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# CAIRNGORMS NATIONAL PARK AUTHORITY

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

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(DEVELOPMENT MANAGER)

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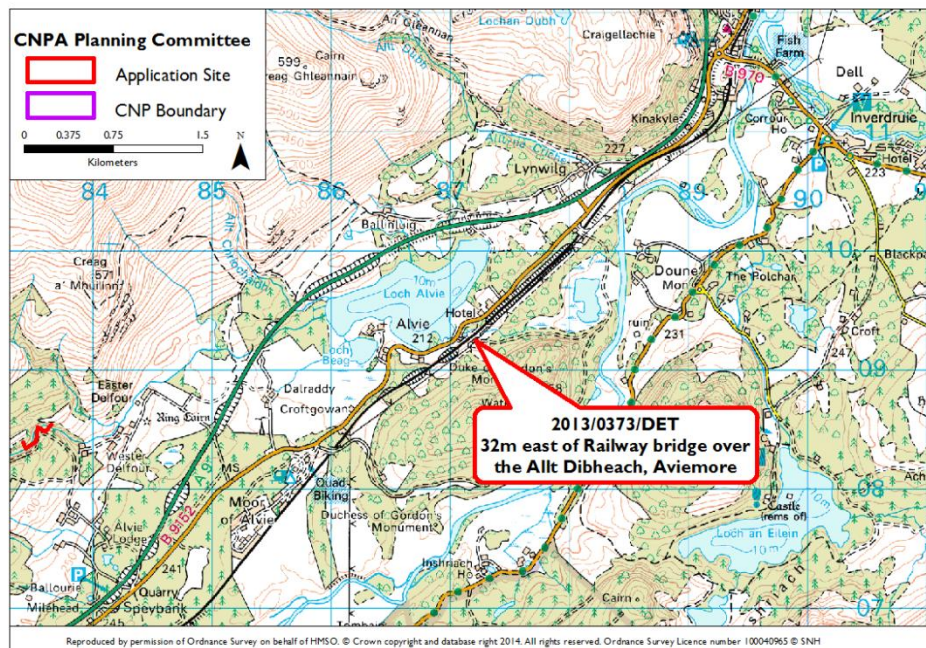
**DEVELOPMENT PROPOSED:** Construct 15m span steel and timber footbridge, 35m boardwalk and 216m long, 2m width new path section related to the Speyside Way extension at Land 126m south of Tor-Alvie Cottage and 32m east of Railway bridge over the Allt Dibheach, Aviemore

**REFERENCE:** 2013/0373/DET

**APPLICANT:** Cairngorms National Park Authority

**DATE CALLED-IN:** 25 November 2013

**RECOMMENDATION:** APPROVAL SUBJECT TO CONDITIONS



Grid reference: E/287219, N/809234

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 section of the path will run from the proposed Allt Dibheach bridge site (considered under application 2013/0393/DET) The path heads south west linking to Mid Kinrara Drive and then follows it north for a short distance before heading south west up an embankment and terminating where the path joins to an existing estate track.
5. It runs through the Cairngorms National Scenic Area (NSA) and falls within the Kinrara Garden and Designated Landscape. It is within the Alvie Site of Special Scientific Interest (SSSI) and includes Semi-Natural Ancient woodland

### **Development Proposal**

6. The proposed bridge structure has been chosen to reduce any risk of concrete or sediment entering the water. The elements are made from galvanised steel to avoid any risk, during or after construction of any kind of pollution which could affect salmon. No machinery will enter the river during construction. The pre-formed timber decking also is chosen for the same reasons. All timber will be sourced from a sustainably managed UK forest. The bridge span has been increased to keep the abutment construction well away from the river and the foundations. This is specifically designed to allow walking space for mammals along the banks of the river. The deck height has been designed to allow for a 1 in 200 year flood level.

