
CAIRNGORMS NATIONAL PARK AUTHORITY

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

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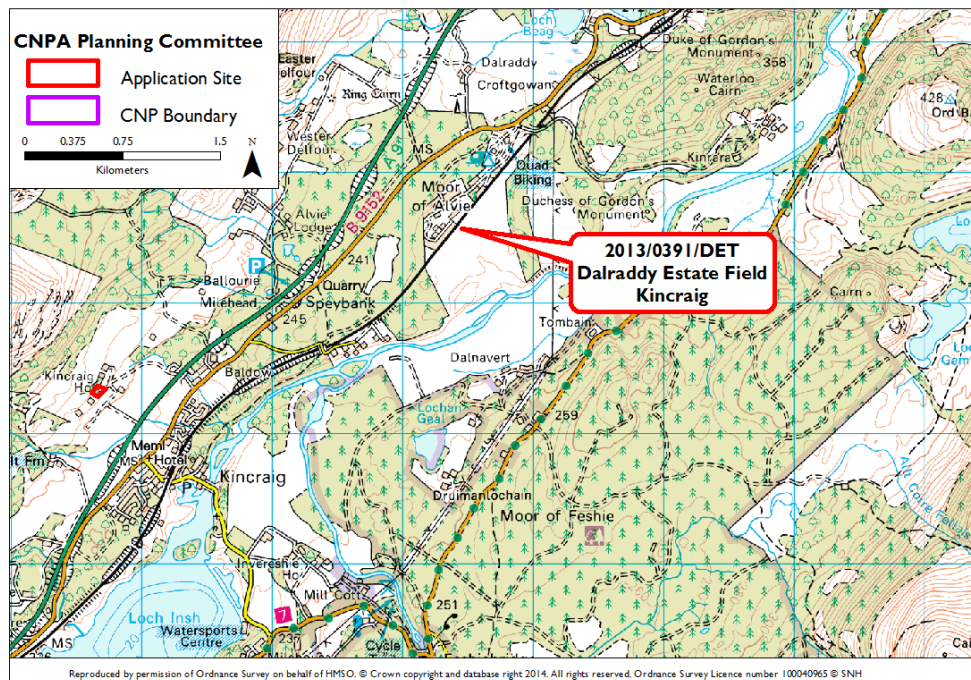
DEVELOPMENT PROPOSED: Construct a 1.2km long, 2m width new path section with associated new stock fencing related to the Speyside Way extension at Dalraddy Estate Field south of Highland Main Line, opposite Dalraddy Holiday Park, Aviemore

REFERENCE: 2013/0391/DET

APPLICANT: Cairngorms National Park Authority

DATE CALLED-IN: 25 November 2013

RECOMMENDATION: **APPROVAL SUBJECT TO CONDITIONS**



Grid reference: E/285382, N/807520)

Fig. 1 - Location Plan

SITE DESCRIPTION/BACKGROUND AND PROPOSAL

Site Description and Background

1. The Speyside Way is one of four official Long Distance Routes in Scotland. It was first opened in 1981 to run from Spey Bay to Ballindalloch, and was extended over the years to reach Aviemore in 2000. The 65 mile route now links the Moray coast with the edge of the Grampian Mountains, generally following the valley of the River Spey.
2. By way of background to this application, consideration has been given to these extensions since 2004, involving informal consultations with farmers, landowners, community councils, and accommodation providers. Public consultation was carried out in 2005 and 2007, resulting in a route being recommended to Scottish Natural Heritage (SNH) and thereafter to the Scottish Government, who approved the extended route in principle in 2009. As a result of further objections to the route, a Reporter was appointed to consider any outstanding concerns and they reaffirmed the approval. In June 2012, following consideration of a sustained objection, the Minister for the Environment confirmed a Path Order, under the Land Reform (Scotland) Act, which legally enforced the route across the Kinrara Estate. All that remains is for the details of the path and associated works to be considered through the planning process.
3. This application is one of four proposals seeking to facilitate the extension of the path by a further 15 miles to a total of 80 miles, from Aviemore to Newtonmore.
4. The siting of this extension is proposed to run parallel adjacent to the railway fencing (alongside the south side to the railway line) from Dalraddy Holiday Park to Dalraddy Wood. It runs through the Cairngorms National Scenic Area (NSA) and falls just within the Kinrara Garden and Designated Landscape.

