
CAIRNGORMS NATIONAL PARK AUTHORITY

FOR DECISION

Title: Speyside Way Extension

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Purpose

This paper highlights the progress that has been made towards the development of an extension of the Speyside Way from Aviemore to Newtonmore, alerts the Board to the continued objection to the route by Kinrara Estate and suggests a way forward. The timescales for completion of the route are set out and a commitment in principle of funds is sought.

Recommendations

That the Board:

- a) Notes the progress towards the development of the extension of the Speyside Way;
- b) Approves the making of a path order in relation to the proposed path across Kinrara Estate; and
- c) Approve in principle a contribution of £250,000 towards the capital costs of developing the route, subject to the development of a detailed funding package with support from partners.

Executive Summary

Work has commenced on developing the extension to the Speyside Way with agreements being negotiated with land owners and supporting material for the planning application being gathered. One land owner remains opposed to the route and the making of a Path Order provides a solution to ensure the route can be constructed. The benefits of securing both the path line and planning permission before approaching funders are explained together with an in principle request for funding.

SPEYSIDE WAY EXTENSION - FOR INFORMATION

Background

1. The extension of the Speyside Way south from Aviemore to Newtonmore has been a long held community aspiration. A route linking Aviemore to Newtonmore will cater for short, functional access e.g. school and work trips as well as recreational journeys. The relatively good public transport links in Badenoch and Strathspey will also open out a range of possibilities for short, medium and longer journeys. There is a wealth of shops, hotels and pubs that are likely to benefit from being located on or near the route.
2. Following developmental work that was undertaken by SNH and CNPA which involved two rounds of public consultation in 2005 and 2006, Scottish Ministers approved the route extension in principle in May 2009 and directed CNPA to implement the proposals, subject to securing planning permission and satisfactory conclusion of path agreements or orders. On 10 July 2009 The Board approved the Project Brief for implementing the route. The Board also agreed to the creation of a Project Board to take forward the development and proposed that a member of the Local Outdoor Access Forum be appointed to the Project Board to represent both communities and users.

Progress Report

3. Since July 2009 a Project Board has been appointed and met twice. Negotiations on path agreements have been progressed and supporting material for a planning application has been gathered. Further detail on each of these topics is provided below.
4. The Project Board is chaired by Murray Ferguson, Head of Visitor Services Group who is the Senior Responsible Owner. Paul Corrigan, Convenor of the Cairngorms Local Outdoor Access Forum is the Senior User, Dougie Baird, Manager of the Cairngorms Outdoor Access Trust is the Senior Supplier and Bob Grant is the Project Manager.
5. Staff have met, or been in correspondence, with all of the twelve owners or their representatives with a view to securing agreement to construct new or upgrade the existing path.
6. There is considerable supporting information required to accompany a planning application and to date this has involved:
 - a) Path specifications - the Cairngorms Outdoor Access Trust has developed a detailed specification for all sections of new build which will be constructed to provide for a wide range of users with barriers and gradients kept to a minimum to ensure the resulting route is as inclusive as possible. Specifications for the upgraded sections are currently being developed;
 - b) An ecological survey has been commissioned to gather information on potential impacts on a variety of habitats and species;
 - c) A road safety audit is in progress to ensure crossing points are located with user safety being paramount and appropriate signage and barriers considered;
 - d) A ground survey has been undertaken for bridges and abutments (but note paragraph 10 overleaf);
 - e) Liaison with statutory consultees such as SNH and Scottish Environment Protection Agency (SEPA) has commenced; and
 - f) Checking for impacts on private water supplies is complete.
7. Compiling the evidence is therefore proving to be a time consuming process with, for example, delays in the commencement of the ecological survey due to snow on the ground. Lengthy discussions with SNH on potential species impacts have also added to the time it is taking to ensure all necessary evidence is compiled.
8. It is anticipated that the necessary supporting material for the planning application will be complete by August with one exception which relates to the proposed bridge over the

Allt Dibheach on Kinrara Estate. Further information about the bridge is provided in paragraph 10 below.