7. The path will be 216m long and approximately 2m wide. The surface will be constructed from quarry aggregate, graded and rolled to leave an even surface with a slightly raised camber to shed surface water. Path edges will be landscaped using turfs removed during construction.
8. The associated path works include installation of 2 no. sets of half barriers. Full details of these have been submitted with the application. No trees are proposed to be removed but there will be some pruning back of branches in two areas (within the bridge/boardwalk area) and along the first section of this path site.
9. This section of the path is proposed to be used on foot and bicycle and designed to be accessible for a wide range of user groups within the constraints of the topography of the site.
10. 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.
11. Ecology survey work to consider any impacts upon natural heritage has been carried out to support the application. The Alvie SSSI's qualifying features include breeding Golden Eye; hydromorphological mire range; invertebrate assemblage; and upland oak woodland. None of these qualifying features were found during the survey work. The proposed route will involve pruning back of trees.
12. A bat survey report was also submitted, which included the survey for other protected species which would exist in the habitats within the survey area. No evidence of bat use was found. It is recommended that all trees to be pruned will be inspected for bats prior to felling and if there are any signs of occupation, works will be carried out after the hibernation period. An old and a fresh otter spraint was found during the survey together with evidence of a good reptile habitat and evidence of a possible badger or otter route, which would pass across the proposed path route. No other evidence of other protected species, including water vole, was found during the survey.
13. Finally, 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.
14. As a result of initial objections from Network Rail regarding safety (which repeated some of those safety issues raised by contributors), 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. Given the importance of this issue, rather than paraphrase its contents, the full report is appended to this Report. However, the applicant accepts the need to work with Network Rail to overcome the safety concerns.

## DEVELOPMENT PLAN CONTEXT

### National policy

15. **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.
16. 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'.
17. 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
18. *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, particularly those internationally protected.

19. *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.’
20. *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.
21. *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’.
22. 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)

23. 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
24. 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

25. 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)

26. 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/parkauthority/publications/results.php?publicationID=265>
27. 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.
28. 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.

29. Policy 2 – National Nature Heritage Designations -This policy seeks to protect the Cairngorms National Park, A SSSI, NNR or NSA against development that would adversely affect them.
30. Policy 3 – Other Important Natural and Earth Heritage Sites and Interest - This policy seeks to protect an ancient woodland site, semi-natural ancient woodland site or other nationally, regionally or locally important site recognised by the planning authority against development that would adversely affect them
31. Policy 4 – Protected Species – This policy seeks to protect any European protected species against development that would have any adverse effect upon them.
32. 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
33. 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.
34. 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.
35. 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.
36. Policy 34 – Outdoor Access – Development which improves opportunities for responsible outdoor access will be encouraged.
37. 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**

38. 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**

39. 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**

40. **Scottish Natural Heritage (SNH)** confirms that the proposal site falls within the Alvie Site of Specific Scientific Interest (SSSI). In their opinion there will be no adverse effects on the integrity of the area or damage to the natural features of the site. Furthermore, it is confirmed that there are natural heritage interests of national importance on the site but these will not be affected by the proposal. The site was surveyed in November 2013 and it was confirmed that the hydromorphological mire range and invertebrate assemblage it supports could be present and the upland oak woodland and goldeneye interests of the SSSI do not occur in the vicinity of the Allt Dibheach and are not considered further. The survey provided has confirmed that the proposed bridge across the Allt Dibheach, the boardwalk and path are all outwith the hydromorphological mire communities. Effective delivery of the mitigation measures contained in the submitted Construction Management Environmental Plan will avoid impacts on the hydromorphological mire and invertebrate assemblage and therefore they have no further comments to make.
41. **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.
42. **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 (I)



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.