Development Proposal

5. The path is to be constructed using 'as-dug' materials for the whole 1.2km length. The path is proposed to be 2m in width, excavating sub-base equivalent material from ditches either side of the path to lay as the path surface. The surface is to be capped with 50mm imported sub-base/25mm dust materials from Quarry aggregate and then compacted. Excavated topsoil and turfs will be re-used to form the sides of the path and blend in the ditches. These verges will be constructed level with the path and tapered away, allowing surface drainage. The path is designed to be as accessible as possible to as wide a range of user groups as possible within the limitations of the topography of the landscape. Gradients have been reduced where possible and easy access gates are included.
6. A stockproof fence is proposed to run along the full length of this section of the proposed path. The distance from the railway fence varies from 6m to

- 15.5m. The fence is to be designed with fence posts sited at 3m intervals. At the start of this section of path, a new self closing wicket gate to access the Badenoch Way, is also proposed.
7. To allow access to Dalraddy Wood, the works necessitate the removal of 1 birch tree, currently growing at an angle and sited adjacent to an existing farm gate at the end of this section. Three replacement trees are proposed.
 8. This section of the path is proposed to be used on foot and bicycle. It is intended to allow those staying at Dalraddy Holiday Park access to the services at Kinncraig. It will also allow access links to other path networks, including the Badenoch Way and National Cycle Route 7, and to other visitor attractions in the area. It also provides access to facilities at the holiday park for users of the path.
 9. Construction is intended to commence in March 2014 and once complete will be regularly inspected and maintained by CNPA. Route signing, information and interpretation will be proposed. This will be the subject of further applications for advertisement consent and/or planning permission, where required.
 10. An ecology study to consider any impacts upon natural heritage has been carried out to support the application. The recommendations for this application are that although the birch tree identified for removal is unlikely to contain winter roosting bats, it will be inspected for bats prior to felling and if there are any signs of occupation, it will be removed after the hibernation period. Furthermore, although no wood ant nests were identified during the survey, if any are found during the construction of the path, the path will avoid the nest site.
 11. As a result of initial objections from Network Rail regarding safety (which repeated some of those safety issues raised by contributors to other applications), a Risk Assessment and Control Measures Report was submitted for consideration. The report is intended to reduce the risk of users undertaking the illegal, irresponsible and dangerous act of crossing the railway at undesignated locations. Existing promoted paths (Badenoch Way) and tourism businesses (Dalraddy Holiday Park) are already located adjacent to the railway and people have the responsible right of access to land alongside the line. The applicant is unaware of any incidents of recreational users illegally crossing the line and none have been reported to CNPA as Access Authority. However, the applicant accepts the need to work with Network Rail to overcome their safety concerns.

DEVELOPMENT PLAN CONTEXT

National policy

12. **Scottish Planning Policy (SPP)** is the statement of the Scottish Government's policy on nationally important land use planning matters. Core

Principles which the Scottish Government believe should underpin the modernised planning system are outlined at the outset of the 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.
13. 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'.
14. As a replacement for a variety of previous planning policy documents, the SPP includes subject policies, of which some are directly applicable to the proposed development: Landscape and Natural Heritage; Open Space and Physical Activity; Rural Development; and Historic Environment.
15. *Landscape and Natural Heritage* – SPP 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 acknowledgment 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. However, improving the natural environment and the sustainable use and enjoyment of it is one of the Scottish Government's national outcomes. Planning Authorities should therefore support opportunities for enjoyment and understanding of the natural heritage. Specifically, development that affects a National Scenic Area should only be permitted where it will not adversely affect the integrity of the area or the qualities for which it has been designated. Furthermore, planning permission should not be granted for development that would be likely to have an adverse effect on protected species or habitats.
16. *Open space and Physical Activity* – SPP states that the planning system 'has a role in helping to create an environment where physical wellbeing is improved and activity made easier'. Furthermore, it states that 'access to good quality open spaces and opportunities for sport and recreation make important contributions to a healthier Scotland.'

