
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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DEVELOPMENT MANAGEMENT)**

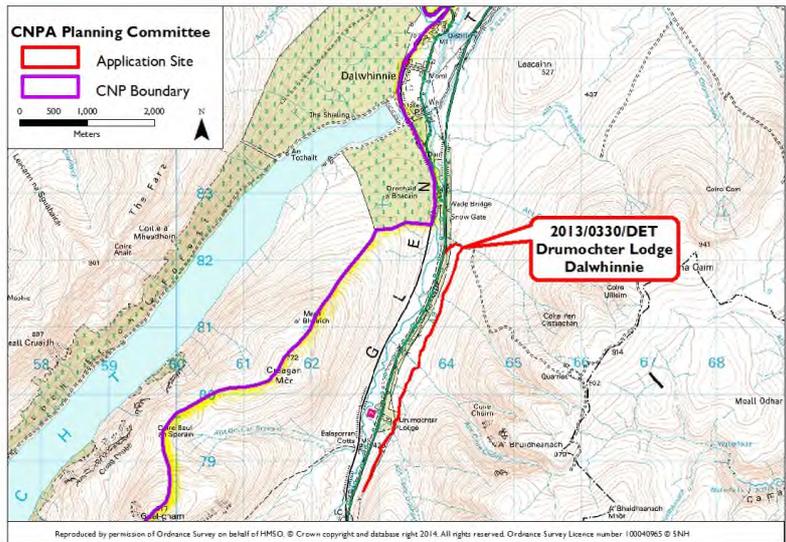
DEVELOPMENT PROPOSED: APPLICATION FOR PERMANENT RETENTION OF TEMPORARY ACCESS TRACK FROM DALWHINNIE TO DRUMOCHTER, BUILT FOR CONSTRUCTION OF BEAULY-DENNY OVERHEAD POWER LINE AT DRUMOCHTER LODGE, DALWHINNIE, PH19 IAF