Recommendation

- 9. That the Board notes the progress towards the development of the extension.**

Negotiations with Land Managers

10. Negotiations to securing agreements with land managers have generally been progressing satisfactorily and agreements have been concluded over two sections of the route with good progress being made on all but one of the other ten: the exception being Kinrara Estate. In attempting to reach a satisfactory agreement it has become apparent that, despite several meetings and exchanges of correspondence, the Estate remains opposed to the proposed line of the route, preferring a route that they have previously advocated to SNH and the Minister. The Estate's lawyers have confirmed in a letter of 13 April 2010 that the Estate sustains their objection to the approved route. The lawyers have also intimated that if CNPA wish to proceed with the route a Path Order will be required. The Estate's lawyers have also indicated that, in their view, only by going through the procedures involved in Section 22 of the Land Reform (Scotland) Act 2003 will the process comply with Article 6 of the European Convention of Human Rights.
11. In addition, the Estate has recently refused permission to dig trial pits associated with the proposed bridge over the Allt Dibheach. These detailed site investigations are required for preparation of the planning application and it is impossible to proceed without such works taking place.
12. Where it appears to CNPA to be impracticable to reach a path agreement with a land manager, the Authority has formal powers to delineate a path by making a "path order" under the Land Reform (Scotland) Act 2003. This has the effect of allowing specified works to proceed without the land owner's consent.
13. It is the view of staff, supported by advice from the Authority's solicitors that it is extremely unlikely that an agreement can be reached with Kinrara Estate and that, if we wish to proceed with the project, the most practicable option is to initiate proceedings to make a Path Order. The process for making a path order requires CNPA to give notice of the intention to make an Order and specify a timescale and manner in which objections can be made. If no such objections are made, or any made are withdrawn, CNPA may make the Order and it shall have effect. However, if the land owner does object the Order shall not have effect unless confirmed by Ministers. The process is for Ministers to appoint a person who affords the owner the opportunity of being heard. The Minister will then consider the ensuing report and confirm, decline or confirm with modifications the Path Order. This process enables the Estate to have their concerns considered and will avoid a protracted period of negotiation with an uncertain outcome.
14. It is important to note that making a path order places a duty on the Park Authority to both create and maintain the route. However, this is no different to what was proposed in the Project Plan that has been agreed by the Board.

Recommendation

- 15. The Board is asked to approve the making of a path order in relation to the proposed path across Kinrara Estate.**

Funding

16. The works required to build new section of the route and upgrade remaining sections have been estimated to cost in the order of £1 million. It is recognised that this is a significant sum of money but there will be options to spread the cost over potentially

three financial years. In the current climate it will be challenging to develop the full funding package but there is a reasonable likelihood of the European Regional Development Fund being able to contribute up to 45% of the overall costs. Other potential funding sources include Scottish Natural Heritage, Sustrans and a range of smaller charities who may be interested in contributing. An indicative breakdown of funders is shown in the table below.

Table 1

Potential Source	Amount
ERDF	450,000
CNPA	250,000
SNH	200,000
Sustrans	100,000
Total	£1,000,000

17. Colleagues in the Cairngorms Outdoor Access Trust, who have experience of developing similar projects, have advised that formal approaches to funders are best done once there is a strong degree of certainty about how and when the project can proceed. In this case it is advised that CNPA should wait until planning permission has been granted and path agreements and orders are all in place.
18. At this stage it is recognised that the CNPA Board cannot provide a firm commitment to a contribution. However it would be helpful to have an indication of CNPA strong support for the project and approval in principle is sought for £250,000, spread over three financial years subject to the development and Board approval of a detailed funding package.

