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## CAIRNGORMS NATIONAL PARK AUTHORITY

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

**Prepared by:** MARY GRIER (SENIOR PLANNING OFFICER, DEVELOPMENT MANAGEMENT)

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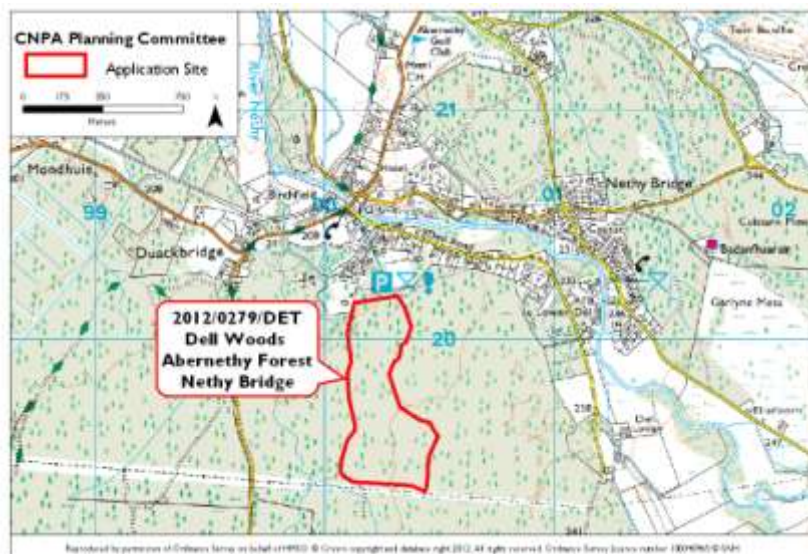
**DEVELOPMENT PROPOSED:** UPGRADE 2,100 METRES OF AN EXISTING PATH TO ALL ABILITIES STANDARD, CREATION OF PASSING PLACES, LANDINGS AND CREATION OF A 40M SECTION OF PATH AT DELL WOODS, ABERNETHY FOREST, NETHY BRIDGE

**REFERENCE:** 2012/0279/DET

**APPLICANT:** MRS. LIZZIE RICHARDS ON BEHALF OF SCOTTISH NATURAL HERITAGE

**DATE CALLED-IN:** 14 SEPTEMBER 2012

**RECOMMENDATION:** APPROVE WITH CONDITIONS



Grid reference: 300238 820129

Fig. 1 - Location Plan

## SITE DESCRIPTION AND PROPOSAL

1. Planning permission is sought within Dell Woods, to the south of Nethy Bridge, to upgrade an existing path, over a length of 2,100 metres, to all abilities standard. The work includes the creation of passing places, landings and the development of a new 40 metre section of new path. The existing path is part of a wider network of paths in the area and encompasses the Kings Road and Hamacks paths. The proposed upgrading works to bring the facility to all abilities standard would include resurfacing and improvement of gradients. The works would be undertaken within a 5 metre working corridor and the width of the finished path would be 1.5 metres.<sup>1</sup> Dell Woods is part of the Abernethy National Nature Reserve (NNR) and the land is owned and managed by Scottish Natural Heritage (SNH). The subject site also lies within several other natural heritage designations, including Abernethy Forest Site of Special Scientific Interest (SSSI), and Abernethy Forest Special Protection Area (SPA), as well as the forest being within the Cairngorms Special Area of Conservation (SAC).



**Figs. 2 – 4: Examples of varying terrain on the existing paths**

2. The subject site is accessed from Culvardie Road in the Duackside area of Nethy Bridge. The public road terminates a short distance from the start of the path network. A small parking area is available adjacent to a structure known as Steel's Mill at the start of the path. The existing paths which would be upgraded are of varying characteristics at present, with some sections being relatively wide, level and generally free of obstructions, while other sections are narrower, with a rough and uneven surface as it winds through the pine woodland.
3. Fig. 5 identifies the route of the paths (red) which would be the subject of the proposed upgrading works. The completion of the works would enable users to enjoy the experience of an all abilities circular route, with either end of the 2,100 metre improved path linking into an existing recently developed section of all abilities path.

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<sup>1</sup> The general width of the path would be 1.5 metres, but in a limited number of locations due to specific site features, it could be restricted to 815mm for no more than 300 metres of path or 915 metres for no more than 1.6 metres along the path.