REFERENCE: 2013/0330/DET

APPLICANT: DRUMOCHTER ESTATE

DATE CALLED-IN: 14TH OCTOBER 2013

RECOMMENDATION: REFUSAL



Grid reference: 263576 E / 780395 N

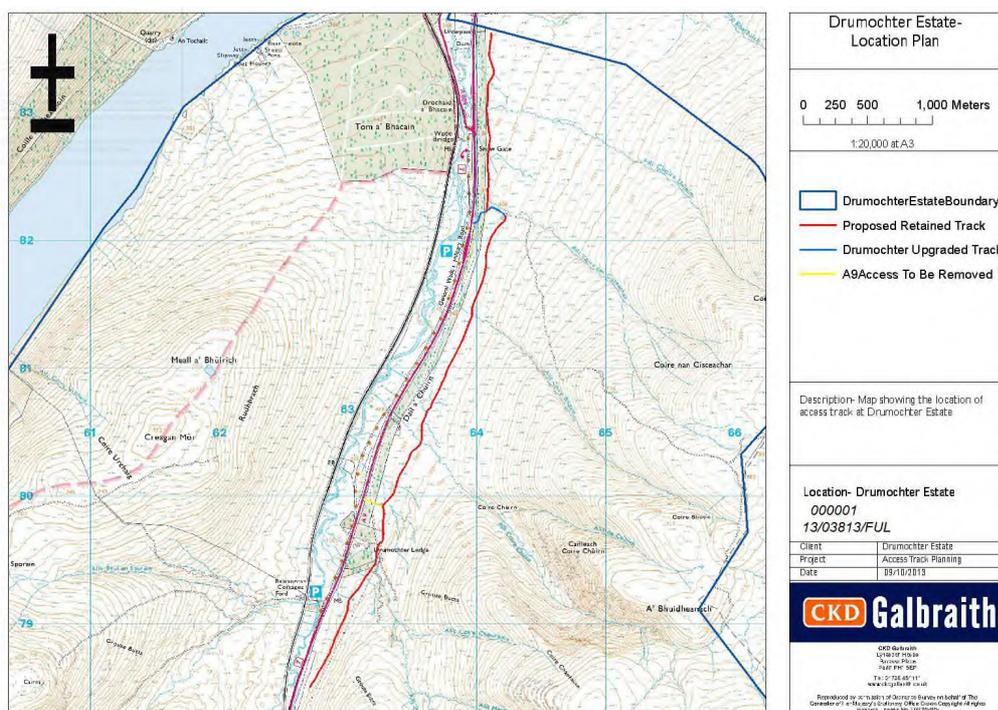
Fig. I - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. The application site comprises a long, thin strip of land lying to the east of the A9 at Drumochter. It is occupied by one of the temporary tracks that has been constructed as part of the Beaully-Denny 400Kv overhead line works. The section of track that is the subject of this proposal extends between towers 128 and 144 of the Beaully-Denny line, running adjacent to the A9 for the majority of the route. The track begins approximately 1.5 kilometres south east of Dalwhinnie and extends for around 4.5 kilometres south.
2. The temporary track has been formed by removing a swathe of vegetation, soil and in some cases rock and piling it alongside the route. The track is between 4 and 5 metres wide and finished with hardcore. This is located within a construction corridor of some 20 to 30 metres wide. The alignment of the temporary road pays little regard to local landform and in places over-steepened sides (both cut and fill) have been created.
3. This area exhibits a number of the special landscape qualities for which the Cairngorms National Park is renowned and valued.
 - Magnificent mountains towering over moorland, forest and strath
 - Exceptional glacial landforms
 - Extensive moorland
 - Steep glens and high passes
 - Dominance of natural landforms
 - Wildness - though this part of Drumochter contains some very obvious human artefacts there is none the less a sense of the dominance of nature, in the landform, the land cover and the weather.
4. In terms of visual character, parts of the site are visible to the travelling public from the A9, the remainder is currently screened by the roadside coniferous shelter planting. The site is very visible from the surrounding slopes and summits including areas to both east and west areas that have been identified by SNH as being core wildland (currently the subject of a consultation exercise).
5. Part of the track lies within Drumochter Hills Special Area of Conservation (SAC), Special Protection Area (SPA) and Site of Special Scientific Interest (SSSI). Part is within the SSSI only. Apart from a small section at the northern end the application site falls within the landscape character area 'Drumochter' [Cairngorms.co.uk/landscape-toolkit](http:// Cairngorms.co.uk/landscape-toolkit).

Development Proposal

- Under the terms of the planning permission for the Beauly-Denny overhead line, all temporary tracks must be reinstated following completion of the construction project. The planning application proposal is for the retention of approximately 4500 metres of track, narrowed down to form a 3m wide land rover track. The stretch of track for which permission is sought includes 2 steel and timber bridges with concrete abutments.



- The applicant advises that since the track was constructed, it has become apparent that it offers a number of significant benefits to Drumochter Estate, and therefore planning permission is being sought to retain this section of track permanently. It states that the principal benefit in retaining the track is that it allows staff and clients improved access across the estate. The requirement for estate staff and clients to use the A9 for accessing parts of the estate would be much reduced, offering significant road safety improvements.
- The applicant proposes that the permanently retained track would be subject to works in order to minimise the visual impact of the track, such as reducing its width to around 3 metres, and reducing all mounding to as close to ground level as possible. There are no drawings with the planning application to illustrate the works along the track, nor is there a construction methods statement to indicate the nature of the proposed works.
- The proposals include the removal of the temporary access and bellmouth onto the A9 constructed to the north of Drumochter Lodge, with the reinstatement of the land in line with the approved reinstatement proposals.



Site History

10. The planning permission for the Beauly-Denny power line was granted by Scottish Ministers on the 6 January 2010 subject to various conditions. The description of the development included 'The formation of temporary access tracks to facilitate the construction and maintenance of the new line and substations and the dismantling of the existing 132 kV line'.
11. In summary, in relation to this part of the proposals, the planning requirements were that:-
 - Temporary tracks would be designed to follow the grain of the landscape, wherever possible, for both the horizontal and vertical profiles and avoiding disturbance of natural features such as rivers and streams.
 - Track widths would be kept to the minimum necessary for the operational use of the track.
 - Reinstatement works to any disturbed areas on the edges of tracks would be undertaken to ensure that all tracks 'fit' well into the surrounding landscape.
 - Restoration of the area would be undertaken once the temporary track is removed, to ensure the landscape is returned to its pre-works condition.