17. *Rural Development* – SPP 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. It is also important that rural communities have reasonable access to good quality services.
18. *Historic Environment* – SPP states that ‘the historic environment is a key part of Scotland’s cultural heritage and it enhances national, regional and local distinctiveness, contributing to sustainable economic growth and regeneration’. The historic environment is also ‘of particular importance to the growth of tourism and leisure.’ SPP states ‘Planning Authorities have a role in protecting, preserving and enhancing gardens and designed landscapes. Change should be managed to ensure that the significant elements justifying designation are protected and enhanced’.
19. It is worth noting that the emerging **Scottish National Planning Framework 3**, expected to be finalised and published in June 2014, identifies the extension of the Speyside Way to Newtonmore as a National Development. It outlines the need for this ‘to help deliver an integrated national network of walking and cycling routes’, which ‘will significantly improve visitor experiences and increase tourism within Scotland.’ Furthermore, it is intended the network ‘will be a key asset for increasing physical activity and will support active travel.’

Strategic Policies

Cairngorms National Park Partnership Plan (2012-2017)

20. The Plan sets out the vision and overarching strategy for managing the Park and provides focus and priorities. The vision is for ‘An outstanding National Park, enjoyed and valued by everyone, where nature and people thrive together’. The Plan also provides a strategic context for the Local Development Plan and shows how the four aims of the Park can be achieved together. This is set out in three long term outcomes:
 - A sustainable economy supporting thriving businesses and communities
 - People enjoying the Park through outstanding visitor and learning experiences
 - A special place for people and nature with natural and cultural heritage enhanced
21. 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.

Core Paths Plan

22. The Core Paths Plan sets out the core paths network for the Cairngorms National Park. The Plan is intended to help people to enjoy and understand the special qualities of the Park by identifying a network of paths which offer a wide range of high quality outdoor access opportunities.

Local Plan Policy

Cairngorms National Park Local Plan (2010)

23. 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>
24. 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.
25. 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.
26. Policy 2 – National Natural Heritage Designations – This policy seeks to protect the Cairngorms National Park and National Scenic Areas from development which would adversely affect them.
27. Policy 4 – Protected Species - This policy seeks to protect European Protected Species from development which would adversely affect them.
28. 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
29. Policy 7 – Gardens and Designated Landscape - This policy states that development affecting a Garden or Designated Landscape as identified by

Historic Scotland, should protect, preserve, and, where possible, enhance its character or any features of special historic interest which it possesses.

30. Policy 16 – Design Standards for Development – Seeks to ensure that the design of all development is sustainable and is in accordance with the Sustainable Design Guide.
31. Policy 33 - Tourism-Related Development – This policy supports development which has a beneficial impact on the local economy through enhancement of the range and quality of tourism attractions and related infrastructure, providing the development will not have an adverse impact on the landscape, built and historic environment, or the biodiversity, or the geodiversity, or the culture and traditions of the Cairngorms National Park.
32. Policy 34 – Outdoor Access – Development which improves opportunities for responsible outdoor access will be encouraged.
33. Policy 35 – Sport and Recreation Facilities – Development which involves provision or enhancement of recreational facilities will be supported, where they demonstrate best practice in terms of sustainable design and future maintenance, where there are no adverse environmental impacts on the site or neighbouring areas, and where they will meet an identified community or visitor need.

