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# CAIRNGORMS NATIONAL PARK AUTHORITY

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**Title: REPORT ON CALLED-IN PLANNING APPLICATION**

**Prepared by: ROBERT GRANT, PLANNING OFFICER (DEVELOPMENT MANAGEMENT)**

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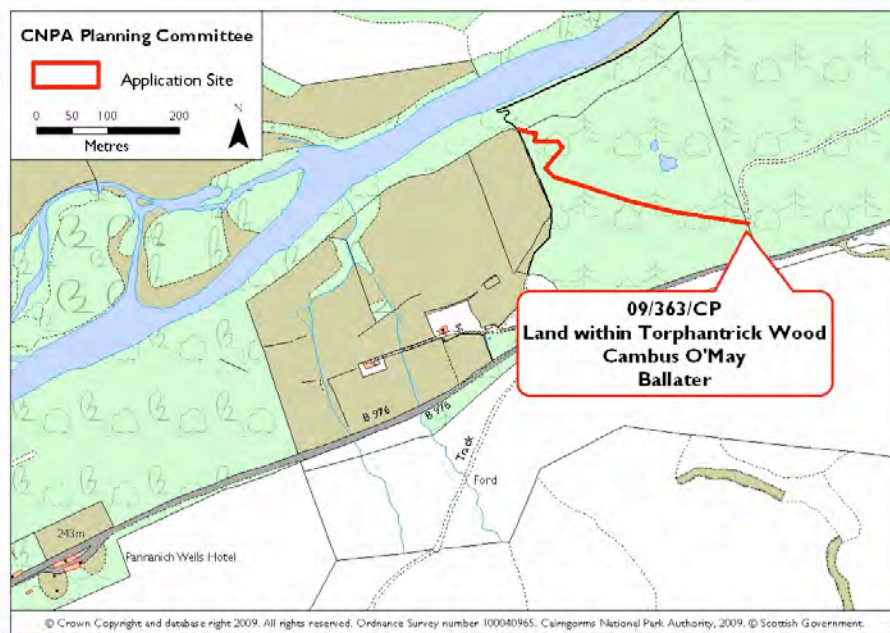
**DEVELOPMENT PROPOSED: CREATION OF A 430M LONG X 1.5M WIDE PATH AT LAND WITHIN TORPHANTRICK WOOD, CAMBUS O'MAY, BALLATER**

**REFERENCE: 09/363/CP**

**APPLICANT: CAIRNGORMS OUTDOOR ACCESS TRUST**

**DATE CALLED-IN: 1 DECEMBER 2009**

**RECOMMENDATION: APPROVE, SUBJECT TO CONDITIONS**



**Fig. 1 - Location Plan**

## SITE DESCRIPTION AND PROPOSAL

1. The application site is a linear, elongated area located within Torphantrick Wood, immediately south of the River Dee at Cambus O' May. It comprises areas of mature woodland and commercial plantation with natural clearings, sections of existing path and forestry 'forwarder' vehicle tracks. A number of existing formal and informal path networks are present in the vicinity, including the Aboyne to Ballater section of the Deeside Way.
2. Planning permission is sought to create a section of aggregate path, as part of a proposed wider circular route from Cambus O' May to Ballater and the Deeside Way. The proposed path would be 430.0 metres long, with a 1.5 metres clear path width, atop a 2.0m base and be formed by improving several existing path sections/forwarder tracks linked together with new purpose-built dedicated sections. The raised path surface would be formed from locally-sourced aggregate, suitably graded and rolled and carefully integrated into the surrounding area.
3. Thereafter the path would link into a proposed grass 'trod'(a fenced off grass walkway) within fields directly to the east (this latter section is not part of the application but is included for information).
4. No trees would be felled and no works are proposed to take place close to the River Dee or any other watercourse.

