.44 Notwithstanding that the development is not EIA development, the developer has provided a number of studies within an Environmental Appraisal accompanying the application in relation to ecological interests.
- 8.45 Aquatic surveys considered the presence of Arctic Charr and Brown Trout. The survey assessment concluded that there would be little potential impact of the proposed scheme relating to the impoundment structure inhibiting movement of fish to utilise spawning habitat downstream (north) from the loch. It also concluded that there will likely be limited impact of the proposed scheme on these species.
- 8.46 An assessment of protected species was undertaken, covering the proposed weir location and the zone around Loch Killin. It concluded that otters are present in the area, but that no resting sites would be affected by the weir and no signs of other protected species were found.
- 8.47 No shelters for protected species would be affected, nor potential inundation from future flooding events. There is no requirement to seek licensing for disturbance / destruction of protected species during construction or operation. Given the suitability of habitat for Otter and confirmed presence of foraging Otter within the vicinity of Loch Killin, the applicants will undertake pre-construction surveys across the site by a suitably trained ecologist within one month prior to any construction activity; this can be addressed by condition.
- 8.48 In terms of construction work affecting the downstream water environment, there is a risk that construction pollution could travel downstream and affect the habitat around Whitebridge. Pollution control measures will be implemented to limit the risks involved with in-river working; such works and measures will be considered separately by SEPA through a Controlled Activities Regulations (CAR) licence. The timing of works can be controlled by condition to avoid the most sensitive times of the year when fish are spawning. In addition, a Construction Environmental Management Plan (CEMP) controlled by condition is considered appropriate.
- 8.49 The proposal would not have any direct disturbance to, or removal of, trees. The Forestry officer recommends conditions regarding the extent of the works associated with raising the level of the existing track and supports the planting mitigation proposals in the Environmental Appraisal, reflecting the existing species found along the banks of the loch, thus helping to retain the landscape character in the longer term. Such mitigation could include planting around the control kiosk. However, given the existing backdrop of trees, this is not considered to be necessary.

Impact on road network

- 8.50 The existing vehicular access to the site is via the single-track public road (U1140). This has passing places along its length. Construction vehicle access would require the use of this route. This road has previously been used for the existing Garrogie hydro construction access and Transport Planning is satisfied that it is suitable, without adjustment, for use for future construction. A ford crosses the loch outflow area immediately upstream of the bridge and this may be used by construction vehicles to cross the channel during dam construction, but the existing bridge would be favoured to minimise disruption to the riverbed and minimise potential for pollution incidents. The road is used by Dell, Garrogie and Killin Estates and the general public; it is not anticipated that any adjustment would be required to allow construction of the dam.
- 8.51 Transport Planning recognise the potential impact of the development on the public roads leading to the site. Discussions have taken place between the developer and Transport Planning with regards to potential mitigation measures, including an assessment of road geometry, passing places, hardstanding upgrades, and surfacing of driveway entrances as passing place opportunities and proposals for improving substandard sections of road. Road Mitigation Works with carriageway overlay and passing place upgrades have been agreed.
- 8.52 Transport Planning and the Area Roads Manager have concluded that in terms of the scale of the transport impact that it would be appropriate to focus on road mitigation measures local to the development, i.e. Scheme 44 – B862 Whitebridge Village Improvement Scheme of the Strategy. A financial contribution has been discussed and agreed with the applicant towards the South Loch Ness – Road Improvement Strategy for the B862. Taken together with a Construction Traffic Management Plan (CTMP), this will minimise the impact on the U1140. This would allow the temporary suspension of the road weight restrictions during construction. The CTMP will allow for routine monthly inspections of the U1140 to monitor any damage and deterioration.
- 8.53 Transport Planning have recommended engagement with the Community Council (such as a community liaison group) in the preparation of the CTMP, so they have an opportunity to provide input and feedback on the community's experiences through similar construction projects. These issues can be addressed by condition.

Other material considerations

- 8.54 There are no other material considerations.

Non-material considerations

- 8.55 None

Matters to be secured by Legal Agreement / Upfront Payment

- 8.56 Policy 31 requires that, where developments create a need for new or improved public services, facilities or infrastructure, the developer makes a fair and

reasonable contribution in cash or kind towards these additional costs or requirements. Business developments are exempt from education, community facilities and affordable housing contributions.

8.57 Following discussions with Transport Planning, the developer has agreed a contribution of £50,000 to the South Loch Ness – Road Improvement Strategy for the B862.

9. CONCLUSION

9.1 The application is in detail for the installation of a dam with a variable height weir, an equipment cabin, track upgrade, borrow pit, and a temporary construction compound/lay-down materials area. As a result of the dam and weir, the level of inundation of Loch Killin will be increased, thus providing for increased generating capacity for an existing hydroelectric scheme over a longer period of time.

9.2 The siting and design of the proposal is considered to be sensitive to the setting, having a relatively low visual impact in the landscape. This is assisted by the existing adjacent bridge at the north end of the loch, and the backdrop of trees and narrowing of the glen. In order to reduce the visual impact of the proposal, a scheme for the restoration and reinstatement of the proposed borrow pit, which in itself would help to reduce the impact of aggregate deliveries on the local road network, is considered to be appropriate.

9.3 The short and longer-term sustainable future of this small-scale hydroelectric scheme would be consolidated by the development. This is considered to be appropriate and acceptable in terms of the Development Plan policies, and also with regard to the greater governmental, Council, and public focus on security of electrical generation.

9.4 It is noted that survey work has confirmed that no protected species, habitats, or natural heritage interests would be adversely affected by the proposal.

9.5 The impact on the local road network can be mitigated, and it is noted that discussions between the applicant and the Roads Authority have agreed such details, as well as a financial contribution to improvement works to the local public road network.

9.6 All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

10. IMPLICATIONS

10.1 Resource: Not applicable

10.2 Legal: Not applicable

10.3 Community (Equality, Poverty and Rural): Not applicable

10.4 Climate Change/Carbon Clever: Not applicable

10.5 Risk: Not applicable

10.6 Gaelic: Not applicable

11. **RECOMMENDATION**

Action required before decision issued N

Notification to Scottish Ministers N

Conclusion of Section 75 N
Obligation

Revocation of previous permission N

Subject to the above actions, it is recommended to **GRANT** the application subject to the following conditions and reasons

1. No development shall commence on site until the developer shall have confirmed the final siting of the control cabin for the agreement in writing of the Planning Authority. The development shall thereafter be undertaken in accordance with the agreed details.

Reason: In order to clarify the terms of the permission hereby granted.

2. No development shall commence until details of a scheme of hard and soft landscaping works, including for the restoration and reinstatement of the borrow pit, shall have been submitted to, and approved in writing by, the Planning Authority. Details of the scheme shall include:
 - a) All earthworks and existing and finished ground levels in relation to an identified fixed datum point;
 - b) A plan showing existing landscaping features and vegetation to be retained;
 - c) The location and design, including materials, of any existing or proposed walls, fences and gates;
 - d) All soft landscaping and planting works, including plans and schedules showing the location, species and size of each individual tree and/or shrub and planting densities; and
 - e) A programme for preparation, completion and subsequent on-going maintenance and protection of all landscaping works.
 - f) Tree planting

Landscaping works shall be carried out in accordance with the approved scheme.

All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the completion of construction works, unless otherwise stated in the approved scheme.

Any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species.

Reason: In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.

