



## SITE DESCRIPTION AND PROPOSAL

1. The application site is located at the western edge of Nethy Bridge, next to the Duack Burn, and a community football pitch and other facilities. It comprises an area of horse paddock, wetland and conifer-dominated woodland. An existing section of overhead power line and wayleave clearing are notable and bisects the site from south to northwest.
2. An existing desire line path makes its way through the conifer wood to the community facilities from the residential areas to the south and the locally known 'Puggy Line Trail,' while the Speyside Way long distant route (LBS116) is located to the immediate north. A series of Core Paths are present in and around the village.



**Fig. 2 & 3 – Various perspectives showing sites of pond and paths**

3. Planning permission is sought to create an area of community woodland (see fig. 4), with formal paths, interpretation signage and a wildlife pond, all formed in and around the wood and wetland. The works include the construction of two sections of aggregate path (varying from 1.2 m to 2.0 m width) built to all-abilities standard, boardwalks and a 5m span footbridge. This would form a circular walk around the existing wood (which would be subject to thinning, management and biodiversity enhancements) linking in with the new pond and the existing community facilities.
4. Riparian habitats and glades would be created to allow for long term wildlife and amenity benefits, while indigenous trees would be retained and augmented to eventually develop a mature pine wood. A wildlife pond (see fig. 5&6) would be created in the existing wetland by excavating 250 cubic metres of materials to clay level (to a total of 1.0 m depth) and then allowed to be filled with groundwater. The existing vegetation including reeds and other wetland plants are to be retained unaffected.
5. A small number of picnic benches, seating and gates alongside signposts would be erected to create a guided walk. Lastly, it is proposed to underground the existing section of overhead power line running through the site. The potential for a future linkage to a possible Speyside Way Duack Burn crossing is also highlighted.



## DEVELOPMENT PLAN CONTEXT

7. Part 2, Section 25 of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc (Scotland) Act 2006, requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan covering the application site comprises the Highland Structure Plan 2001 and the Cairngorms National Park Local Plan 2010.

### National policy

8. **Scottish Planning Policy<sup>1</sup> (SPP)** is the statement of the Scottish Government's policy on nationally important land use planning matters. It supersedes a variety of previous Scottish Planning Policy documents and National Planning Policy Guidance. Core Principles which the Scottish Government believe should underpin the modernised planning system are outlined at the outset of **SPP** and include:
- The constraints and requirements that planning imposes should be necessary and proportionate;
  - The system should .....allow issues of contention and controversy to be identified and tackled quickly and smoothly; and
  - There should be a clear focus on quality of outcomes, with due attention given to the sustainable use of land, good design and the protection and enhancement of the built and natural environment.
9. **SPP** emphasises the key part that development management plays in the planning system, highlighting that it should “operate in support of the Government's central purpose of increasing sustainable economic growth.” Para. 33 focuses on the topic of Sustainable Economic Growth and advises that increasing sustainable economic growth is the overarching purpose of the Scottish Government. It is advised that “the planning system should proactively support development that will contribute to sustainable economic growth and to high quality sustainable places.” Planning authorities are encouraged to take a positive approach to development, recognising and responding to economic and financial conditions in considering proposals that would contribute to economic growth.
10. Under the general heading of Sustainable Development, it is stated that the fundamental principle is that development integrates economic, social and environmental objectives, and that the “aim is to achieve the right development in the right place.”
11. As a replacement for a variety of previous planning policy documents the new **Scottish Planning Policy** includes ‘subject policies’, of which many are applicable to the proposed development. Topics include Open Space and Physical Activity, and landscape and natural heritage. The following paragraphs provide a brief summary of the general thrust of each of the subject policies.