12. In the decision letter, the Scottish Government said: “In respect of the Drumochter Hills Special Area of Conservation and the surrounding area of land ... (a) the applicant shall, in carrying out any activities associated with the construction of the overhead transmission line and the dismantling of the existing 132kV OHL, implement all construction methods, mitigation proposals and restoration measures detailed in that Final Report.”
13. The Final Report states in section 3.2 that:-
- No permanent access tracks would be constructed in Natura sites (SACs or Special Protection Areas);
 - All temporary tracks used for construction of the new line would be fully restored.

DEVELOPMENT PLAN CONTEXT

National policy

14. **Scottish Planning Policy (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 shouldallow 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.
15. **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.” 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.”
16. As a replacement for a variety of previous planning policy documents the **Scottish Planning Policy** includes ‘subject policies’, of which some are directly applicable to the proposed development. Topics include:-
- *Landscape and natural heritage*: The **Scottish Planning Policy** 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.

- *Rural development: Scottish Planning Policy* states in relation to rural development that the “aim should be to enable development in all rural areas which supports prosperous and sustainable communities whilst protecting and enhancing environmental quality.” All new development is required to respond to the specific local character of the location, fit in the landscape and seek to achieve high design and environmental standards.

Strategic Policies

Cairngorms National Park Partnership Plan (2012 - 2017)

- 17 The Cairngorms National Park Plan sets out the vision and overarching strategy for managing the Park and provides focus and priorities at a time of limited financial resources. The Plan also provides a strategic context for the Local Development Plan and shows how the four aims of the National Park can be achieved together. It sets out the strategic direction and priorities for the Park. Three long term outcomes for the Park are set out as follows:
- A sustainable economy supporting thriving businesses and communities;
 - A special place for people and nature with natural and cultural heritage enhanced; and
 - People enjoying the park through outstanding visitor and learning experiences.
- 18 These outcomes address the interaction of the three main characteristics of the National Park these being that the Park is an internationally important area for nature conservation; a fragile rural economy, and an internationally known tourism destination. Recognising the relationship of these outcomes is at the heart of the National Park. Specific policies of the Plan seek to promote and enhance the special qualities of the Park.

Local Plan Policy

Cairngorms National Park Local Plan (2010)

- 19 The Cairngorms National Park Local Plan was formally adopted on 29th October 2010. The full text can be found at :
<http://www.cairngorms.co.uk/parkauthority/publications/results.php?publicationID=265>
- 20 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.
- 21 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.
- 22 Policy 1 – Natura 2000 Sites – The policy requires that all development likely to have a significant effect on a Natura 2000 site is subject to an appropriate assessment. Where an assessment is unable to ascertain that a development will not affect the integrity of the site, development will only be permitted where there are no alternative solutions and there are imperative reasons of overriding public interest including those of a social or economic nature.
- 23 Policy 2 – National Natural Heritage Designations – This policy protects nationally designated sites from development that would compromise their integrity or objectives, unless the development proposal would have social or economic benefits of national importance.
- 24 Policy 6 - Landscape - This policy states that there will be a presumption against any development that does not complement and enhance the landscape character of the Cairngorms National Park, and in particular the setting of the proposed development. layout, scale, design and construction to the satisfaction of the planning authority.
- 25 Policy 33 – Tourism-Related Development – Tourism-related development which has a beneficial impact on the local economy through enhancement of the range and quality of tourism attractions and related infrastructure will be supported provided that the development will not have an adverse impact on the landscape or the biodiversity or the culture and traditions of the National Park which would outweigh that beneficial impact.
- 26 Policy 34 – Outdoor Access – Development which improves opportunities for responsible outdoor access will be encouraged.