Recommendation

- 19. The Board is asked to approve in principle a contribution of £250,000 towards the capital costs of developing the route, subject to the development of a detailed funding package with support from partners.**

Timing

20. The delays experienced in developing the supporting material for the planning application and the need to have path agreements / orders in place point to both these processes being completed around the end of this year. The next round for a Stage 1 European funding application would then be June 2011 with Stage 2 being scheduled in September 2011 and approval in January 2012. This would point to construction commencing in spring 2012 and works completed around December 2014. This timing would still ensure that the Project would be completed in the lifespan of the current European Regional Development Fund.

Consultation

21. There have been three separate public consultation exercises leading up to the Minister's approval in principle. Since then staff have kept communities informed through meeting with each of the four Community Councils in whose areas the route will pass. In addition, detailed discussions have taken place with all relevant land owners.

Policy Context

22. Providing a route that encourages people of all ages and abilities to enjoy and experience the outdoor environment is a strategic objective within the National Park Plan. A specific action within the Plan is to ensure the Speyside Way is more suitable for the widest possible variety of users and this is also reflected in the Outdoor Access Strategy. Increasing the number and range of users contributes directly to the Scottish

Government outcome of living longer and healthier lives and the performance indicator of increasing the proportion of adults making one or more trips to the outdoors per week.

Delivering Sustainability

23. The completion of the extension of the Speyside Way south of Aviemore to Newtonmore will provide a high quality facility for people to enjoy the National Park sustainably. The extended route will also be useful for helping people to travel between communities under their own steam. This will contribute to strategic objectives in the Park Plan relating to conserving/enhancing and living/working and enjoying/understanding.

Delivering A Park for All

24. The completion of the extension will help provide a facility that caters for a wide range of users, close to communities and in way that supports local businesses. The detailed design of the route extension will, as far as possible, take into account the needs of multiple users and people of all abilities.

Delivering Economy, Effectiveness and Efficiency

25. The development of the Speyside Way extension is a large scale project which provides economies of scale by being managed as a single project with a single Project Board and the Cairngorms Outdoor Access Trust being responsible for overseeing the construction, upgrading and eventual maintenance of the route. Construction work will be let through a tendering process thus ensuring value for money for all of the funders.

Implications

Financial Implications

26. The estimated construction costs are shown in Table 1 together with a breakdown of potential funders. Costs to date have been restricted to staff time and the ecological survey (£3,960). Further preparatory costs will be incurred in relation to the road safety audit, the planning application and neighbourhood notifications. These costs are likely to total around £8,000 but will be dependent on on-going discussions with The Highland Council. Staff resources will continue at around one Full Time Equivalent (FTE) until planning permission is sought and there remains a degree of uncertainty over the staff time involved if the Estate objects to the Path Order. The costs associated with the Minister's appointed person will rest with Scottish Government; nonetheless there will be a cost to the public purse. Annual maintenance costs once the route is constructed are estimated at £25,000.

Presentational Implications

27. There will be disappointment amongst communities that there remains opposition to the line of the route and that trying to resolve this through a Path Order process has delayed the planning application and ultimately will delay construction. It will therefore be essential that communities continue to be kept informed of progress and advised on any changes to the likely completion date. This will be done through regular updates to Community Councils and the Speyside Way section on the Cairngorms National Park Authority website.

Implications for Stakeholders

28. There are four major stakeholders involved: communities, relevant land managers, funders and Scottish Government. Whilst communities are being kept informed as noted in paragraph 24 above, it is equally essential that discussions continue to take place with land owners to ensure that proposed timing and phasing of construction can be managed in train with existing land management operations. Scottish Government officials continue to be kept up to date with the implementation of the Ministerial decision.

Next Steps

29. Subject to Board approval, staff will give notice to Kinrara Estate of the intention to make a Path Order and specify a timescale and manner in which objections can be made. Staff will continue to develop the necessary supporting material to accompany the planning application and will work with partners in developing a detailed funding package for the construction of the extension.

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