3. No works shall start on raising the level of the track shown on Drawing No KIL-GEL-P-004 REV P3 until details of the works in relation to the safeguarding of the adjacent woodland have been submitted for the prior written approval of the Planning Authority. The development shall thereafter be undertaken in accordance with the agreed details.

Reason: To ensure that retained trees and woodland are properly managed and maintained and demonstrate there is no significant adverse impact on existing woodland and safeguarding of the woodland during construction.

4. At least two months prior to commencement of development on the site, a site-specific Construction and Environmental Management Plan (CEMP) shall be submitted and approved in writing by, the Planning Authority. The CEMP shall as a minimum provide for the following: -

- a) An updated Schedule of Mitigation (SM) which draws together all approved mitigation proposed in support of the application and other agreed mitigation (including that required by agencies and relevant planning conditions attached to this permission);
- b) A detailed construction programme and timetable including site restoration and reinstatement;
- c) Full details of restoration and reinstatement of the borrow pit, compound and laydown area, together with proposals for on-going maintenance of the whole site;
- d) A programme for environmental auditing and monitoring in and around the site, before and during construction and for 18 months after the development completion date, to include the establishment of an environmental checklist, to monitor and input into the planning of construction activities and ensure implementation of all environmental mitigation measures;
- e) Details of all pre-construction surveys of wildlife and plants, together with appropriate mitigation measures for all protected species to ensure all contractors are made aware of the possible presence of and the required mitigation and the laws for protected species.
- f) A site-specific statement outlining drainage and sediment management for all construction areas and measures to limit above ground construction

activities during periods of high rainfall, including weather forecasting and actions to be taken in advance of adverse forecasts.

- g) Waste Management and Pollution Controls including contingency plans in case of pollution incidents.
- h) Measures to control the emission of dust and dirt during construction.
- i) Provision of welfare facilities on site during construction and the means of disposal of foul drainage.
- j) Wheel washing facilities to prevent vehicles associated with the construction from depositing mud or dirt on the public road network when leaving the Site.
- k) Lighting for construction activities which will minimise illumination, glare or light spillage out-with the site boundary.

All works shall be carried out in accordance with the approved CEMP.

Reason: To ensure the impacts of construction are well understood by all parties involved with the construction of the project and that best practices are deployed to mitigate the expected impacts of the Development on the local environment both generally and with regard to specific resources or features.

5. No development shall commence until a Schedule of Road Mitigation Works including physical road mitigation works has been submitted to, and agreed in writing by, the Planning Authority in consultation with the Roads Authority. This shall include the delivery of physical mitigation works to the U1140 to safely serve the predicated construction traffic, in addition to base traffic. In these sections the mitigation works shall include but not necessarily limited to:

- a) targeted lengths of carriageway overlay;
- b) passing place provision in the form and combination of new passing places, upgrades to existing passing places and upgrades to accesses to act as passing opportunities.

The agreed road mitigation works shall be implemented and operational prior to any construction works or development commencing on the site or as otherwise agreed with the Planning Authority in consultation with the Roads Authority.

Reason: In order to secure a proportionate level of road mitigation works to safeguard the local road network and local communities due to the increased numbers of HGV and workers traffic which will be generated and the ability of the network to cope with the increased vehicular movements.

6. No development, including any demolition works, shall commence until a Construction Method Statement has been submitted to, and approved in writing by, the Planning Authority. The statement shall provide for:

- a) the parking of vehicles of site operatives and visitors;
- b) loading and unloading of plant and materials;
- c) storage of plant and materials used in constructing the development;
- d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- e) wheel washing facilities;
- f) measures to control the emission of dust and dirt during construction; and
- g) a scheme for recycling/disposing of waste resulting from demolition and construction works.

The approved Construction Method Statement shall be adhered to throughout the construction period.

Reason: In order to safeguard the amenity of neighbouring properties and occupants.

7. No development shall commence unless and until a Construction Traffic Management Plan ("CTMP") has been submitted to and approved in writing by the Planning Authority. The approved CTMP shall be carried out as approved in accordance with the timetable specified within the approved CTMP. The CTMP shall include proposals for:

- a) the routeing of construction traffic and traffic management including details of the capacity of existing bridges and structures along the abnormal load delivery route and a risk assessment;
- b) scheduling and timing of movements;
- c) the management of junctions to and crossings of the public highway and other public rights of way;
- d) any identified works to accommodate abnormal loads (including the number and timing of deliveries and the length, width and axle configuration of all extraordinary traffic accessing the site) along the
- e) delivery route including any temporary warning signs;
- f) temporary removal and replacement of road infrastructure/street furniture;
- g) details of all signage and lining arrangements to be put in place and the reinstatement of any signs, verges or other items displaced by construction traffic;
- h) banksman/escort details;
- i) a procedure for monitoring road conditions and applying remedial

measures where required as well as reinstatement measures;

- j) a timetable for implementation of the measures detailed in the CTMP;
- k) provisions for emergency vehicle access;
- l) identification of a nominated person to whom any road safety issues can be referred;
- m) formation of a community liaison group
- n) agreed routes to be used by all site staff, contractor and sub-contractor and deliveries unless origin/destination is from elsewhere with the local area;
- o) single source suppliers, continued use suppliers for deliveries and staff minibuses where used should mark vehicles with a unique number identifier on the front, sides and rear of the vehicles and a Garroge Weir identifier;
- p) toolbox talks established with all suppliers, contractors, site staff etc to drive carefully and with due care and attention at all times. Particular attention should be made to driving through all villages and settlements along the B roads with cognisance of relevant speed restrictions and local conditions/limitations of the road network.

In addition, there shall be no:

- q) Access to the U1140 by HGV traffic or vehicles longer than 12m
- r) HGV traffic associated with the development on the B862 and B851 during school opening and closing times
- s) Convoys of HGV or site staff vehicles

The development shall be undertaken in accordance with the agreed details of the CTMP.

Reason: In the interests of road safety and to ensure that abnormal loads access the site in a safe manner.

8. No development shall commence until an otter pre-commencement survey has been undertaken and a report of survey has been submitted to, and approved in writing by, the Planning Authority. The survey shall cover both the application site and the report of survey shall include mitigation measures where any impact, or potential impact, on protected species or their habitat has been identified. Development and work shall progress in accordance with any mitigation measures contained within the approved report of survey and the timescales contain therein.

Reason: To ensure that the site and its environs are surveyed and the development does not have an adverse impact on protected species or habitat.

9. Notwithstanding the provisions of Article 3 and Class 14 of the Town & Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended, revoked or re-enacted; with or without modification), no development shall commence until full details of any temporary site compounds and storage areas (including their location, scale and means of enclosure) shall be submitted to, and approved in writing by, the Planning Authority. Thereafter, the site compounds and storage areas shall be formed in accordance with these approved details. Furthermore, all site compounds shall be maintained in a tidy, safe and secure fashion and be removed from the application site within one month of the development being completed.

Reason: To ensure that the site compounds are sensitively located and are adequately secured to prevent unauthorised entry.

10. Not less than one year from the date of permanent cessation of the use of the weir, a Decommissioning Plan shall be submitted to and approved in writing by the Planning Authority in consultation with the Scottish Environment Protection Agency. Thereafter the site shall be fully decommissioned and the control cabin, and any associated plant and machinery shall be removed from the site and the site made good, in accordance with the approved Decommissioning Plan.