Supplementary Planning Guidance

Wildness

- 27 This supplementary planning guidance on wildness sets out to provide detailed information to assist applicants to ensure they comply with Policies 2: National Natural Heritage Designations and 6: Landscape in the Cairngorms National Park Local Plan.

- 28 The experience of wildness is a core special quality of the Cairngorms National Park. This quality should be protected and enhanced throughout. Its strength varies across the Park. It is expected that all developments within the National Park will pay due regard to the protection and enhancement of wildness both directly and indirectly.
- 29 The information on wildness characteristics has been aggregated into three bands of relative wildness from least to most wild. For each band, specific sensitivities and opportunities for mitigation, compensation and enhancement have been identified, and all development proposals will be assessed against these.

CONSULTATIONS

- 30 **Highland Council TEC Services Traffic and Transport** – Advise that Highland Council roads are not affected by this application and therefore the Service has no objection to this proposal.
- 31 **SEPA** – SEPA has no objection to this planning application but asks for conditions to be applied in relation to re-use of materials and surface water drainage if permission is granted.
- 32 **Scottish Natural Heritage** – Advises that this proposal could be progressed with appropriate changes. However, because it could affect internationally important natural heritage interests, SNH object to this proposal unless it is amended or made subject to conditions so that the works are done strictly in accordance with the changes detailed in their appraisal.
- 33 SNH considers that the proposal is likely to have a significant effect on the blanket bog and dry heath qualifying interests of Drumochter Hills SAC, in relation to the approximately 1km of track which lies within the designated area. Consequently, SNH require CNPA to carry out an appropriate assessment in view of the site's conservation objectives for these qualifying interests. However, SNH further advise that on the basis of the appraisal, if the proposal is amended so the section of temporary track south of Drumochter Lodge and within the SAC is not retained, and is reinstated as per the Beaulieu – Denny planning permission, then the proposal will not adversely affect the integrity of the site.
- 34 SNH consider that the proposal would have no impacts on Drumochter Hills SPA, since dotterel and merlin would not be affected by the retention of the access track. In relation to the Drumochter Hills SSSI, SNH advise that there are natural heritage interests of national importance on the site, but that because the impacts are small scale in relation to the area of the SSSI, these impacts will not affect the integrity of the site.

- 35 **Transport Scotland** - Advises that conditions be attached to any planning permission in relation to the closure of the existing access and a Method Statement for utilising the proposed access to ensure that no vehicles require to wait on the trunk road to turn into the access track.
- 36 The issue of the particular claims in terms of road safety has not been addressed in the formal consultation response from Transport Scotland. However, it has been ascertained that Transport Scotland have done assessments of the A9 for accidents by sections and this length is one of the worst. Transport Scotland does not hold details of where the vehicles were from that were involved in accidents as this would be against the Data Protection Act. However, the officer has advised that it would be appropriate to say that there are many accidents caused by right turning traffic. Thus, any measures which are implemented which reduce or remove right turning traffic would be encouraged by Transport Scotland. As the retention of the track clearly does this, the officer considers that it would have a positive benefit to road safety.
- 37 **CNPA Outdoor Access Officer** – Advises that the development would have an impact on outdoor access, but has the potential to be addressed by appropriate mitigation measures. If this proposal was to go ahead, an unlocked gate for pedestrians should be retained where the access track to the A9 is being removed. Therefore, to meet the access need there needs to be a clear statement on what will be installed at the main A9 access site.
- 38 **CNPA Landscape Adviser** – Observes that the landscape of this part of the National Park has been significantly affected by the permitted Beaulieu Denny line currently under construction. The site falls within an area of medium wildness in the CNPA map (Wildness SPG) and even after a protracted period of time the removal of the access track and the restoration of its route will leave a situation where not all of the policy tests in the Wildness SPG are met.
- 39 There are additional landscape and visual impacts associated with the retention of the track, in particular its contribution to the cumulative impact of infrastructural development and the adverse effect of this on the experience of hill walkers and the travelling public. These impacts, their permanence and negligible opportunities for mitigation, mean that the proposed retention of the 4.5km of access track in this location would fail to meet the majority of the policy tests.
- 40 In terms of Landscape and Visual Impacts, in the short term (1 to 2 years) the proposed track would have the appearance of a linear construction corridor. In the medium to long term (3 years and onwards) the proposed track would result in:-
- A pronounced linear feature in the landscape bisecting natural landforms and landcover and emphasising the line of the pylons in both views from the A9 and from the hills. Given the nature and length of the development and the sensitivity of the landscape and visual receptors,

both the landscape and visual impact would in my view be significant and adverse.