4. The information which has been submitted in support of the proposal includes a summary of the construction activity that would be undertaken. Works include:
- Scraping off of organic matter and providing a firm and compacted finished path surface;
  - Creating passing places every 150 metres, with each passing place measuring approximately 2m x 1.5m. The precise location of the passing places has not been identified in the current submission and is intended to be agreed on site “between the successful contractor and the Project Officer.”
  - The slope across the path and the gradient would be controlled to ensure that it is suitable for use by all, “including wheelchair users, ambulant disabled people and people with limited stamina.”
  - Landings (defined as flat areas on slopes) would be provided every 9.5 metres over a vertical climb of 950mm; and
  - Informal block stone or log perches, set at varying heights, would also be incorporated along the route.

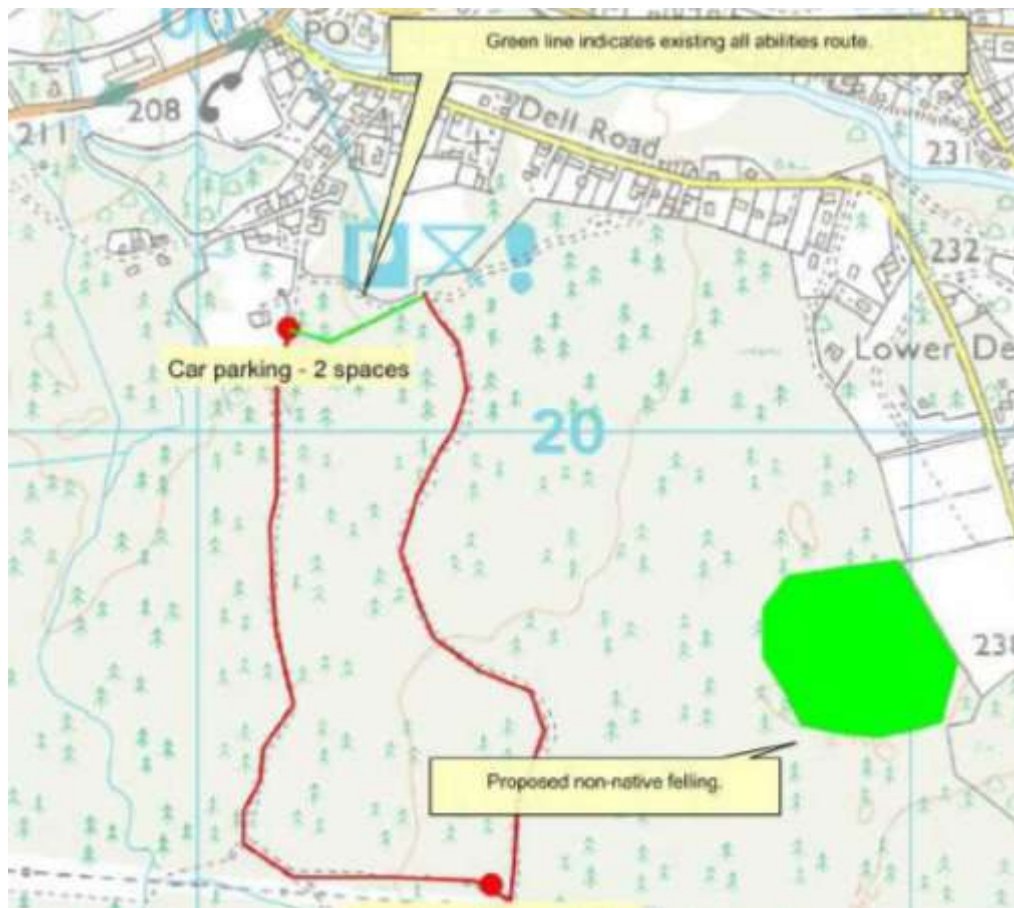


Fig. 5: Extent of proposed path improvements

5. In addition to the improvement works on the existing paths, a new 40m section of path is also proposed, in the south eastern corner of the overall route. The new construction is intended to by-pass an existing small knoll. The new path would be developed within the line of the former powerline wayleave.