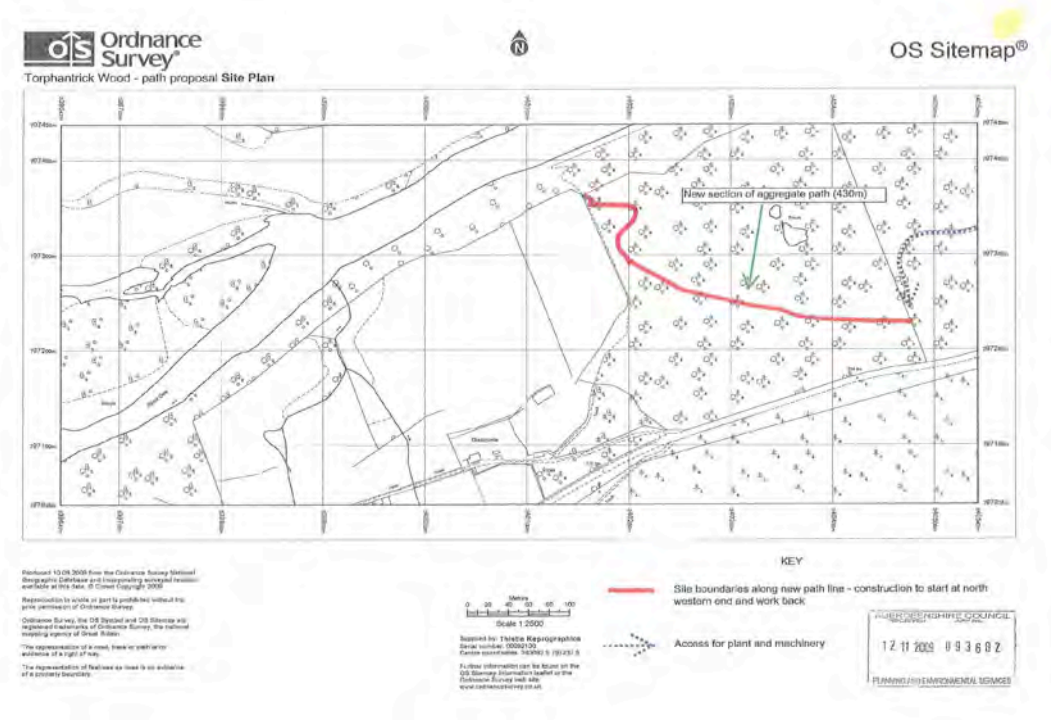


Fig. 2 – Path Layout

5. The aim of the project is to create a 'high-quality circular route' link path between the Cambus O'May through to Ballater utilising the Deeside Way, new sections of path and the existing footway on the B976 South Deeside Road – paths such as this, have been identified as allowing people to enjoy the Park's natural heritage. The pathway is identified within the Draft Core Paths Plan (April 2008) as a section of path UDE59 'Dalmochie to Cambus O' May.' A supporting statement has been submitted to outline the construction methods to be utilised.

## **DEVELOPMENT PLAN CONTEXT**

6. Section 25 of 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 Aberdeen and Aberdeenshire Structure Plan 2001 (NEST) and the Aberdeenshire Local Plan 2006.

### **National Planning Policy and Guidance**

7. **Scottish Planning Policy 11 – Sport, Physical Recreation and Open Space** states that people residing in rural areas have a need for sport and recreation facilities. In addition, **SPP 11** highlights the fact that the provision of recreation facilities in rural areas has a significant purpose “in contributing to the retention of population and in promoting tourism, hence having an impact on the rural economy.”
8. **National Planning Policy Guidance 14 - Natural Heritage** advises that conservation and development can often be fully compatible, and with careful planning the potential for conflict can be minimised.