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<sup>1</sup> February 2010

12. *Open Space and Physical Activity*: Para. 148 of the **SPP** states that access to opportunities for recreation make important contributions to a healthier Scotland. The planning system has a role in helping to create an environment where physical wellbeing is improved and activity made easier.
13. *Landscape and natural heritage*: The **SPP** document recognises the value and importance of Scotland's landscape and natural heritage. It is accepted that landscape is constantly changing and the aim is to facilitate positive change whilst maintaining and enhancing distinctive character. As different landscapes have different capacities to accommodate new development, the siting and design of development should be informed by landscape character. There is also an acknowledgement that the protection of the landscape and natural heritage may sometimes impose constraints on development, but the potential for conflict can be minimised and the potential for enhancement maximised through careful siting and design.
14. **Scottish Planning Policy** concludes with a section entitled 'Outcomes' in which it is stated that the "planning system should be outcome focused, supporting the creation of high quality, accessible and sustainable places through new development, regeneration and the protection and enhancement of natural heritage and historic environmental assets." Planning authorities are required to be clear about the standard of development that is required. Quality of place not only refers to buildings, but also how the buildings work together as well as the relationships between buildings and spaces. Design is highlighted as an important consideration and planning permission may be refused solely on design grounds.<sup>2</sup> Finally it is stated that the planning system should be "judged by the extent to which it maintains and creates places where people want to live, work and spend time."

## **Strategic Plan**

### **Cairngorms National Park Plan (2007)**

15. The **Cairngorms National Park Plan** sets out the strategic objectives that provide a long term framework for managing the National Park and working towards a 25 year vision. Under the broad heading of **Conserving and Enhancing the Park**, some of the strategic objectives include maintaining and enhancing the distinctive landscapes of the Park and also ensuring that development compliments the landscape character of the Park. Under the theme of **Living and Working in the Park**, the National Park is recognised as being a national asset and a place of recreation and enjoyment.
16. Under the final theme of **Enjoying and Understanding the Park** there is recognition that the Cairngorms National Park is known for its outstanding environment and outdoor recreation opportunities. The vision for the Park involves developing a world class destination and this requires a sustainable

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<sup>2</sup> Para. 256.

approach to developing tourism, and an excellent quality provision of outdoor access and recreation opportunities.

## Structure Plan

### Highland Council Structure Plan 2001

17. The **Highland Structure Plan 2001** includes several policies that are broadly applicable to the type of development proposed, including policies on sport and recreation, tourism and the environment. The benefits of sport and recreation facilities are highlighted in section 2.5.1 of the Plan, where they are attributed to making an important contribution to sustainable development and enhancing the health and quality of life of the residents of the Highlands.
18. **Policy L4 Landscape Character** states that “the Council would have regard to the desirability of maintaining and enhancing present landscape character in the consideration of development proposals.”
19. **Policy NI – Nature Conservation** advises that new developments should seek to minimise their impact on the nature conservation resource and enhance it wherever possible. The Plan refers to the socio-economic benefits of the nature conservation resource and advises that it should be optimised by a high level and standard of interpretation and understanding wherever possible.

## Local Plan Policy

### Cairngorms National Park Local Plan (2010)

20. The Cairngorms National Park Local Plan was formally adopted on 29<sup>th</sup> October 2010. The full text can be found at:  
<http://www.cairngorms.co.uk/planning/localplan/pdf/19-Aug-10-Local-Plan-with-PIMs-included-for-web-23-Aug.pdf>
21. The Local Plan contains a range of policies dealing with particular interests or types of development. These provide detailed guidance on the best places for development and the best ways to develop. The policies follow the three key themes of the Park Plan to provide a detailed policy framework for planning decisions:
  - Chapter 3 - Conserving and Enhancing the Park;
  - Chapter 4 - Living and Working in the Park;
  - Chapter 5 - Enjoying and Understanding the Park.
22. Policies are not cross referenced and applicants are expected to ensure that proposals comply with all policies that are relevant. The site-specific proposals of the Local Plan are provided on a settlement by settlement basis in Chapter 6. These proposals, when combined with other policies, are intended to meet the sustainable development needs of the Park for the Local Plan’s lifetime. The following paragraphs list a range of policies that are

appropriate to consider in the assessment of the current development proposal.

23. Policy 2- National Natural Heritage Designations: development that would adversely affect the Cairngorms National Park, a Site of Special Scientific Interest, National Nature Reserve or National Scenic Area will only be permitted where it has been demonstrated that: a) the objectives of designation and overall integrity of the designated area would not be compromised; or b) any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social or economic benefits of national importance and mitigated by the provision of features of commensurate or greater importance to those that are lost.
24. Policy 6 – Landscape: there will be a presumption against any development that does not complement and enhance the landscape character of the Park, and in particular the setting of the proposed development. Exceptions will only be made where any significant adverse effects on the landscape are clearly outweighed by social or economic benefits of national importance and all of the adverse effects on the setting of the proposed development have been minimised and mitigated through appropriate siting, layout, scale, design and construction.
25. Policy 34 – Outdoor Access: the policy encourages development which improves opportunities for responsible outdoor access and adheres to the Cairngorms Outdoor Access Strategy. Development proposals which would result in a reduction of public access rights or loss of linear access (such as core paths, rights of way, or other paths and informal recreation areas) will only be permitted where an appropriate or improved alternative access solution can be secured.