**Fig. 6: Section to be by-passed**



**Fig. 7: Example of log seating on existing section of all abilities path**

6. Details have also been provided on the intended general construction practises. Material will either be imported to the site or sourced from borrow pits in the vicinity of the path. Turf and spoil from borrow pit sites would “be sensitively stripped and neatly stripped and stockpiled separately at the edge of the borrow pit for use in the reinstatement of the site. In terms of landscaping along the path margins, it is intended that turf won from the excavation of the path line would be used to narrow in the path to the finished width. Turf would be finished with no roots showing and no gaps between planted turfs.
7. In response to CNPA queries on the potential use of borrow pits, a representative of SNH (the applicant) has stated that the precise locations have not yet been identified,<sup>2</sup> although any borrow pits would be located as close as possible to the existing path and it has been confirmed that the works would not require the creation of any temporary access tracks.<sup>3</sup> The applicants representative has also confirmed that the contractor will provide a method statement, prior to the commencement of development, in which the precise location of each borrow pit would be identified, as well as details of its size and construction and proposals for remedial treatment that would be undertaken to restore the vegetation.



**Fig. 8: Start of all abilities, adjacent to Steel Mill**



**Fig. 9: a section of the existing all abilities path**

<sup>2</sup> The intended programme of works involves the appointed contractor investigating the extent of material available at locations.

<sup>3</sup> The supporting information originally indicated that temporary access tracks may be created, depending on the selected location of the borrow pits.

### Planning history

8. SNH sought consent under planning ref. no. 09/245/CP for the development of a short section of all abilities path (identified in green in Fig. 5) and the construction of a new / reinstated section of path in an overgrown area at the southern end of the King's Road Path. Consent was granted by the CNPA in 2009 and the all abilities path was constructed shortly after and is in active use.

## DEVELOPMENT PLAN CONTEXT

### National Policy

9. **Scottish Planning Policy<sup>4</sup> (SPP)** is the statement of the Scottish Government's policy on nationally important land use planning matters. It supersedes a variety of previous Scottish Planning Policy documents and National Planning Policy Guidance. Core Principles which the Scottish Government believe should underpin the modernised planning system are outlined at the outset of **SPP** and include:
  - The constraints and requirements that planning imposes should be necessary and proportionate;
  - The system 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." Para. 33 focuses on the topic of Sustainable Economic Growth and advises that increasing sustainable economic growth is the overarching purpose of the Scottish Government. It is advised that "the planning system should proactively support development that will contribute to sustainable economic growth and to high quality sustainable places." Planning authorities are encouraged to take a positive approach to development, recognising and responding to economic and financial conditions in considering proposals that would contribute to economic growth.
11. 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."
12. As a replacement for a variety of previous planning policy documents the new **Scottish Planning Policy** includes 'subject policies', of which many are applicable to the proposed development. Topics include economic development, rural development, and landscape and natural heritage. The following paragraphs provide a brief summary of the general thrust of each of the subject policies.

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<sup>4</sup> February 2010

13. Open Space and Physical Activity: Para. 148 of the **SPP** states that access to opportunities for recreation make important contributions to a healthier Scotland. The planning system has a role in helping to create an environment where physical wellbeing is improved and activity made easier.
14. Landscape and natural heritage: The **Scottish Planning Policy** document recognises the value and importance of Scotland's landscape and natural heritage. It is accepted that landscape is constantly changing and the aim is to facilitate positive change whilst maintaining and enhancing distinctive character. As different landscapes have different capacities to accommodate new development, the siting and design of development should be informed by landscape character. There is also an acknowledgement that the protection of the landscape and natural heritage may sometimes impose constraints on development, but the potential for conflict can be minimised and the potential for enhancement maximised through careful siting and design.
15. **Scottish Planning Policy** concludes with a section entitled 'Outcomes' in which it is stated that the "planning system should be outcome focused, supporting the creation of high quality, accessible and sustainable places through new development, regeneration and the protection and enhancement of natural heritage and historic environmental assets."

### **Strategic Policies**

#### **Cairngorms National Park Partnership Plan 2012 - 2017**

16. The Cairngorms National Park Partnership Plan 2012 – 2017 is the management plan for the National Park for the next 5 years. It sets out the vision and overarching strategy for managing the Park and provides a strategic context for the Local Development Plan. Three long terms outcomes have been identified to deliver the vision for the Park, to continue the direction set out in the first National Park Plan and to together deliver the four aims of the National Park. The outcomes are :
  - A sustainable economy supporting thriving businesses and communities;
  - A special place for people and nature with natural and cultural heritage enhanced; and
  - People enjoying the park through outstanding visitor and learning experiences.