Reason: In the interests of visual amenity to ensure removal of redundant buildings and equipment.

11. No development shall commence on site until details of the timing of construction activities, as they relate to spawning fish species in Loch Killin and the River Fechlin, including, but not exclusive to arctic char, salmon and trout, has been submitted for the approval in writing of the Planning Authority in consultation with NatureScot and SEPA. For the avoidance of doubt, works within the watercourse shall be undertaken outwith the identified spawning season.

Reason: As no details have been provided and in order to mitigate the impact of the development on spawning fish.

REASON FOR DECISION

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

TIME LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION

In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

INFORMATIVES

Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

Flood Risk

It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (paragraph 259), planning permission does not remove the liability position of developers or owners in relation to flood risk.

Scottish Water

You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.

Local Roads Authority Consent

In addition to planning permission, you may require one or more separate consents (such as road construction consent, dropped kerb consent, a road openings permit, occupation of the road permit etc.) from the Area Roads Team prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local Area Roads office for further guidance at the earliest opportunity.

Failure to comply with access, parking and drainage infrastructure requirements may endanger road users, affect the safety and free-flow of traffic and is likely to result in enforcement action being taken against you under both the Town and Country Planning (Scotland) Act 1997 and the Roads (Scotland) Act 1984.

Further information on the Council's roads standards can be found at:

<http://www.highland.gov.uk/yourenvironment/roadsandtransport>

Application forms and guidance notes for access-related consents can be

downloaded from:

http://www.highland.gov.uk/info/20005/roads_and_pavements/101/permits_f_or_working_on_public_roads/2

Mud & Debris on Road

Please note that it is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

Wear & Tear Agreement

In terms of Section 96 of the Roads (Scotland) Act 1984 'Wear & Tear Agreement' with the Council to safeguard the U1140 and the B862 in the vicinity of Whitebridge Village.

Construction Hours and Noise-Generating Activities

You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact env.health@highland.gov.uk for more information.

Protected Species – Halting of Work

You are advised that work on site must stop immediately, and NatureScot must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the time of discovery. Further information regarding protected species and developer responsibilities is available from NatureScot: <https://www.nature.scot/professional-advice/protected-areas-and-species/protected-species>

Signature: David Mudie
Designation: Area Planning Manager – South
Author: Keith Gibson
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 01 - 120010-D1-EA REV 1.0.0 - Location Plan
Plan 02 - KIL-GEL-P-004 REV P7 – Site Layout Plan
Plan 03 - KIL-GEL-P-011 REV P3 - Cross-Section of Weir
Plan 04 - KIL-GEL-P-035 REV P1 - Control Building Elevations
Plan 05 - KIL-GEL-P-PLAN-010 REV P5 - Variable Weir General
Arrangement

Appendix 2

Type	Contribution	Total Amount* ¹	Index Linked ¹	Base Date* ²	Payment Trigger* ³	Accounting Dates* ⁴	Clawback Period* ⁵
Transport							
Road Improvements	South Loch Ness – Road Improvement Strategy for the B862	£50,000	BCIS		Upfront Payment		

*1 Adjust total to take account of flat exemptions

*2 Base Date – Set out in Supplementary Guidance on Developer Contributions

*3 TOC/CC – The earlier of the issue of either a temporary occupation certificate or a completion certificate – or specify alternative time if appropriate

*4 Accounting dates - 1 April and 1 October each year of development (if the contribution is to be paid on a basis other than related to units completed in the preceding 6 months (e.g. lump sum on a specific date) then indicate this instead of the Apr/Oct payment dates)

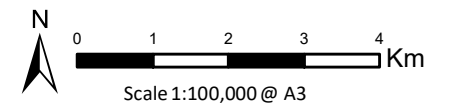
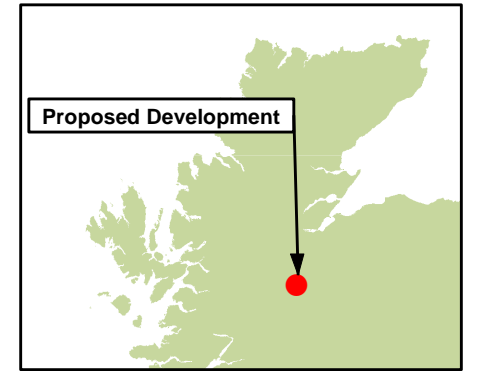
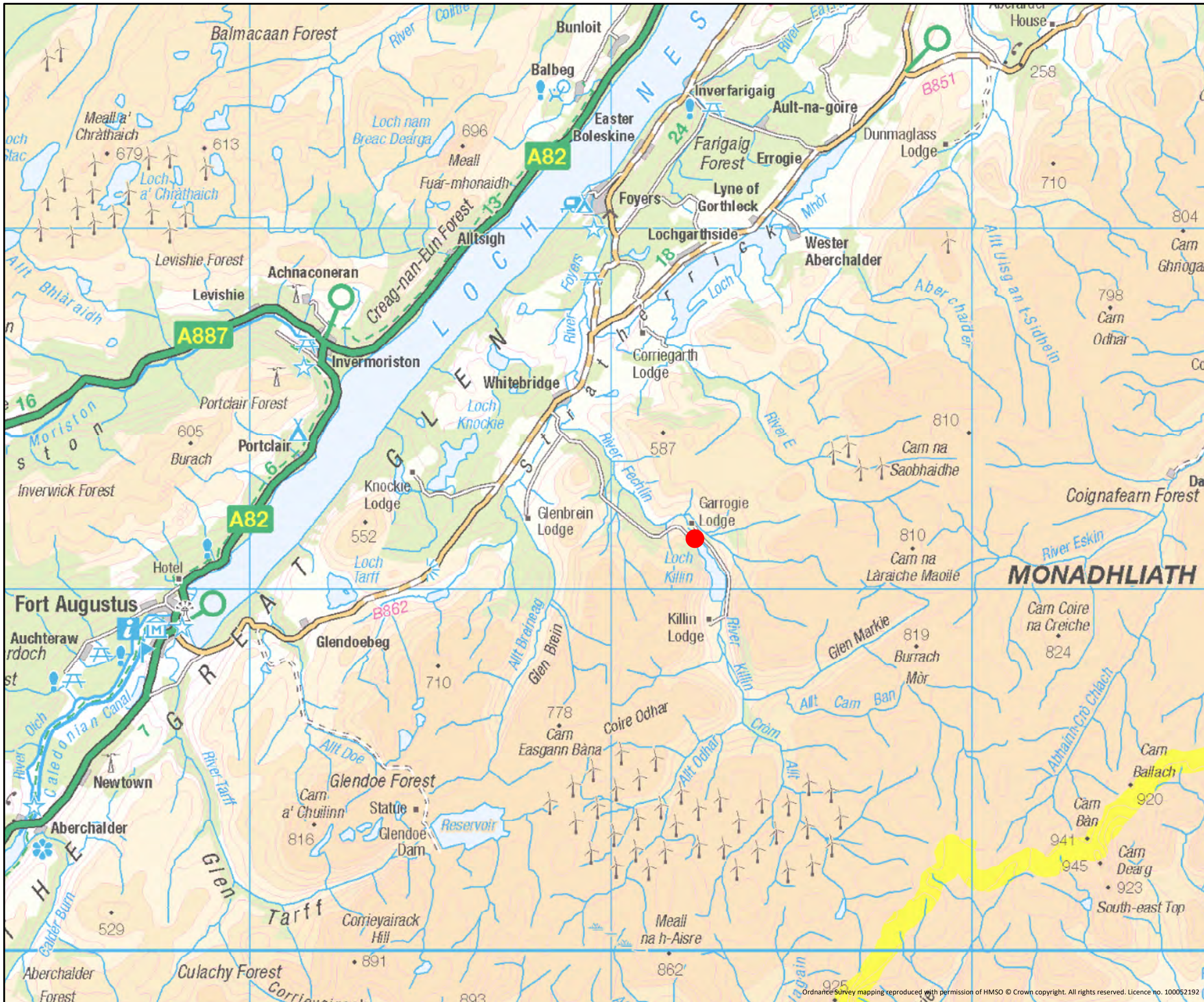
*5 Clawback – 15 years for Major development; 20 years for Local development