Supplementary Planning Guidance

Sustainable Design Guide

34. The Sustainable Design Guide supports Policy 16 (Design Standards for Development) and sets out principles for good sustainable design, with reference to use of appropriate materials and traditional skills, minimising the environmental impact of development within the natural environment.

Natural Heritage

35. This guidance sets out principles to be used to assess planning applications relating to development which may impact upon the natural heritage in the National Park.

CONSULTATIONS

36. **Scottish Natural Heritage (SNH)** advise that the site lies outwith any designated site and therefore have no comments to make.
37. **Historic Scotland** have been consulted in relation to any impact upon the designated Kinrara Garden and Historic Landscape. Their comments have not been received at the time of writing this report. Their comments will be reported verbally at the meeting.
38. **Network Rail** has been consulted given the proximity to the railway line. Although objections were raised to other related applications, no response was received relating to this specific application. A Risk Assessment has been undertaken and provided to them. A further response has now been received, which confirms that the area of concern is the need for appropriate measures to be installed to dissuade people from using the private level crossings. The Risk Assessment goes a long way towards addressing these concerns and therefore request that conditions be imposed which require (1) that the development shall not commence until a Risk Assessment identifying the likely risks and measures required to dissuade Path users from straying onto the railway has been submitted and approved in writing by the planning authority and the Risk Assessment shall be reviewable upon written request by either Network Rail or the applicant (2) that there will be no promotion of the route by the CNPA, the COAT or Highland Council until all the footpath infrastructure, including any level crossing safety measures, identified by the Risk Assessment have been installed.
39. **Kincraig and Vicinity Community Council** supports the construction of the Speyside Way
40. **Highland Council Forestry Officer** advises that the proposed footpath passes through open grassland with just one tree at the southern end proposed to be removed. There will need to be tree planting proposals to compensate for the loss of this tree. In summary, the officer has no objections subject to conditions being applied which require (1) no trees to be cut/lopped without permission and (2) tree planting plan to be submitted and approved (3) drawings identifying areas for the storage of materials/machinery
41. **CNPA Ecology Officer** advises that consideration has been given to the any works to trees or removal of trees to allow for footpath access, damage to trees/tree roots during construction and any potential killing/injury to reptiles during construction work. It has been concluded that the development would have a minor impact upon ecology, but has the potential to be addressed by appropriate mitigation measures. It is recommended that since the footpath lies close to existing mature birch trees, a buffer zone must be provided to prevent damage to tree roots in accordance with British Standard 5837 (2012). It is recommended that the removal of the birch tree should be outside the bird breeding season to avoid disturbance to nesting birds, and there should be replanting as compensation on a three for one basis of the same species. Finally, locations for machinery and material storage should

allow room for tree roots and the movement of machinery during construction must minimise the risk of compaction on tree roots in accordance with British Standard 5837 (2012).