### **Structure Plan Policy**

#### **Highland Council Structure Plan (2001)**

17. **Highland Council Structure Plan** is founded on the principles of sustainable development, which are expressed as –
  - Supporting the viability of communities;
  - Developing a prosperous and vibrant local economy; and
  - Safeguarding and enhancing the natural and built environment.A variety of detailed policies emanate from the principles.

18. The following paragraphs provides a brief summary of the policies applicable to a development of this nature. **Policy NI – Nature Conservation** advises that new developments should seek to minimise their impact on the nature conservation resource and enhance it wherever possible. The Plan refers to the socio-economic benefits of the nature conservation resource and advises that it should be optimised by a high level and standard of interpretation and understanding wherever possible.
19. The Structure Plan also includes a section on biodiversity, defining it as “natural richness and diversity of nature – the range of habitats and species and the uniqueness of each and every organism.” Biodiversity is not the same as natural heritage, but is one of the key functional components. As a key part of the natural heritage of an area it is important to protect, and where possible enhance biodiversity and to monitor any change.
20. Section 2.4 of the Plan concentrates on the subject of landscape, stating that “no other attribute of Highland arguably defines more the intrinsic character and nature of the area than its landscape.” Similar to national policy guidance, there is a recognition that landscape is not a static feature and that the protection and enhancement of landscape and scenery must be positively addressed. **Policy L4 Landscape Character** states that “the Council will have regard to the desirability of maintaining and enhancing present landscape character in the consideration of development proposals.”

### **Local Plan Policy**

#### **Cairngorms National Park Local Plan (2010)**

21. 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>
22. 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.
23. 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.

24. Policy 2- National Natural Heritage Designations: development that would adversely affect the Cairngorms National Park, a Site of Special Scientific Interest, National Nature Reserve or National Scenic Area will only be permitted where it has been demonstrated that: a) the objectives of designation and overall integrity of the designated area would not be compromised; or b) any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social or economic benefits of national importance and mitigated by the provision of features of commensurate or greater importance to those that are lost.
25. Policy 6 – Landscape: there will be a presumption against any development that does not complement and enhance the landscape character of the Park, and in particular the setting of the proposed development. Exceptions will only be made where any significant adverse effects on the landscape are clearly outweighed by social or economic benefits of national importance and all of the adverse effects on the setting of the proposed development have been minimised and mitigated through appropriate siting, layout, scale, design and construction.
26. Policy 34 – Outdoor Access: the policy encourages development which improves opportunities for responsible outdoor access and adheres to the Cairngorms Outdoor Access Strategy. Development proposals which would result in a reduction of public access rights or loss of linear access (such as core paths, rights of way, or other paths and informal recreation areas) will only be permitted where an appropriate or improved alternative access solution can be secured.

#### **Supplementary Planning Guidance**

27. In addition to the adoption of the Cairngorms National Park Local Plan (2010) on 29th October 2010, a number of Supplementary Planning Guidance documents were also adopted.

#### **Sustainable Design Guide**

28. The guide highlights the fact that the unique nature and special quality of the Cairngorms National Park and the consequent desire to conserve and enhance this distinctive character. The guidance has at its core the traditional approach to design which aims to deliver buildings which provide a resource efficient, comfortable and flexible living environment. The **Sustainable Design Guide** requires the submission of a Sustainable Design Statement with planning applications. It is intended that applicants would use the Sustainable Design Statement to demonstrate how standards set out in the Sustainable Design Checklist will be achieved.
29. One of the key sustainable design principles referred to in the document is that “future development in the Park should be sensitively located, reflect existing development pattern and setting, and respect the natural and cultural heritage of the Park.” Developments are also required to reflect traditional materials and workmanship, and take on board innovation, contemporary design and the emergence of modern methods of construction.



### Natural Heritage SPG

30. The guidance sets out how the natural heritage of the National Park will be taken into account when considering development proposals. Applicants are required to consider any effect that their development might have on any aspect of natural heritage. Applicants are required to provide adequate natural heritage information in support of their proposals, including a description of the natural heritage on the site and possibly the surrounding area, including its significance and value; an assessment of any effect on the natural heritage; and if adverse effects are found within the assessment, then details of mitigation or compensation measures, to avoid or minimise the effects, must be submitted.