¹ If the contribution is to be used towards infrastructure projects involving building e.g. new school, new cycle route etc BCIS ALL IN TENDER will be the index, if it doesn't involve building then another appropriate index may need to be chosen with the agreement of Team Leader

Figure 1

Key

- Proposed Development



Client
RWE

Project
Loch Killin Attenuation

Title
Location Plan

Drwg No. 120010-D1-EA	Rev. 1.0.0	Date 18/12/2020	Drwn. SK	App'd JS
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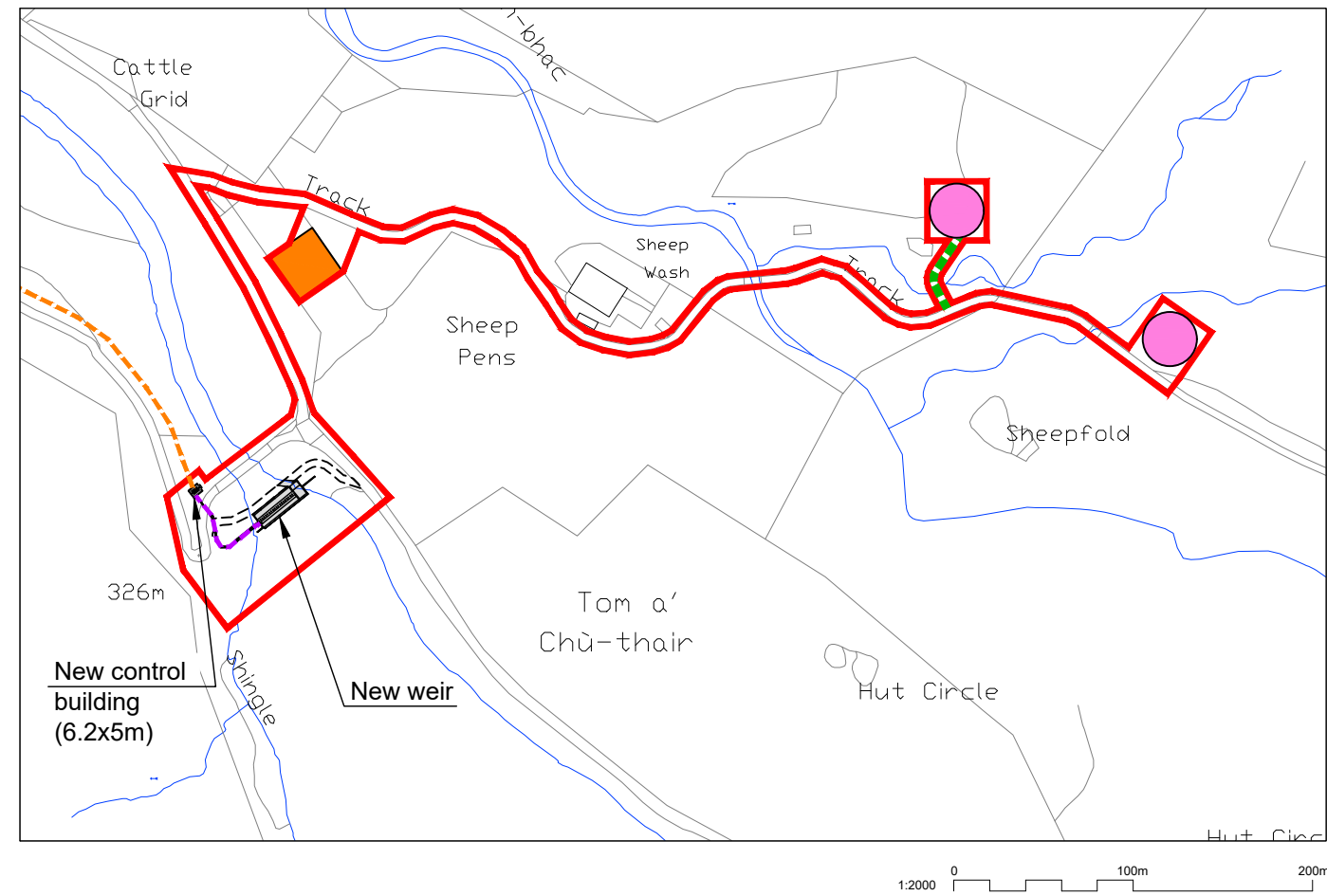
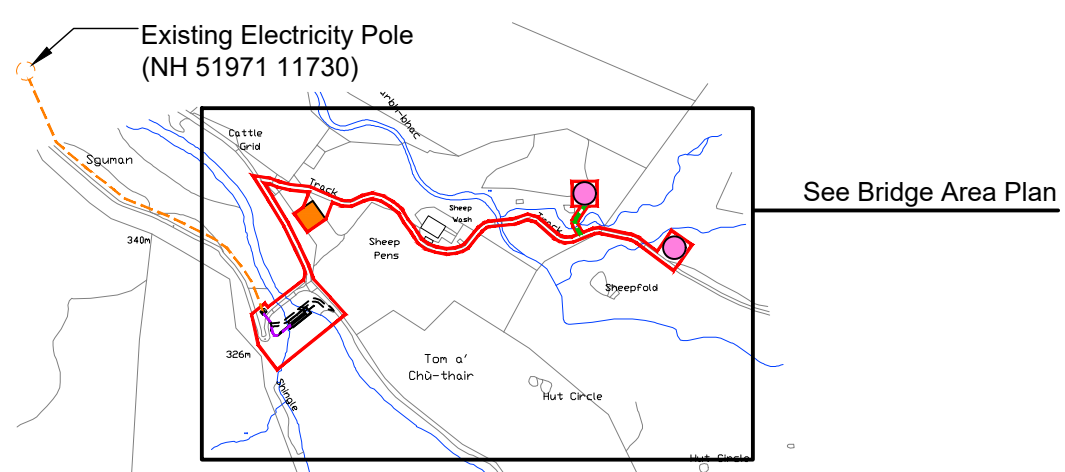