43. **Kincraig and Vicinity Community Council** supports the construction of the bridge and footpath as part of the Speyside Way in our area.
44. **Highland Council Forestry Officer** advises that the proposed path and bridge are predominantly open woodland with groups of mainly birch and some willow trees. Whilst it is unclear as to whether there would be any tree impacts from the submissions, there would appear to be more than adequate space to route the path so that it is fully outwith the crown spread of any existing trees. It is only at the stream crossing where there are poor form birch, which would need to be removed in order to construct the bridge. Tree planting would be needed to compensate for any tree losses. 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
45. **Highland Council Roads Officer** confirms that from a local roads perspective they have no comments to make other than to request that prior to any works commencing that the Area Roads and Community Works Manager is consulted regarding the measures necessary to ensure safe operation of the works access at its junction with the B9152 public road.
46. **SEPA** are satisfied that the bridge is unlikely to have a significant impact upon the storage capacity of the functional floodplain. They therefore have no objection to the proposed development on flood risk grounds. With regard to pollution control, it is noted that there has been a construction method statement (CMS) submitted in support of the application. This makes references to ensuring that work minimises any risk to the water environment. The CMS is satisfactory and therefore a condition is not required provided the works are carried out in strict accordance with this document, unless otherwise agreed in writing (in consultation with SEPA)
47. **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. Otters have been confirmed to be using the Allt Dibheach (fresh otter spraint and haul out sites found during survey in November 2013). The design of the bridge will allow for the passage of otters under the bridge and for haul out sites and spraints to be left intact. Advice in the Ecological report must be adhered to during

- construction. If otters are encountered advice must be sought from SNH. Locations for siting of materials and machinery must allow room for tree roots and the movement of machinery during construction must minimise the risk of compaction of tree roots, in accordance with British Standard 5837 (2012).
48. **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 and in combination with other developments on the Speyside Way extension this path will improve the connectivity for non-motorised transport between Aviemore, Dalraddy and Kincaig. 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 follows a good line removing significant gradients. 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. The use of half barriers is a tried and tested method that slows users down and addresses any concerns about traffic. The use of the boardwalk is accepted due to the challenge of the terrain and the nature of the ground either side of the bridge.
49. **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- 19<sup>th</sup> 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 status 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

50. Six representations have been received from interested parties, raising the following objections:

- Notification
- Route will be very expensive and difficult to construct, including the bridge construction – would be more economic to put the route between the railway and old A9 road, saving a lot of public money
- Route runs thorough SSI area
- Safety issue with gates being left open and animals getting onto the road and railway line
- Railway safety issues- with reference to issues raised by Network Rail
- Flooding under the underpass
- The route will require re-routed once the A9 is dualled
- Route runs close to Lynwilg Cottage
- No account has been taken of the rights and interests of the owners of the land and human rights
- Impact upon otters, water vole shelters and migrating salmon with reference to an irreversible impact upon the Alive SSSI designation.
- A number of issues relating to SNH's role, landownership, and the decision made by the Minister, the Minister/Reporter being misled, contingency plans, nuclear waste transportation and fuel shipment
- Reference to alternative routes put forward previously

## APPRAISAL

51. The application stands to be determined against the Development Plan policies unless there are material considerations which would indicate otherwise.
52. It should be re-iterated that in considering this application, the principle of the path and its route has already been agreed, following the 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

53. Following consultation with Highland Council Forestry Officer, it has been concluded that the proposals do not adversely affect any Ancient Woodland/Semi-Natural Ancient Woodland and therefore accord with Policy 3 (Other Important Natural and Earth Heritage Sites and Interests). Conditions are suggested to ensure tree protection during construction.
54. The submissions made have confirmed that there is no adverse impact upon any European Protected Species and therefore the proposals comply with Policy 4 (Protected Species). Conditions and advice notes have been suggested to ensure ecology matters are protected during construction.
55. It has been demonstrated above that the proposed development would comply with Policy 2 (National Natural Heritage Designations), Policy 6 (Landscape) since the design and location of the footpaths, together with associated works, complement and enhance the landscape and character of the National Park.
56. 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.
57. The proposals incorporate good sustainable design principles and therefore comply with Policy 16 (Design Standards for Development)
58. 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)