## CONSULTATIONS

26. **Nethy Bridge & Vicinity Community Council** were consulted but returned no comments.
27. **SNH** has no objection to the proposed development. They confirm that there would not be a significant effect on the Special Area of Conservation; as such an Appropriate Assessment is therefore not required.
28. **SEPA** were consulted on Flood Risk grounds. They confirm that they have no objection.
29. **Highland Council Forestry Officer** has no objection but requested further detail on some elements of the woodland management plan and other information about spruce tree removal. This was subsequently provided and the measures set out considered satisfactory.
30. The **CNPA Landscape Advisor** has no objection and considers the pond and paths would be appropriate to their surroundings. The proposals would

be an asset to the village landscape and help to maintain and enhance the sense of a 'forest village' and build on the network of accessible green space (open space and woodland) and linking paths.

31. The **CNPA Visitor Services and Outdoor Access Officer** has no objections. There is a longstanding ambition to provide a crossing of the Duack Burn avoiding the road bridge. Discussions are already looking at ways that this scheme could tie together in terms of the woodland path network.
32. The **CNPA Ecologist** has no objection. Several suspensive conditions are suggested.

## REPRESENTATIONS

33. The application was advertised in the Badenoch & Strathspey Herald on 28 December 2011. No representation (copy attached) has been received in respect of this application. This raises several issues including pedestrian safety in terms of the Duack Burn Bridge and also suggests that disturbing the natural wetland may have a series of environmental impacts.

## APPRAISAL

34. In determining this planning application regard is to be had to the development plan and the determination shall be made in accordance with the plan unless material considerations indicate otherwise.
35. The main issues to consider in this application relate to the nature of the proposal including its design, construction and any associated implications, particularly on natural heritage and also consideration of its contribution towards access in the area.

### **Principle of development**

36. In terms of the principle of development, there is general support in planning policy contained within the Development Plan. The policies which have been detailed in paragraphs 7 to 25 of this report all generally encourage increased recreational opportunities in rural areas, where they can be reconciled with the need to conserve the natural heritage of an area.

### **Natural Heritage**

37. The site is located within woodland with Ancient Woodland Inventory/Semi-Natural Ancient Woodland Inventory (AWI/SNAWI) natural heritage designations on site. **SNH** consider that the proposal would not adversely impact on natural heritage including protected species such as otters, badgers, or bats. It is considered that the proposal allows for significant biodiversity and amenity improvements to the area, by reducing non-native conifers, encouraging natural regeneration and promoting active woodland management. The existing plantation offers very little value in the way of either amenity or biodiversity at present. The CNPA Ecologist recommends



measures to optimise the ecological value of the pond and protective measures to ensure that there would be no impact on natural heritage.

**Design and access**

38. The proposed aggregate pathways would follow gentle terrain, utilising a sympathetic and sensitive route following thinned clearings and utilising existing desire line paths within the woodland. The new dedicated paths, bridge crossing and boardwalks would provide for crossings over wet areas and would provide raised surfaces as part of a wider high quality circular route.
39. In general, the proposal would allow for access, visitor interpretation and other environmental improvements and as a result would assist with more responsible outdoor access. This would accord with Policy 34 Outdoor Access. It is considered that it would allow for enhanced recreational opportunities and greater interconnectivity between a number of existing walks in the area. The proposals would lead to the creation of a high-quality link path and woodland which is likely to be popular with local people and visitors alike
40. The CNPA Landscape Advisor states that the proposals would be an asset to the village landscape and help to maintain and enhance the sense of a 'forest village' and build on the network of accessible green space (open space and woodland) and linking paths. It is considered that this complies with Policy 6 Landscape of the CNP Local Plan.
41. Finally, in terms of the letter of objection, it is considered that the pond would provide for an enhanced area of habitat, and would use natural groundwater and retain many elements of the existing wetland. Any disruption to this sensitive location would be offset by providing increased potential for water-loving flora and fauna. It should be noted that the CNPA Ecologist has no concerns. In terms of the comments about increased risk to pedestrians crossing the Duack Burn Bridge, it is acknowledged that this situation at present would require crossing a narrow road bridge, with no footway; however given the strong likelihood of a future dedicated pedestrian crossing and the relatively light levels of traffic, along with the recognition that much of the build up area of Nethy Bride is away to the east and most users would come from that direction, this ensures that any risk is minimal and likely to be short-term.