IF IN DOUBT - ASK

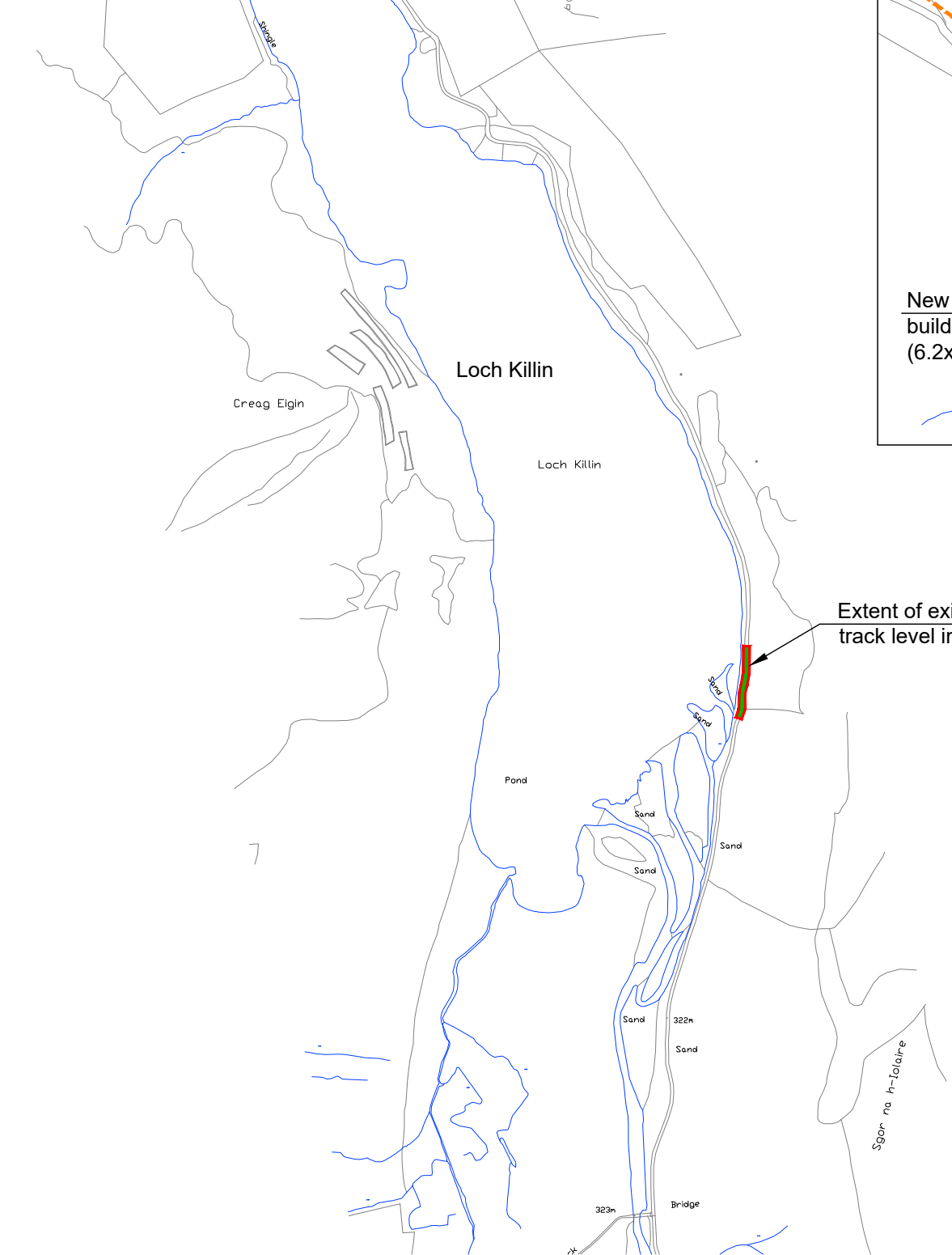
- NOTES
1. All levels are in metres above ordnance datum (mAOD).
 2. All dimensions are in millimetres unless otherwise noted.

LEGEND

	New Weir
	Compound
	Borrow pit (30x30x5m)
	Power Cable
	Pipework and cables to / from dam
	Possible extent of existing track level increase
	Temporary Access Track
	Existing ford to be retained (slightly realigned)
	Planning Boundary 1.90ha



Bridge Area Plan
1:2000 @ A1, 1:4000 @ A3



Site Plan
1:5000 @ A1, 1:10,000 @ A3

REV	DATE	DRAWN	NOTES	CHK'D	APPD
P7	10.02.22	MH	Planning boundary updated	DJT	GMcG
P6	17.06.21	MH	Control Building repositioned	DJT	GMcG
P5	18.05.21	MH	Control kiosk removed, control building position updated	DJT	GMcG
P4	18.02.21	MH	Planning boundary updated	DJT	GMcG
P3	07.01.20	MH	For Planning - kiosk position updated	DJT	GMcG
P2	14.12.20	MH	FOR PLANNING	DJT	GMcG
P1	30.10.20	MH	FOR PLANNING	DJT	GMcG

