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## CAIRNGORMS NATIONAL PARK AUTHORITY

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

**Prepared by:** **JANE SHEPHERD  
(DEVELOPMENT MANAGER)**

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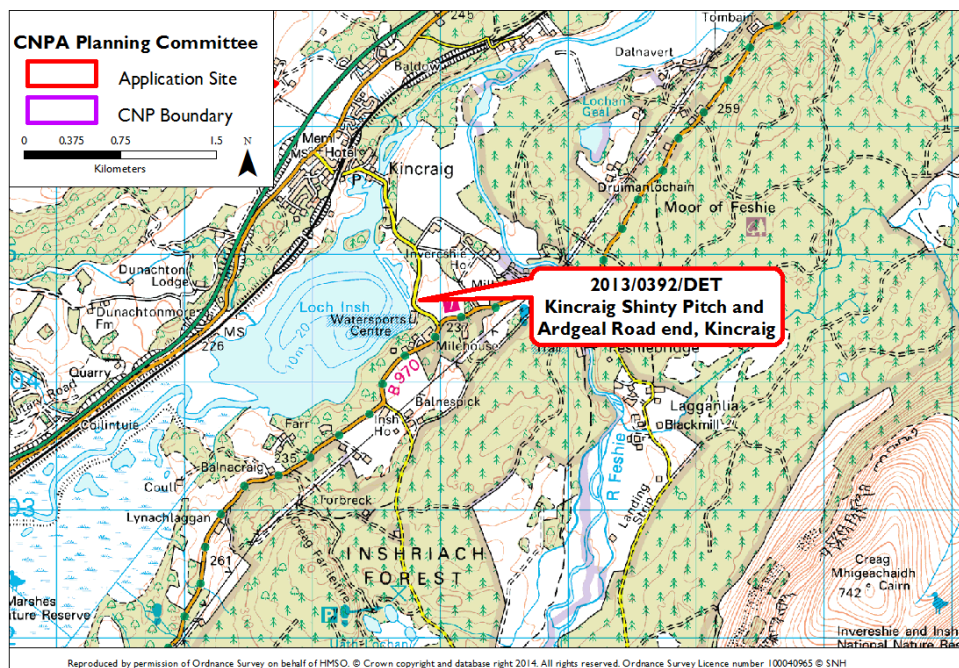
**DEVELOPMENT PROPOSED:** Construct a 830m, 2m width section of new path related to the Speyside Way extension at Dalraddy Land 90m east of Loch Insh Outdoor Centre between Kincaig Shinty Pitch and Ardgeal Road end, Kincaig

**REFERENCE:** 2013/0392/DET

**APPLICANT:** Cairngorms National Park Authority

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

**RECOMMENDATION:** **APPROVAL SUBJECT TO CONDITIONS**



Grid reference: E/337252, N/796020

**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. This section of the proposed cycle and footpath is proposed to start from the Kinraig shinty pitch and run south along the western boundary of adjacent agricultural fields. It crosses the B970 turning east and running on a wide verge adjacent to the road ending at the entrance to the Ardgeal track, linking the route to the wider path network with Inshriach Forest. It is located with the Cairngorm Mountains National Scenic Area (NSA) and borders Ancient Woodland and Semi-Natural Ancient Woodland.

### Development Proposal

5. The path is proposed to 834m long and 2m in width. It is to be capped with 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 constructions. Where possible the path will be built to reduce gradients but due to the terrain, some steeper sections will be unavoidable.
6. Other works associated to the path works include: self-closing deer gates are to be installed and also in the first section, an existing fence will be realigned from its existing position. To protect a mature birch tree roots, path works are located 5m out from the bank. Although three birch trees are proposed to be removed, nine replacement birch trees of local provenance are to be

planted near to the area of removal. Sections of old stock fence are to be replaced, 2 no. Sets of half barriers and signage (either side of the road crossing) and a 6m post and rail barrier (adjacent to the ditch) are to be installed near the end of this section of path. To allow drainage, rain channels and piped culverts are also to be installed along the route.

7. 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.
8. 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.

## DEVELOPMENT PLAN CONTEXT

### National policy

9. **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.
10. 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'.
11. 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; and Rural Development.