- A linear feature contributing significant additional impact to the existing cumulative effects of infrastructure in Drumochter,
- A dilution in the perceived dominance of the natural landscape and the experience of the pass on the journey between Speyside and Perthshire.

- 41 **CNPA Landscape and Ecology Officer** – In addition to supporting the response from the CNPA Landscape Adviser, the Landscape and Ecology Officer comments on the natural heritage issues as follows:-
- In the light of SNH's advice and of the Scottish Government's conditions for Beaully Denny, based upon their own assessments, a further Appropriate Assessment has not been undertaken for the Drumochter Hills SAC. The advice from SNH is very clear in showing that there would be adverse effects upon the conservation objective for the SAC. This is not in accordance with policy 1 of the local plan.
 - With regard to the small part of the Drumochter Hills SSSI within the application site, SNH have advised that there is no significant effect upon this designated site. Consequently the proposal does not contravene Policy 2 of the Local Plan.
 - In consideration of the extant nature of the track and the precautions employed in the main construction process to ensure no significant effect upon protected and other species means that the retention would be neutral in effect. Its removal and reinstatement back to the previous vegetation would however be better because this will, in time, bring back those habitats that were originally lost.
- 42 The Landscape and Ecology Officer concludes that the proposal is not in accordance with policy 1 or 6 of the local plan and recommends that the application is refused on this basis.

REPRESENTATIONS

- 43 North East Mountain Trust strongly objects to this application.
- The retained track, albeit of narrower width, would leave a very significant scar visible to people walking in the hills on both sides of the glen. Hill walkers and climbers are major users of the Park and bring considerable economic benefits.
 - There is a major principle at stake, as SSE is required to remove all temporary access tracks. This requirement serves to mitigate some of the concerns expressed at the public inquiry that Beaully- Denny would be visually detrimental; it also reflects the fact that pylons do not need road access for maintenance. Permission for Beaully-Denny was given because it was considered to be in the national interest. The current application fails completely to meet this test.
 - The only reasons given for the application are convenience and road safety. There is no need for stationary shooting vehicles on the A9 if convoys are not used.

- 44 A local resident shares the concerns identified in the first two points of the North East Mountain Trust objection. He comments that to deviate from the commitment to reinstate the access tracks would be a significant breach of public trust following such a highly contested major public inquiry.
- 45 The objections are attached to this report as Appendix A. It should be noted that John P Thomas has requested to address the Committee.

APPRAISAL

- 46 The application stands to be determined against the Development Plan policies unless there are material considerations which would indicate otherwise.

Development Plan Policies

- 47 It has been demonstrated above that the proposed retention of the track would conflict with Policy 1 (Natura 2000 Sites), as it has not been established that the development will not affect the integrity of the Drumochter Hills SAC.
- 48 It has been demonstrated above that the proposed development would strongly conflict with Policy 6 (Landscape), as it fails to complement and enhance the landscape and character of the National Park. Whilst there were no details of the proposed restoration methods accompanying the application, none have been sought during the processing of the application as it is considered that the principle of retaining the route of the track is unacceptable in landscape terms.
- 49 In relation to Policy 2 (National Natural Heritage Designations), it has been demonstrated that the proposed development would not compromise the integrity or objectives of the Drumochter SPA.
- 50 The proposal has also been considered against Policy 33 (Tourism Related Development) but it is considered that any benefit for the Estate of having a private access track will be outweighed by the adverse impact on the landscape and biodiversity of the National Park.
- 51 In terms of Policy 34 (Outdoor Access), the retention of the A9 access via an unlocked gate for pedestrians only is preferred.