### CONSULTATIONS

31. **Highland Council Forestry Service:** Reference is made in the consultation response to Abernethy Forest being woodland which is listed in the Ancient Woodland Inventory as Ancient Semi-natural Woodland. The location of the site within a number of designated sites also noted. Given the designated nature of the site, the Forestry Officer states that mature pines should not be felled in the formation of the path.
32. It is noted that the work involved on the western section of the path, will generally only involve scraping the surface vegetation and the provision of a new surface material. As such this is not likely to have any impact on the surrounding young trees. The work on the southern and eastern areas is more extensive and will require the removal of vegetation and organic matter. There is no objection to the principle of the development. However, the Forestry Officer requires clarification on the methods of construction in order to ensure that it would not result in damage to tree roots.
33. **Applicant response:** The points raised by the Forestry Officer were queried with the applicants. As detailed in paragraph 5, the route of the new 40m section of path would be within the powerline wayleave. Consequently, the applicants have confirmed that there will not be any impact on existing mature pines in the wider area. Information has also been provided on the precautionary construction measures that would be employed, including the use of root tree guards in order to avoid damage to tree roots in the vicinity of the upgraded path. No tree felling is required along the route to facilitate the pathworks, although it is noted that the brashing of side branches may be required on a small section of path. In addition, the management plan which is in place for Abernethy Forest NNR allows for tree removal in order to improve views of the Cairngorms. Any such work would be undertaken independently of the currently proposed path project.
34. **CNPA Landscape:** The proposal does not raise any concerns regarding landscape impact. The response from the Landscape Officer notes that the proposed works would “deliver against a number of the Landscape Priorities for Nethy Bridge”<sup>5</sup> including maintaining and building on the network of

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<sup>5</sup> [www.cairngorms.co.uk/landscape-toolkit](http://www.cairngorms.co.uk/landscape-toolkit)

accessible green space and linking paths, and maintaining and enhancing the sense of a 'forest village.' The development is considered to be a welcome opportunity to enhance people's experience of the forest landscape around Nethy Bridge.

35. **CNPA Ecology:** The Ecology Officer notes that most of the work would be carried out on existing footpaths. It is recognised that some sections will see the reinstatement of vegetation while others will result in the loss of some ground vegetation. However, the overall net loss is considered to be appropriately offset by other measures being undertaken by SNH in the wider vicinity, including the removal of non-native tree species. In addition, the Ecology Officer considered the mitigation measures which have been conditioned by SNH as part of the Natural appraisal<sup>6</sup> and is satisfied with all the measures proposed. The Ecology Officer concludes that the development would be in balance with the considerable natural heritage value of the site. Consistent with a previous planning permission for path works in the area, it is recommended that a condition is applied in the event of granting planning permission to avoid work being carried out within the Capercaillie breeding season.
36. **CNPA Access:** The response from the Access Officer expresses support for the development proposal, noting that it has a potential for a positive impact on outdoor access. Notwithstanding this, a number of suggestions have been made on practical issues – it is suggested that the landings are should measure 1500mm x 1500mm rather than the proposed 1500mm x 1200mm; any associated interpretation should draw people's attention to responsible access and the expectation of multi-use of the path; and that the new build path should take account of potential horse use, which although likely to be relatively light, should nonetheless be considered by the use of a greater depth of sub-base.

## REPRESENTATIONS

37. No representations have been received in connection with the development proposal.

## APPRAISAL

38. The main issues to consider in this application relate to the principle of the development, the nature of the proposal including its construction and the associated implications, and also consideration of its contribution towards the provision of access in the area.
39. The principle of the development is acceptable in planning policy terms. The proposed works mainly involve upgrading the existing path network, and the creation of a small section (40m) of new path in order to avoid more difficult terrain. Although the subject site is in an area which is the subject of several

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<sup>6</sup> A copy has been provided amongst the documentation supporting this application.

natural heritage designations<sup>7</sup> the proposed works are relatively limited and small scale and would not impact on the integrity of the natural heritage of the area. In the course of devising the proposal, Scottish Natural Heritage as the applicants undertook an appraisal of Natura interests and a number of mitigation measures were recommended, which have been implemented into the development proposal. The low key nature of the development does not raise any issues in relation to landscape.