12. *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.
13. *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.’
14. *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.
15. 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)**

16. 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

17. 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**

18. 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)**

19. 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>
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 2- National Natural Heritage Designations – This policy seeks to protect the Cairngorms National Park and National Scenic Area from development that would adversely affect them.
23. Policy 3 – Other Important Natural and Earth Heritage and Interests – This policy seeks to protect Ancient woodland and semi-natural ancient woodland sites from development that would adversely affect them.
24. Policy 4 – Protected Species – This policy seeks to protect European Protected Species from development that would adversely affect them.
25. 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
26. 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.
27. 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.
28. Policy 34 – Outdoor Access – Development which improves opportunities for responsible outdoor access will be encouraged.
29. 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**

30. 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

31. 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

32. **Scottish Natural Heritage (SNH)** advise that the site lies outwith any designated site and therefore have no comments to make.
33. **Kincraig and Vicinity Community Council** supports the construction of the Speyside Way. They advise that they specifically support this section since it will allow safe pedestrian access from the affordable housing site at Ardgeal to Kincraig. Phase 2 of the Ardgeal project is underway, and during 2014, 6 new houses will be added to the 4 already occupied. There is a high likelihood, bearing in mind the affordable nature of the houses, that occupants, including children, will choose to walk or cycle about their business, and the present public road is narrow with grass verges.
34. **Highland Council Forestry Officer** makes reference to the path following the edge of woodland which is listed as Ancient Woodland of Ancient semi-natural origin. It is recommended that the path is not closer than 5m from a large birch tree. Along the remainder of the path route the trees are smaller in diameter and therefore root systems would not be affected. 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) drawings identifying areas for the storage of materials/machinery
35. **Highland Council Roads Officer's** comments refer specifically to sections of the path within or immediately alongside public roads, including the proposed crossing of the B970 public road. These works will need to be agreed in detail but the following requirements should be noted (1) the path should be set back as far as reasonably possible from the carriage way edge of the public road, in all but exceptional circumstances, no less than 1 metre, (2) the proposed crossing point should be highlighted by the installation of 2 no. suitable reflective bollards at agreed locations either side of the public road. (3) to help control crossing movements, appropriate timber pedestrian barriers will be required at suitable locations on each side of the public road (4) advance road signs warning pedestrians on road will be required at suitable locations on each approach of the crossing point, and (5) Visibility splays of 1.5m x approx 120m in each direction along the public road will be required where the path meets the public road on each side of the crossing. Within the visibility splays there would be no obstruction to visibility exceeding 0.6m in height above adjacent road level.
36. **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 advised that the proposed footpath lies close to existing mature trees along the B970 by Ardgeal and along the edge of the shinty pitch. A buffer zone around must be provided to prevent damage to tree roots in accordance with British Standard 5837 (2012). Additionally, locations for machinery and material storage must allow room for tree roots and the movement of machinery during construction must minimize the risk of compaction on tree roots, to comply with British Standard 5837 (2012).

37. **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 the extend the Speyside Way to Newtonmore; will provide a more accessible route to the Badenoch Way; and will provide a safe off road route for residents of Ardgeal to access facilities in 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 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.

## REPRESENTATIONS

38. None

## APPRAISAL

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

41. It has been concluded following consultation with Highland Council Forestry Officer that there will be no adverse impact upon the Ancient Woodland and Semi-Natural Ancient Woodland designations and as such the proposals comply with Policy 3 (Other Important Natural and Earth Heritage Sites and Interests). Conditions are recommended to ensure tree protection.
42. The submissions made have demonstrated that the proposed development would have no adverse impact upon any European Protected Species and



accord with Policy 4 (Protected Species). Conditions and advice notes have been suggested to ensure ecology matters are protected during construction.

43. It has been demonstrated above that the proposed development would comply with Policy 2 (National Natural Heritage Designations) and 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.
44. The proposals incorporate good sustainable design principles and therefore comply with Policy 16 (Design Standards for Development)
45. 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)
46. 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.
47. The proposals promote enhanced informal recreational facilities in the National Park and therefore comply with Policy 35 (Sport and Recreation Facilities)

### **Conclusion**

48. 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**

49. 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**

50. 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**

51. 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**

52. 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 a 830m, 2m width section of new path related to the Speyside Way extension subject to the following conditions:**

1. 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.

2. 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.

3. The Path shall be set back as far as reasonably practicable from the carriageway edge of the public road, in all but exceptional circumstances, no less than one metre.

**Reason** – In the interests of highway safety.

4. Two advance road signs warning pedestrians of on the road (I no. Diag. 544.I and I no. Diag. 572, TSRGD), Two reflective bollards and timber pedestrian barriers shall be installed and thereafter permanently maintained and retained on either side of the public road in accordance with details (including locations) to be submitted to and agreed in writing by the planning authority (in consultation with Highland Council Roads Authority)

**Reason** – In the interests of highway safety

5. Visibility splays of 1.5m x 120m shall be installed and permanently retained in each direction along the public road where the path meets the public road at each side of the crossing. Within the visibility splays there shall be no obstruction to visibility exceeding 0.6m in height above the adjacent road level.

**Reason** – In the interests of highway safety

**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 trees along the B970 by Ardgeal and along the edge of the shinty pitch.
4. With regard to Condition 2 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 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.
6. You are advised to acquire an appropriate permit from Highland Council, as Roads Authority, prior to the commencement of any works within or alongside a public road.

**Jane Shepherd**

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**Date: 25 February 2014**

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