Material Considerations

- 52 In the case of this application, a significant material consideration is the background to the provision of the temporary track in conjunction with the installation of the Beaully Denny power line, and the conditions that were attached to the planning permission. CNPA's position at the Public Local Inquiry was that the proposed Beaully Denny power line would have a significant adverse impact on the landscape of parts of the National Park. The Reporter found that the power line would not have a significant adverse impact on the integrity of the National Park and the development was granted permission as a development in the national interest. However, the requirement was that the temporary tracks were removed and the ground reinstated following completion of the powerline.
- 53 The current planning application has been lodged part way through the Beaully Denny construction process at a time when there is a huge amount of construction disturbance that is having an adverse landscape impact, and which will continue to have a long term but declining impact over a number of years. When considering the proposed retention of this stretch of track, the impacts are not being assessed against a pristine landscape but against the planned and permitted development in its restored state. Whilst there are difficulties associated with the restoration and reinstatement of the temporary access track, the accepted position is that in the longer term (20 to 30 years) there should be little if any evidence of these tracks in the landscape. The pylons of course will remain.
- 54 It should be noted that whilst the terms of the Beaully Denny permission in relation to access tracks are a material consideration, insofar as a level of temporary disturbance has been permitted and reinstatement is required, the current application requires to be considered on its own individual merits.
- 55 The applicant has based the argument for retention of the tracks simply on road safety grounds. Whilst no statistics have been presented to support this view, an officer from Transport Scotland has confirmed that reducing the number of right turns from this stretch of the A9 would result in an improvement in road safety. (This issue will be specifically addressed by the A9 Dualling Project). However, whilst road safety is an issue, it is not considered significant enough to outweigh the concerns that have been identified in terms of the landscape and ecological impacts of the retention of the existing track.

Conclusion

- 56 The development of the Beaully-Denny power line was permitted by the Scottish Government, subject to a specific requirement that the temporary access tracks were reinstated following its completion. It is considered that the impact of changing the terms of this requirement would be to retain the possible adverse effect on the Natura site. It has been demonstrated in particular that the proposed retention of the access track at Drumochter does not respect the special landscape character of this part of the National Park. It is therefore considered that the proposed retention of the track will not contribute towards conserving and enhancing the special qualities of the National Park.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

- 57 The retention of the temporary access track will neither conserve nor enhance the natural and cultural heritage of the area. The access track represents a significant scar in the landscape and is proposed for retention as a matter of expediency rather than the route having been designed to best address the landscape and ecology constraints, which in itself may not have been appropriate.

Promote Sustainable Use of Natural Resources

- 58 The impact on natural resources is minimal, since the materials to be used are already on site. Intervening prior to the re-instatement might be argued to minimise the use of resources rather than complying with the planning requirements and then seeking to introduce a new track thereafter.

Promote Understanding and Enjoyment of the Area

- 59 Whilst it may be argued that the proposals will contribute towards this aim, the benefits will be minimal.

Promote Sustainable Economic and Social Development of the Area

- 60 The applicant has argued that the proposals will make the shooting parties easier and safer to manage.

RECOMMENDATION

That Members of the Committee support a recommendation to refuse planning permission for the following reasons:-

1. The proposed development is contrary to Policy I (Natura 2000 Sites) of the Cairngorms National Park Local Plan (October 2010) insofar as it has not been possible to ascertain that the development will not adversely affect the integrity of the Drumochter SAC.
2. The proposed development is contrary to Policy 6 (Landscape) of the Cairngorms National Park Local Plan (October 2010) insofar as it would be a pronounced additional linear feature in the landscape which does not complement and enhance the landscape character of the Cairngorms National Park, or the setting of the proposed development.
3. The proposed development is contrary to the Cairngorms National Park Local Plan (October 2010) Supplementary Planning Guidance – Wildness – insofar as the proposed development does not enhance the natural qualities of the area, is not of an appropriate scale and has adverse visual impacts on the area.
4. The application does not include the necessary plans as existing and proposed, together with an associated construction methods statement, to enable the proposal to be considered in detail.

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Date: 22 January 2014

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