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CLIENT

RWE

RWE Generation UK plc

PROJECT

KILLIN DAM

DRAWING TITLE

PLANNING BOUNDARY

SCALE AT A1 (ORIGINAL SHEET SIZE) SCALE AT A3: 1:10,000

1:5000 0 250m 500m

DRAWING NUMBER/REFERENCE DRAWING STATUS

KIL/GEL/P/004 **PRE**

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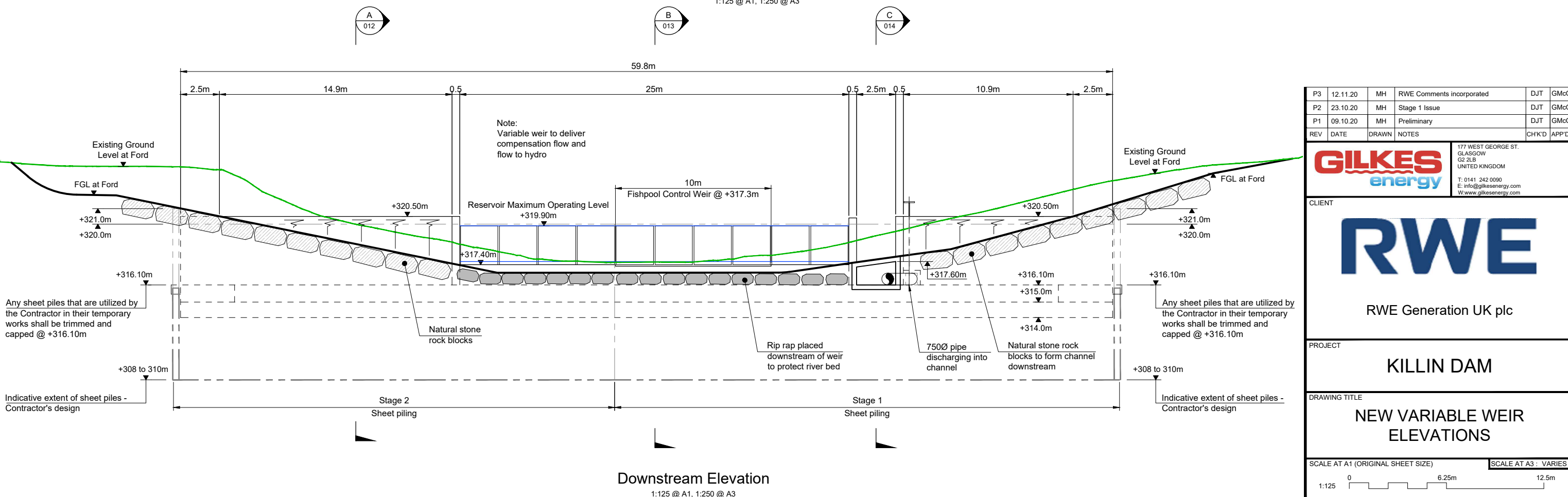
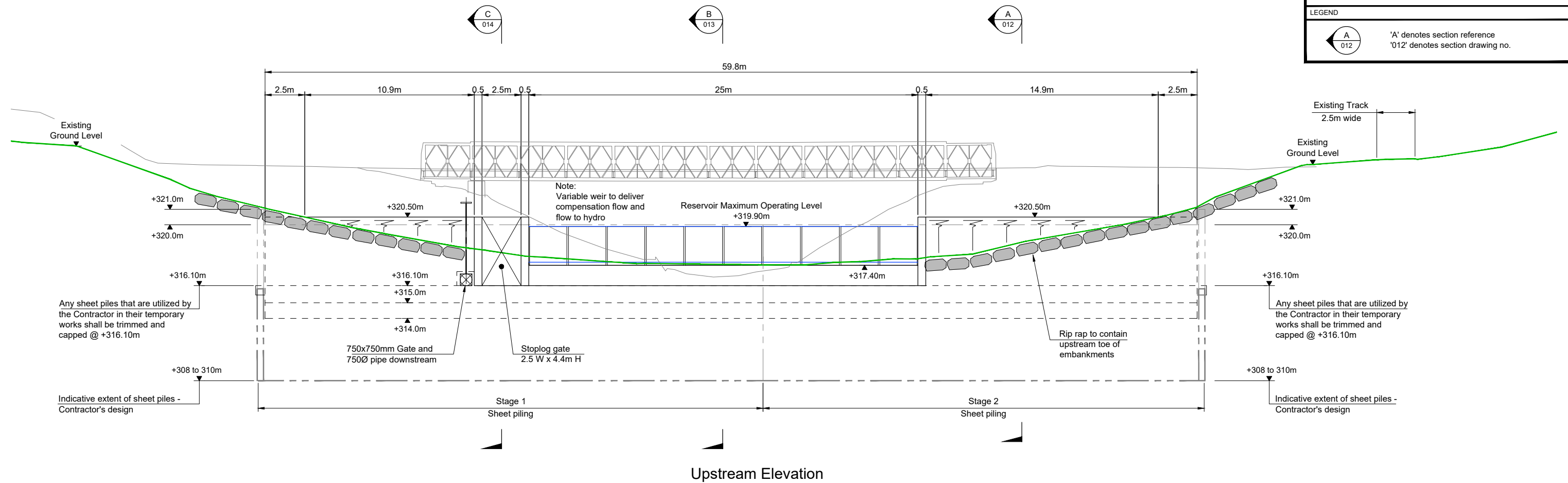
NOTES

- All levels are in metres above ordnance datum (mAOD).
- All dimensions are in millimetres unless otherwise noted.

LEGEND



'A' denotes section reference
'012' denotes section drawing no.



REV	DATE	DRAWN	NOTES	CHK'D	APP'D
P3	12.11.20	MH	RWE Comments incorporated	DJT	GMcG
P2	23.10.20	MH	Stage 1 Issue	DJT	GMcG
P1	09.10.20	MH	Preliminary	DJT	GMcG