42. **CNPA Outdoor Access Officer** advises that this proposal will have a positive impact on outdoor access as it will provide a new path suitable for a variety of users. Specifically, the development of this route: supports the long held aspiration to extend the Speyside Way to Newtonmore; will provide a more inclusive route for those currently accessing the Badenoch Way; will be an asset to the Dalraddy Holiday Park as it will provide an attractive off road route to Kincaig and improve the recreational opportunities around the site. The design exceeds the accessibility standards advocated by the Fieldfare Trust for paths in a rural and working landscape – sufficient width for passing, current surface stone size and an accessible gate. The design fits well with the Cycling by Design requirements for off road cycle paths – a desirable minimum of 2 metres for traffic follows up to 150 cycles per hour. That the fencing be altered to ensure the netting is fully secure.
43. **CNPA Landscape Adviser** confirms with regard to three of the four applications (2013/0391, 0393 and 0373) that the site is located within the Kinrara designed landscape, which is on the Inventory. It is ranked as outstanding as a work of art (landscape design laid out according to picturesque theories, forms a landscape structure sensitive to the natural topography and with a strong landscape character). And outstanding for its Scenic Value (the Duke of Gordon's monument and the woodland on Torr Alvie is of outstanding Scenic value in the surrounding landscape). The House, formal gardens and Parkland are to the south of Torr Alvie. . The two access drives lead off the B9152. The north drive leads past the Boggach Lochan to pass through woods on the east flank of Torr Alvie. The southern approach leads through woodland and parkland before reaching a series of small informal pastures along the valley flood of the Strathspey. Whilst during the mid- 19th Century there was an elaborate network of footpaths and tracks extending through the woodlands and onto Torr Alvie, many are now unused and overgrown. The Speyside Way extension runs immediately east of the railway line, taking a line through the edge of areas of naturally regenerated birch woodland and following the open ground along the powerline wayleave. It crosses the north access drive and runs along the southern one for a short distance. The proposed construction is an 'as dug' 2m wide path. The proposed path is low-key and will not interfere with any of the significant landscape components of this landscape, the house, formal gardens and parklands all being on the south side of Torr Alvie. I am unaware of the stat of the driveways and any drive-side planting but care should be taken in the fine alignment of the path to avoid damage to the driveways themselves or any trees and shrubs that line the driveway. Introducing some interpretation of the historic landscape close to these crossing points would add interest for the walking public.

REPRESENTATIONS

44. None

APPRAISAL

45. The application stands to be determined against the Development Plan policies unless there are material considerations which would indicate otherwise.
46. It should be re-iterated that in considering this application, the principle of the path and its route has already been agreed, following consideration of objections, by the Scottish Government through the issue of a Path Order. The planning application is therefore submitted to consider the details of this Path, in terms of its construction, design and associated works.

Development Plan Policies

47. The submitted documentation has demonstrated that no European Protected species would be adversely affected by the proposals. As such the development complies with Policy 4 (Protected Species). Conditions and advice notes have been suggested to ensure ecology matters are protected during construction.
48. With regard to an assessment against Policy 7 (Garden and Historic Landscapes), whilst Historic Scotland's comments are awaited, it is considered that since the path is subject to a Path Order, the route through this designation has already been approved in principal and therefore having no adverse impact upon any features of special historic interest which it possesses or adversely impacting upon its character. Furthermore, CNPA's Landscape Advisor has advised that it is considered that the proposed path is low-key and will not interfere with any of the significant landscape components of this landscape since the house, formal gardens and parklands are all on the south side of Torr Alvie.
49. It has been demonstrated above that the proposed development would comply with Policy 2 (National Natural Heritage Designations), 6 (Landscape) since the design and location of the footpaths, together with associated works, are constructed of traditional materials which complement and enhance the landscape and character of the National Park. Tree planting and protection is covered through the imposition of conditions.
50. The proposals incorporate good sustainable design principles and therefore comply with Policy 16 (Design Standards for Development)
51. The extension of this path network, specifically adjacent to the Dalraddy Holiday Park will enhance tourism within the Park and therefore fully comply with Policy 33 (Tourism- Related Development)
52. It has been demonstrated above that the proposals fully comply with Policy 34 (Outdoor Access). The proposals provide for enhanced access to the Cairngorms landscape for those on foot and by cycle.

53. The proposals promote enhanced informal recreational facilities in the National Park and therefore comply with Policy 35 (Sport and Recreation Facilities)

Material Considerations

54. Issues raised are related to safety. As noted, a full Risk Assessment has been carried out covering all potential risks and outcomes. This has been assessed by Network Rail, who have confirmed that they are satisfied by the report subject to conditions being imposed relating to the submission and prior approval of a more detailed Risk Assessment to identify the likely risks and measure required to dissuade Path users from straying onto the railway, and also that there will be no promotion of the route by CNPA, COAT or Highland Council until all the footpath infrastructure identified by the approved Risk Assessment have been installed. Such conditions are recommended at the end of this report.