### **Aberdeen and Aberdeenshire Structure Plan 2001 – 2016 (North East Scotland Together, NEST)**

9. NEST includes a section on Sport and Recreation which notes that the plan seeks to increase accessibility to facilities for all. Paragraph 3.34 describes how Council's are committed to promoting better access to open space and the countryside through a network of footpaths, bridleways and cycling routes.
10. **Policy 17 Countryside and Open Space Access** advises that local plans should encourage and protect responsible access to open space and countryside. However it also suggests that care must be taken to minimise detrimental impact on the environment.

### **Aberdeenshire Local Plan (2006)**

11. The proposed site lies within an Area of Landscape Significance (Marr area). Areas of Landscape Significance have been identified as being important not only for their physical landforms, but also for the flora and fauna which they support and the environmental assets which they represent.

12. **Policy Env\5B** states that development within or adjacent to an Area of Landscape Significance will not be permitted where its scale, location or design will detract from the quality or character of the landscape, either in part or in whole. In instances where development is acceptable, the highest standards of design will be expected, in terms of location, scale, siting, aesthetics and landscaping.
13. **Policy Env\5B** specifically mentions that within the Cairngorms National Park greater weight will be given to the conservation and enhancement of the natural and cultural heritage of the area of the Park.
14. **Policy Emp\10** of the Local Plan focuses on the subject of Sport, Leisure and Recreation. The policy indicates that new or improved facilities will be approved in principle if amongst other things they respect the character and amenity of the surrounding area, are located close to where people live and reduce the need to travel. In justifying the policy the importance of sport and recreational facilities to the quality of life, health and well being of both local communities and visitors is highlighted, as well as their being a recognition of the contribution of such facilities to the local economy of the area.
15. **Policy Env/22** addresses access issues. The policy is intended to ensure that existing public access is protected and that future development does not restrict future opportunities for the extension of the public access network. The policy also states that encouragement will be given to new access routes which promote 'green transport' while not adversely affecting the land concerned.

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

16. 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.
17. 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 approach to developing tourism, and an excellent quality provision of outdoor access and recreation opportunities.

## CONSULTATIONS

18. **Scottish Natural Heritage (SNH)** has no objection to the application but recommends conditions to minimise potential impacts to badgers.
19. **Aberdeenshire Council Archaeology Department** have records of a possible Prisoner of War camp in this area but it is unknown if any hut footings survive. It is recommended that if any evidence of the remains is noted, they should be avoided.
20. The CNPA **Heritage and Land Management Group (HLM)** has no objections but recommends conditions to minimise potential impacts to badgers and wood ants.
21. The CNPA **Visitor Services and Recreation Group (VSRG)** has no objections.

## REPRESENTATIONS

22. The application was advertised in the Deeside Piper on 27 November 2009. No representations have been received.

## APPRAISAL

23. 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.
24. The main issues to consider in this application relate to the principle of the development, the nature of the proposal including its construction and any associated implications, particularly on natural heritage and also consideration of its contribution towards the provision of access in the area.
25. 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 15 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.
26. The site is located within woodland with no natural heritage designations. **SNH** and **HLM** consider that the proposal would not adversely impact on natural heritage including protected species such as badgers, wood ants or red squirrels. However, conditions related to the protection of badgers and wood ants are recommended. The applicant states that no trees are to be felled, therefore SNH consider that the proposal will not have an adverse effect on red squirrels and no survey is required.

27. The proposed aggregate pathway would follow gentle terrain, utilising a sympathetic and sensitive route following natural clearings and utilising existing paths and tracks within the woodland, augmented by areas of new dedicated path, as part of a wider high quality circular route.
28. It is considered that the proposed path would not impact on the character and nature of the area or detract from its setting, which is within an Area of Landscape Significance (Marr area).

### **Draft Cairngorms Core Paths Plan**

29. The proposed path was identified during consultation for the Draft Cairngorms Core Path's Plan and would enhance linkages from the Deeside Way and is an important element in creating a circular route between Cambus O'May and Ballater.