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PROJECT

KILLIN DAM

DRAWING TITLE

NEW VARIABLE WEIR ELEVATIONS

SCALE AT A1 (ORIGINAL SHEET SIZE) SCALE AT A3: VARIES

1:125 0 6.25m 12.5m

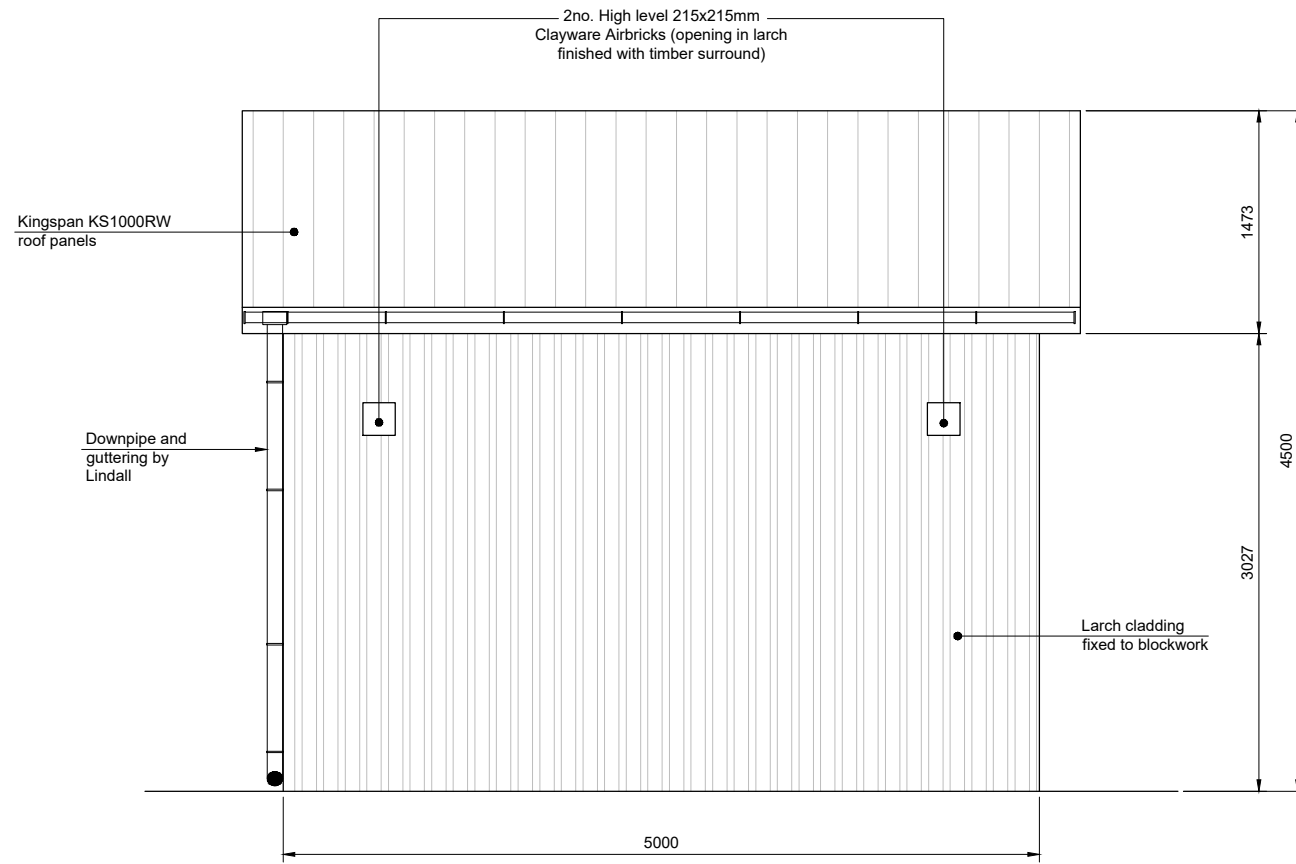
DRAWING NUMBER/REFERENCE DRAWING STATUS

KIL/GEL/P/011 PRE

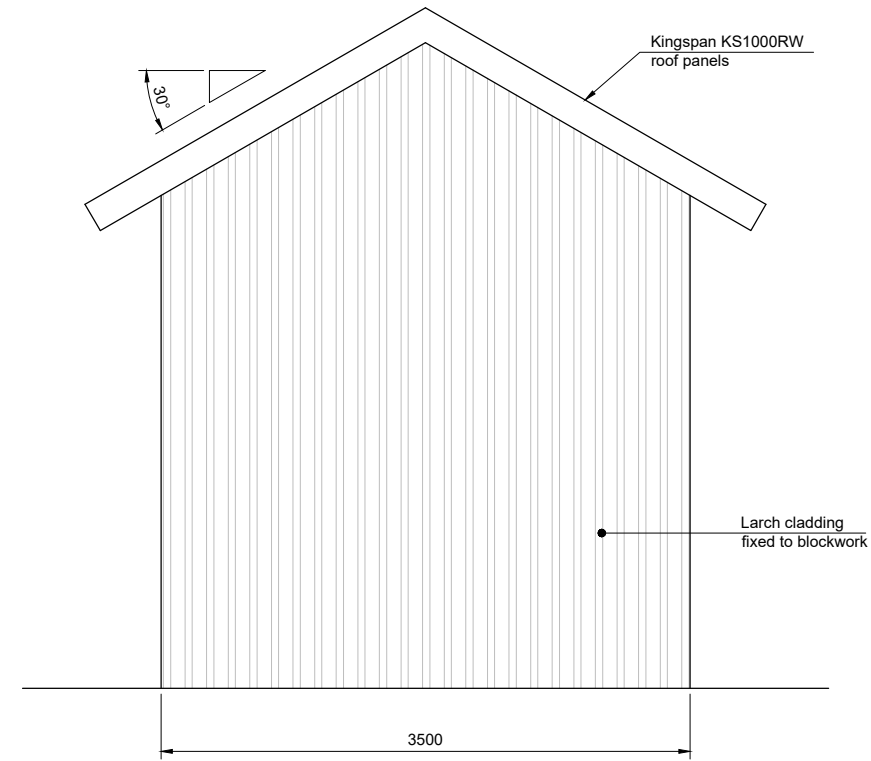
IF IN DOUBT - ASK

NOTES

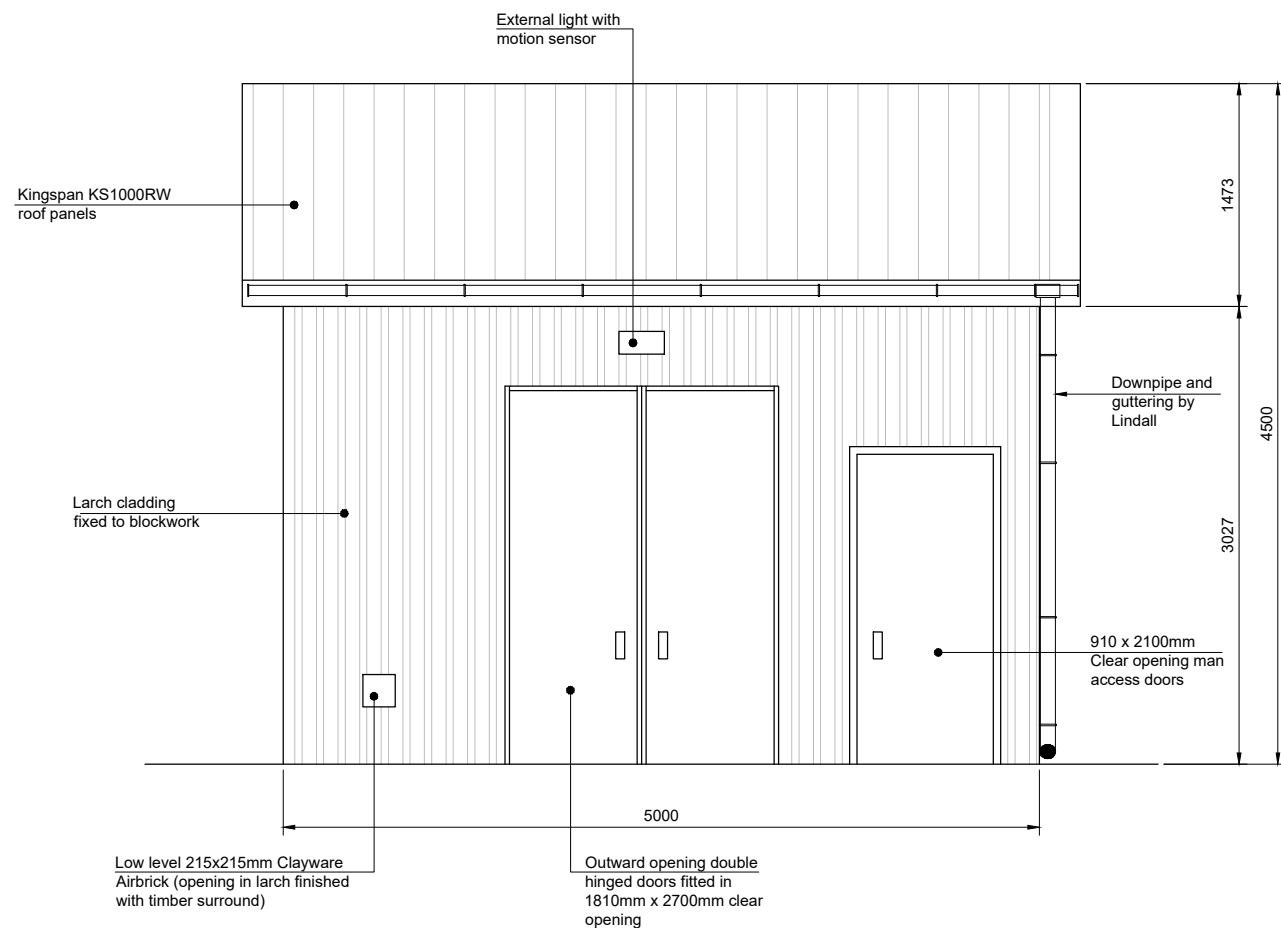
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- All dimensions are in millimetres unless otherwise noted.