59. 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.
60. The proposals promote enhanced informal recreational facilities in the National Park and therefore comply with Policy 35 (Sport and Recreation Facilities)

### **Material Considerations**

61. Issues raised are related to notification, expense of constructions, difficulty of construction, safety, flooding, will need re-routed once A9 dualled, route close to Lynwilg Cottage, Rights and interests of landowners and human rights, impact upon otters, water voles and salmon and irreversible impact upon Alvie SSSI, matters relating to previous decisions, and suggested alternative routes.
62. Whilst initially there were issues relating to notification of this application, all those parties have now been notified by Highland Council and the applicant. All parties have been given the opportunity to make their views known and these have been referenced in this report and considered below. No parties have therefore been prejudiced.
63. The cost of the bridge and the method or difficulty of construction is not a material planning consideration.
64. With regard to safety issues, it should be noted that the events referred to in the representations have occurred based on the current situation and cannot therefore be attributed to the proposed extension of the Speyside Way. 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 measures 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. It should also be noted that where there are locations that stock can enter, self-closing gates and stock fences are proposed. Fencing is also proposed adjacent to the railway line.
65. The application has been considered by SEPA and it has been concluded (as stated above) that it is considered that there will be no flood risk as a result of the construction of the bridge. It has been constructed above the 1 in 200 year flooding levels. An informative can be added to advise that the applicant complies with the submitted Construction Method Statement. The reference to flooding of the underpass is not relevant since it falls outwith the area of this application site.

66. It is not considered that the route of the Path will require re-routing once the A9 is dualled. The route as proposed in this application is the one for consideration by the Planning Committee.
67. Reference is made to the route running close to Lynwilg Cottage. This issue is not relevant to this proposed section of the Path. The issue raised is fully considered under application 2013/0393.
68. The rights and interests of landowners together with human rights issues relate to the principle of the extension of the Speyside Way across the Kinrara Estate. The principle of the Path has already been fully considered by the Scottish Government and not for reconsideration under this planning application.
69. Matters of ecology and any potential impacts upon the Alvie SSSI have been fully considered against Policy 2 (National Natural Heritage Designations) and Policy 4 (Protected Species) as noted above. These issues have been assessed by SNH and it has been concluded that there would no adverse effects on the integrity of the area or damage to the natural features of the site. Furthermore, it is confirmed that there are natural heritage interests of national importance on the site but these will not be affected by the proposals.
70. The many issues raised regarding the role of SNH, the Reporter and Scottish Minister in previous hearings of objections and considerations of this path route and alternative routes put to them are not for revisiting under this planning application. The outcome of those considerations was a Path Order enforcing the route of the extension over the Kinrara Estate.

### **Conclusion**

71. 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**

72. 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**

73. 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**

74. 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**

75. 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 to Construct 15m span steel and timber footbridge, 35m boardwalk and 216m long, 2m width new path section related to the Speyside Way extension subject to the following 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 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.

6. The advice and recommendations outlined in the Ecology Report (Mike Canham, November 2013) shall be followed in full and specifically in relation to the protection of otters during the construction phase.

**Reason** –In the interests of protection of habitat and species on site.

**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. 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.
4. You are advised of the need to ensure that prior to any pruning of trees or the removal of any trees, they are 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.
5. You are advised that any replacement trees are on a three for one basis and comprise native species.



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.
7. With regard to Condition 6 above, if otters are encountered during construction works, advice from SNH should be obtained.
8. You are advised to contact the Area Roads and Community Works Manager (Inverness, Nairn, Badenoch and Strathspey) Highland Council Roads Authority prior to commencement regarding the measures necessary to ensure safe operation of the works access at its junction with the B9152 public road.
9. You are advised to ensure that all works are carried out in strict accordance with the Construction Method Statement to safeguard against pollution control.

**Jane Shepherd**

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**Date: 25 February 2014**

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