40. In overall terms, the development can be considered to accord with national level policies relating to Landscape and Natural Heritage, which encourage sensitive design and promote developments which maintain and enhance the character of an area. The proposal also accords with national policy in terms of Open Space and Physical Activity, as it would promote an environment which encourages use by people of all abilities, and as such has the potential to contribute to the health and well being of users. At Local Plan level, the proposal accords with Policy 2 – National Natural Heritage Designations, Policy 6 – Landscape and Policy 34 – Outdoor Access. The consultation responses from the CNPA’s Ecology Officer, Landscape Officer and Access Officer are all supportive of the proposal and are further indicators of the acceptability of the project in the context of the aforementioned Local Plan policies.
41. In conclusion, the proposed development would increase the extent of the path network in the area and would make a circumnavigation route available to a wider variety of groups. The upgrading of the path to all abilities standard is particularly welcomed. It would provide the general public with increased opportunities to access this area and therefore gain a greater insight into the special qualities of this area of the National Park.

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

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

42. Although the proposed works would be undertaken in an area which is the subject of a number of natural heritage designations, the works are relatively limited. Subject to being undertaken in accordance with the mitigation measures set out in the SNH’s Natura Appraisal which accompanied the application, the development would not have any adverse impact on the natural heritage of the area.

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

43. Turf and spoil excavated from some areas of the path will be re-used in other locations where narrowing of the path is required. Other material required in the construction activities would be sourced from borrow pits in the immediate surroundings of the path.

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<sup>7</sup> Ancient Woodland Inventory, Semi Natural Ancient Woodland Inventory, Abernethy and Abernethy Forest National Nature Reserve, Cairngorms Special Area of Conservation, Abernethy Forest Special Protection Area and Abernethy Forest Site of Special Scientific Interest.

**Promote Understanding and Enjoyment of the Area**

44. The proposed development would enhance the extent of all abilities paths in the area and would provide an increased opportunity for all user groups to explore further into parts of the National Nature Reserve and to experience the special qualities of that area.

**Promote Sustainable Economic and Social Development of the Area**

45. The upgrading of the existing path to all abilities standards represents an improvement to the access provision in the area and may result in an increased number of users which could have spin-offs for existing facilities and services in the Nethy Bridge area.

**RECOMMENDATION**

**That Members of the Committee support a recommendation to GRANT planning permission to upgrade 2,100 metres of existing paths to all abilities standard, the creation of passing places, landings and creation of 40m section of path at Dell Woods, Abernethy Forest, Nethy Bridge, subject to the following conditions :**

1. The development to which this permission relates must be begun within three years from the date of this permission.

**Reason:** To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended).

2. Prior to the commencement of development details of the extent of all temporary warning signage, including its contents and the identification of signage locations, shall be submitted for the agreement of the Cairngorms National Park Authority acting as Planning Authority. The signage shall be erected thereafter in accordance with the agreed proposals and shall remain in place for the duration of construction activities.

**Reason:** in the interests of ensuring that adequate warning is provided in advance of construction activities and in the interests of the general safety of users of the area.

3. No works shall be undertaken during the recognised Capercaillie peak breeding season (April to September inclusive) unless otherwise agreed in writing with the Cairngorms National Park Authority acting as Planning Authority.

**Reason:** in the interests of conserving the natural heritage of the area.

4. Prior to the commencement of development, details to identify the precise location and extent of each borrow pit and details of all borrow pit restoration measures shall be submitted for the written agreement of the Cairngorms National Park Authority acting as Planning Authority. The work shall thereafter be undertaken in accordance with the agreed details.

All borrow pit locations shall be immediately adjacent to the path and for the avoidance of doubt, no access tracks may be created to access the borrow pits.

**Reason:** In the interests of minimising the impact of the development, conserving the natural heritage of the area and in the interests of orderly development.

5. Prior to the commencement of development, a revised site plan (at a scale of 1:500) shall be submitted for the written agreement of the Cairngorms National Park Authority acting as Planning Authority to show the precise line of the new 40m section of path. The path shall thereafter be developed in accordance with the agreed detail.

**Reason:** in the interests of clarity and in order to ensure that the route minimises the impact on the surrounding environment.

6. All landing areas shall measure 1500mm x 1500mm.

**Reason:** in order to ensure that the areas are of an appropriate size to facilitate use by all user groups.

**Advice notes:**

- (a) The new footpath shall be constructed in accordance with the standards for All Abilities paths as set out in the 'BT Countryside for All, Good Practise Guide.'
- (b) Advertising consent shall be sought for any permanent signage associated with this development.
- (c) Any interpretation materials should include reference to responsible access and the expectation of multi-use of the path.
- (d) The depth of the sub-base on the new section of path should be sufficient to accommodate all potential user groups, including horse use.

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**31 October 2012**

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.