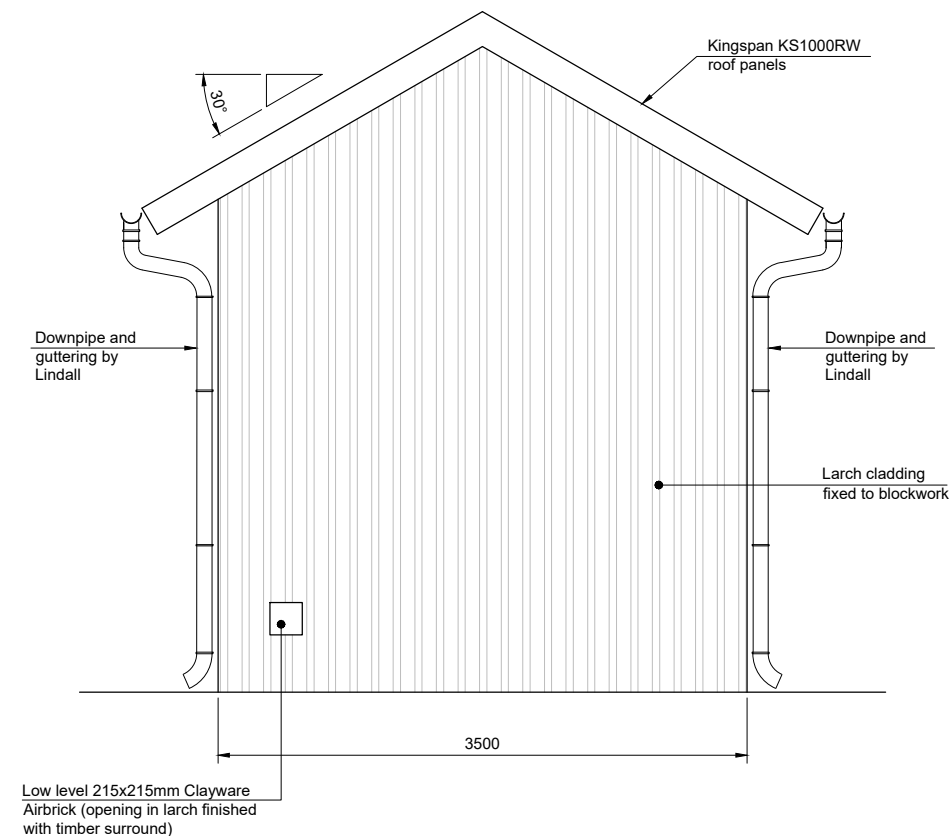
East Elevation
1:25 @ A1, 1:50 @ A3



North Elevation
1:25 @ A1, 1:50 @ A3



West Elevation
1:25 @ A1, 1:50 @ A3



South Elevation
1:25 @ A1, 1:50 @ A3

P1	16.11.20	MH	Preliminary	DJT	GMcG
REV	DATE	DRAWN	NOTES	CHK'D	APP'D

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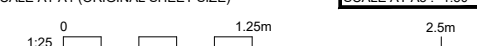
PROJECT

KILLIN DAM

DRAWING TITLE

CONTROL BUILDING ELEVATIONS

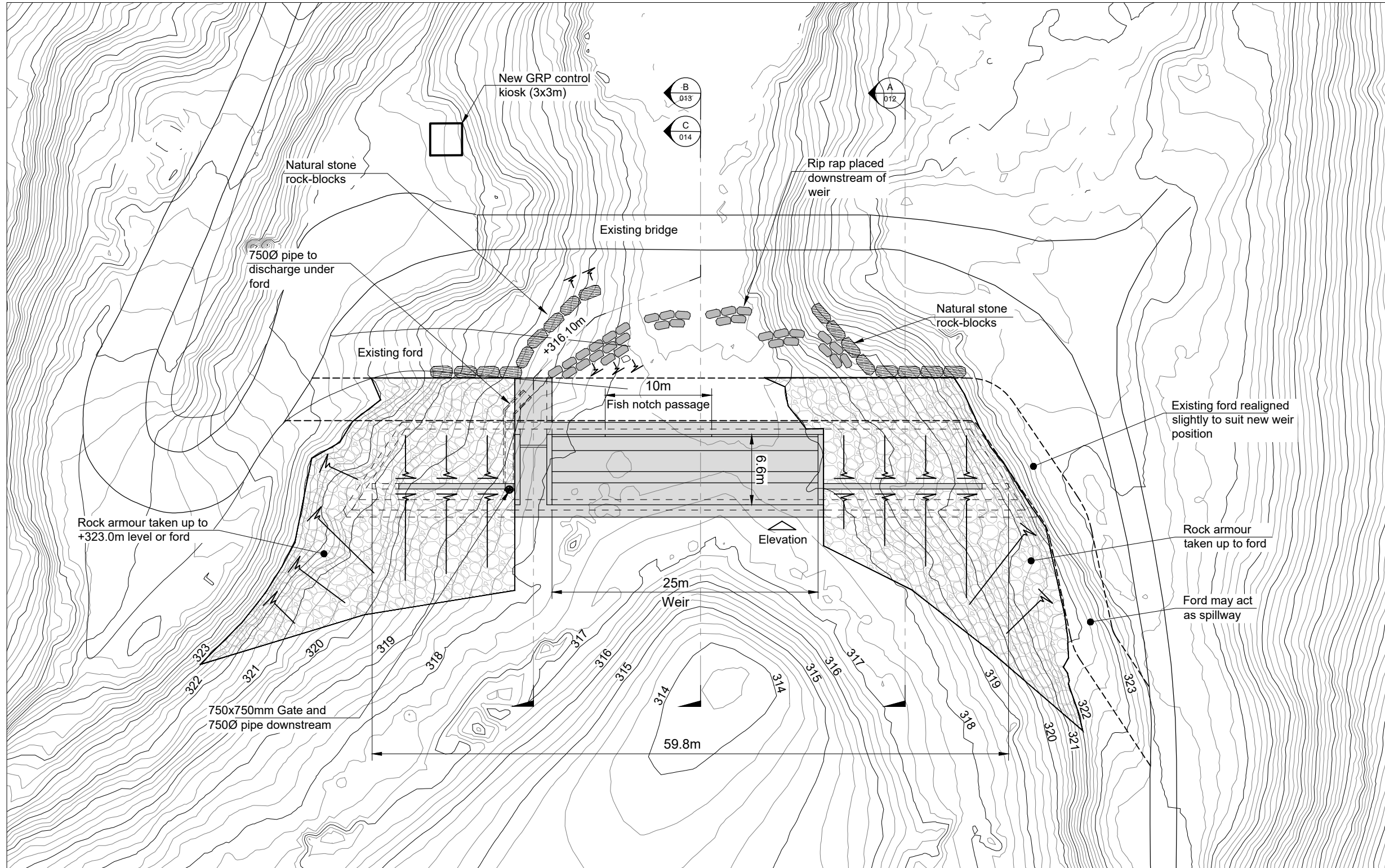
SCALE AT A1 (ORIGINAL SHEET SIZE) SCALE AT A3: 1:50



DRAWING NUMBER/REFERENCE DRAWING STATUS

KIL/GEL/P/035

PRE



Plan

1:200 @ A1, 1:400 @ A3

IF IN DOUBT - ASK

NOTES

- All levels are in metres above ordnance datum (mAOD).
- All dimensions are in millimetres unless otherwise noted.
- The information on this drawing is based on the topographical survey carried out by Caintech in 2018 & 2020. The Contractor shall be responsible for confirming the accuracy (or otherwise) of this information - any discrepancies shall be brought to the attention of the Project Manager without delay.

LEGEND



Denotes areas requiring rock armour protection - this will be taken up to wing wall height but will also be placed at higher levels on the flanks to protect from scour in large return period floods.



'A' denotes section reference
'012' denotes section drawing no.

REV	DATE	DRAWN	NOTES	CHK'D	APP'D
P5	07.01.20	MH	For Planning - kiosk position updated	DJT	GMcG
P4	12.11.20	MH	RWE Comments incorporated	DJT	GMcG
P3	23.10.20	MH	Stage 1 Issue	DJT	GMcG
P2	09.10.20	MH	Preliminary	DJT	GMcG
P1	21.08.20	MH	Preliminary	DJT	GMcG



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RWE Generation UK plc

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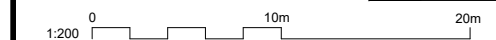
KILLIN DAM

DRAWING TITLE

**NEW VARIABLE WEIR
GENERAL ARRANGEMENT**

SCALE AT A1 (ORIGINAL SHEET SIZE)

SCALE AT A3: 1:400



DRAWING NUMBER/REFERENCE

KIL/GEL/P/PLAN/010

DRAWING STATUS

PRE