**Conclusion**

42. Overall, it is considered that the proposal is acceptable in terms of planning policy, design and impact on landscape and natural heritage. In recognising the existing nature of the site, this is considered to be a proposal that will allow for significant access and interpretation, amenity and biodiversity improvements around the village, accordingly the application is recommended for approval subject to conditions.

## IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

### Conserve and Enhance the Natural and Cultural Heritage of the Area

43. The development is considered to have significant benefits for this aim; the proposal has real landscape and natural heritage improvements at its core.

### Promote Sustainable Use of Natural Resources

44. The aggregate material would be sourced from a local quarry.

### Promote Understanding and Enjoyment of the Area

45. The proposed community woodland would have interpretation panels providing local information, and would increase access and amenity in the area. The project would directly contribute to the promotion of understanding and enjoyment of the area.

### Promote Sustainable Economic and Social Development of the Area

46. The improvement of local visitor destinations would result in improved facilities for locals and visitors.

## RECOMMENDATION

47. **That Members of the Committee GRANT Planning Permission for the creation of all-abilities footpaths, pond and associated works to woodland area at Nethy Bridge village hall, Nethy Bridge subject to the following conditions:-**

1. The development to which this permission relates must be begun within three years from the date of this permission.

**Reason:** To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc (Scotland) Act 2006.

2. The works hereby approved shall be constructed in accordance with a construction method statement to be submitted and agreed with the CNPA acting as planning authority. Specialist advice should be sought on pond creation to ensure optimisation of ecological value. The precise location should be carefully selected to ensure that no inundation occurs if the river is in spate. The pond should contain only native aquatic species. A boardwalk should be built within the marshy pond area rather than an aggregate path.

**Reason:** To ensure the proposed path does not cause any environmental pollution or damage.

3. No construction works shall take place anywhere on the site between 1 April and 31 July unless a Breeding Bird Protection Plan has been submitted to, and

approved in writing by the CNPA acting as Planning Authority. The plan shall set out measures to protect breeding birds from construction, including:

- a. How and when the Landscape/Ecological Clerk of Works will check the construction corridor for signs of breeding bird activity,
- b. How site personnel will be briefed to alert them to wildlife legislation and signs of breeding birds, and
- c. The procedures to be followed in the event that a nest is found within the construction corridor.

All construction works carried out between 1 April and 31 July shall be implemented in accordance with the agreed Breeding Bird Protection Plan.

**Reason:** To avoid disturbing nesting birds during bird-breeding season and to ensure the proposed works do not contravene Nature Conservation laws relating to the protection of any wild bird nest while in use or being built.

4. Prior to the commencement of any development, a repeat survey of the site should be undertaken to monitor and establish the presence and location of mammals including otter, water vole and in trees to be felled, red squirrel and bats and a copy of the report shall be submitted to and approved by the CNPA acting as planning authority, including measures for protection within and around the proposed site.

**Reason:** In the interests of minimising disturbance to natural heritage interests in the area.

**Advice Notes:**

- (a) Care should be taken to avoid the spread of invasive, non-native plant species to the site either through planting, or because of construction activities, e.g. the importing to the site of soil contaminated with seeds of any of the above species. Should it be clear that any of the above species have arrived at the site because of the development, then effectively removing them as soon as possible and disposing of them responsibly should be made the responsibility of the applicant. Equally, if any of these species occurs on the site already, then the development should not allow the species to spread off-site.
- (b) In the event that evidence that badgers use the area is found, then any works within 30 metres of a sett is likely to require a license. SNH is the licensing authority with respect to development. The applicant is reminded that badgers and their setts are protected in Britain by the Protection of Badgers Act 1992.
- (c) It is recommended that options to plant a line of native trees along the fence line between the football pitch and temporary car park are examined to provide shelter and a landscape feature.

**Robert Grant**  
**22 February 2012**  
[planning@cairngorms.co.uk](mailto:planning@cairngorms.co.uk)

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