Conclusion

55. The extension of the Speyside Way, of which this proposal forms part, is sustainably designed and complements the landscape character of the National Park, whilst providing for an accessible and enhanced path network south of Aviemore, increasing opportunities for physical activity. The path and associated works will 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

56. The construction of an extended section of the Speyside Way will enhance the natural and cultural heritage of the area by opening access to users of the Park for their greater understanding of its natural and cultural heritage.

Promote Sustainable Use of Natural Resources

57. The path and associated works is to use local materials and re-use materials on site, thereby promoting the sustainable use of natural resources.

Promote Understanding and Enjoyment of the Area

58. The proposals will allow improved access within the National Park, linking to existing paths (Badenoch Way and National Cycle Route 7) and allowing more people to understand the Park's special qualities and enjoy the outdoors.

Promote Sustainable Economic and Social Development of the Area

59. The proposals allow improved access to local facilities and services for locals and visitors.

RECOMMENDATION

That Members of the Committee support a recommendation to GRANT FULL PLANNING PERMISSION Construct a 1.2km long, 2m width new path section with associated new stock fencing related to the Speyside Way extension, subject to the following planning conditions:

1. The development shall not commence until a risk Assessment identifying the likely risks and measures required to dissuade Path users from straying onto the railway has been submitted to and approved in writing by the planning authority. The Risk Assessment shall be reviewable upon written request by either Network Rail or the Applicant.

Reason – In the interests of safety and over the longer term risks may change and events/issues identify that alternative, or more (or less) robust measures are required to reduce them.

2. There shall be no promotion of the route by the CNPA, the COAT or Highland Council until all the Path infrastructure , including any level crossing safety measures identified by the Risk Assessment have been installed.

Reason – The informative devises i.e. signs etc need to be installed prior to the opening of the Path as ill-informed users may assume private crossings

meet 'public' use standards and attempt to use these, or any other part of the railway corridor.

3. No trees other than those identified in the Proposal document shall be cut down, uprooted, topped, lopped (including roots) or wilfully damaged in any way, without the prior written permission of the planning authority.

Reason – To ensure the protection of retained trees during construction and thereafter.

4. No development shall commence until a Tree Planting Plan and maintenance programme, to specifically include the replacement of the single mature birch (identified as being removed on the submitted plans) by three trees, has been submitted to and approved by the planning authority. The Tree Planting Plan shall be implemented in full during the first planting season following commencement of development or as otherwise agreed in writing by the planning authority.

Reason – In the interests of amenity

5. No development shall commence until a detailed drawing identifying the areas to be used for storage of materials or machinery has been submitted to and approved by the planning authority.

Reason – To ensure the protection of retained trees throughout the construction period.

Advice notes:

1. In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), this permission lapses on the expiration of a period of 3 years beginning with the date on which this permission is granted unless the development to which this permission relates is begun before that expiration.
2. It is recommended that construction work (including the loading/unloading of delivery vehicles, plant or other machinery) should not take place outwith the hours of 0800 hours to 1900 hours, Monday to Fridays, 0800 hours to 1300 hours on Saturdays or at any time on Sundays or Bank Holidays in order to minimise any disturbance caused during construction.
3. You are advised of the need to comply with British Standard 5837:2012 with regard to the need to provide a buffer zone where the path lies close to existing mature birch trees.
4. With regard to Condition 5 above, you are advised of the need for locations for machinery and material storage to allow room for tree roots and the movement of machinery of construction must minimise the risk of compaction on tree roots in accordance with British Standard 5837: 2012.
5. You are advised of the need to ensure that the single birch tree, identified as being removed on the submitted plans, is inspected for roosting bats, and if found, the removal will be delayed until after the hibernation period. In any case, the tree should be removed outside of the bird breeding season to avoid the disturbance of nesting birds.
6. You are advised that although no wood ant nests were identified during the survey, if any are found during the construction of the path, the path will avoid the nest site.

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Date: 25 February 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.