### **Conclusion**

30. Overall, it is considered that the proposal is acceptable in terms of planning policy, design and impact on natural heritage.
31. The proposed footpath would bring forward a section of core path as outlined in the Draft Cairngorms Core Paths Plan, would provide enhanced recreational opportunities and greater interconnectivity between a number of proposed and existing walks in the area.

## **IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK**

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

32. The development is not considered to have adverse implications for this aim; the proposal has minimal landscape and natural heritage impact. In cultural heritage terms the proposal would allow for the wider use of the other local walks and would form a section of a wider circular route linking Cambus O'May to Ballater. The presence of a possible Prisoner of War site is noted. Any remains would be protected, while any opportunity to inform walkers of this is encouraged.

### **Promote Sustainable Use of Natural Resources**

33. The aggregate material will be sourced from a local quarry.

### **Promote Understanding and Enjoyment of the Area**

34. The proposed path would form a new route for walkers and cyclists and afford greater access opportunities. It would bring forward a path identified within the draft Core Paths Plan and would directly contribute to the promotion of understanding and enjoyment of the area.

## Promote Sustainable Economic and Social Development of the Area

35. The proposed footpath is a project undertaken by the Cairngorms Outdoor Access Trust. The improvement of local routes would result in improved facilities for locals and visitors and may attract more walkers into the area which could have economic and tourism spin-offs for shops and services.

## RECOMMENDATION

**That Members of the Committee GRANT Planning Permission 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 path hereby approved shall be constructed in accordance with the construction details contained within the submitted method statement dated November 2009 and any subsequent mitigation measures possibly arising from any badger survey.

**Reason:** In accordance with the application detail and to ensure the proposed path does not cause any environmental pollution or damage.

3. Prior to the development hereby approved coming into use, details of the ongoing maintenance of the proposed footpath, shall be submitted to and agreed in writing with the CNPA, acting as Planning Authority. Thereafter, the agreed maintenance programme shall be implemented in accordance with the agreed details.

**Reason:** To ensure that the footpath is maintained to an acceptable standard.

4. Prior to the commencement of any development on site, a check/survey of the working corridor for any evidence of badgers shall be undertaken by a suitably qualified ecologist. The outcome of the survey shall be submitted to the CNPA acting as Planning Authority. In the event that evidence of badgers is found within the working corridor, a survey of a 30.0m corridor either side of the path shall be carried out by a suitably qualified ecologist. The survey results and where necessary any appropriate mitigation measures shall be submitted to and agreed in writing with the CNPA, acting as planning authority, prior to work commencing.

**Reason:** For the avoidance of doubt and in the interests of conserving the natural heritage of the area.

5. Prior to the commencement of any development on site, a check/survey of the working corridor for any evidence of wood ant nests shall be undertaken by a suitably qualified ecologist. The outcome of the survey shall be submitted to the CNPA acting as Planning Authority. In the event that evidence of badgers is found within the working corridor, a survey of a 30.0m corridor either side of the path shall be carried out by a suitably qualified ecologist. The survey results and where necessary any appropriate mitigation measures shall be submitted to and agreed in writing with the CNPA, acting as planning authority, prior to work commencing.

**Reason:** For the avoidance of doubt and in the interests of conserving the natural heritage of the area.

**Advice Notes:**

- (a) 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.
- (b) 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.
- (c) The applicant is advised that, red squirrels are protected under Schedules 5 and 6 of the Wildlife and Countryside Act 1981(as amended) and the Nature Conservation (Scotland) Act 2004.
- (d) In the event that any remains or indicators of a reported Prisoner of War camp are noted within the area of the proposed footpath, any remains should be retained, protected and avoided. The opportunity to inform any walkers and other path users is encouraged, by the use of information panels or other signs.
- (e) The applicant is advised to contact Aberdeenshire Council's Roads Department to discuss/agree the position of any temporary signage required.

**Robert Grant - 14 December 2009** [planning@cairngorms.co.uk](mailto:planning@cairngorms.co.uk)

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