
CAIRNGORMS NATIONAL PARK AUTHORITY

DEVELOPMENT PROPOSED:

Construct New Link Path/Cycle Route at Deeside Way Footpath A93 Ballater
To Braemar Road Braemar

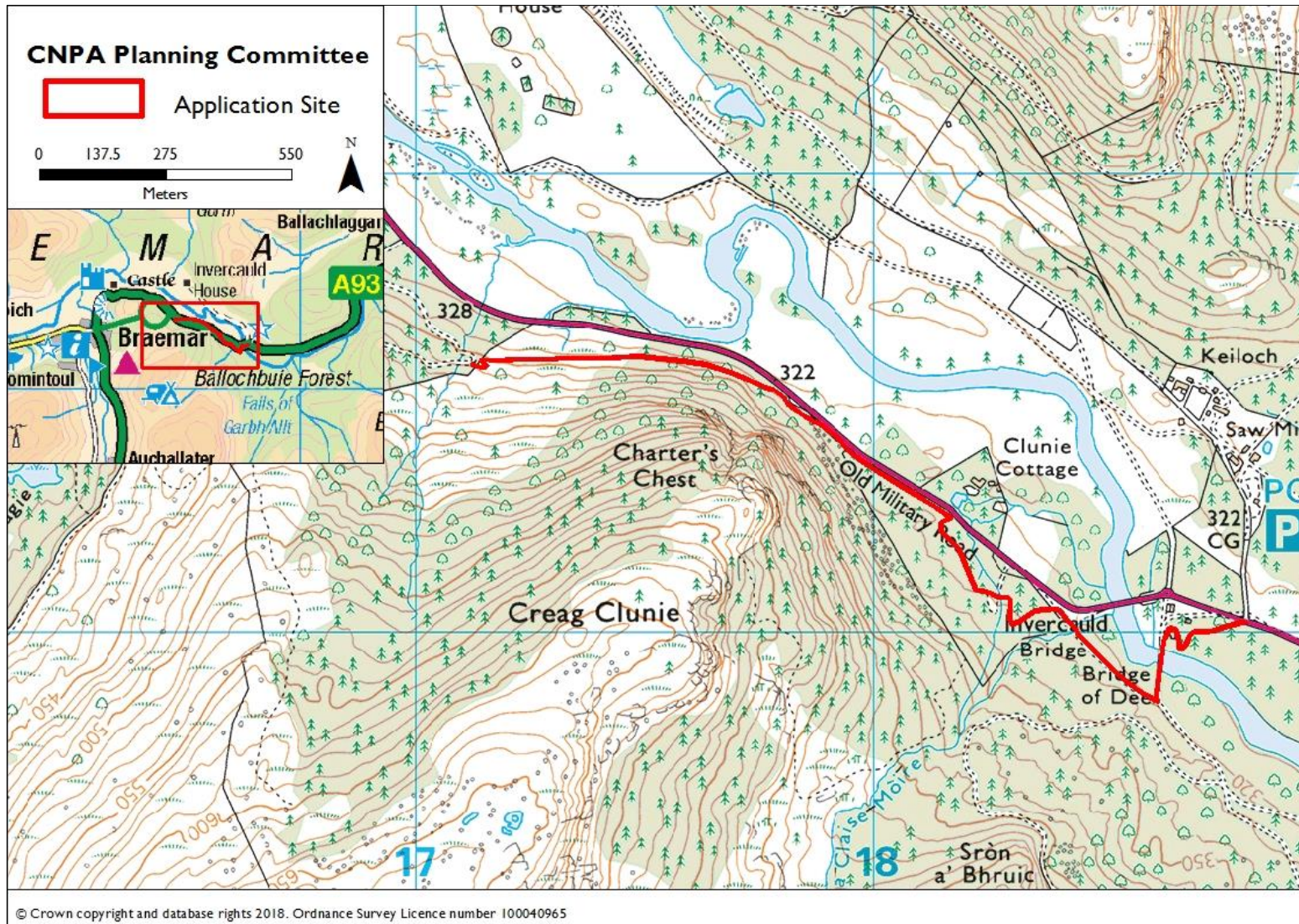
REFERENCE: 2018/0375/DET

APPLICANT: CNPA

DATE CALLED-IN: 28 September 2018

RECOMMENDATION: Approve subject to conditions

CASE OFFICER: Edward Swales Planning Officer



SITE DESCRIPTION, PROPOSAL AND HISTORY

Site Description

1. The track begins opposite the Keiloch entrance to the Invercauld Estate, into Ballochbuie forest where it crosses the Invercauld Bridge and runs up to the existing circular route that incorporates the “Lion’s Face rock”.

Proposal

2. The drawings and documents associated with this application are listed below and are available on the Cairngorms National Park Authority website unless noted otherwise:

<http://www.eplanningcnpa.co.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PFVVV83SI0CH00>

Title	Drawing Number	Date on Plan*	Date Received
Location Plan			15/10/18
Profile - As Dug Path Construction		09/08/18	15/10/18
Site Plan - 1		02/06/18	15/10/18
Site Plan - 2		02/06/18	15/10/18
Site Plan - 3		02/06/18	15/10/18
Plan - Tree Protection		30/07/18	15/10/18
Site Plan - Works Map 1		02/06/18	15/10/18
Site Plan - Works Map 2		02/06/18	15/10/18
Site Plan - Works Map 3		02/06/18	15/10/18
Supporting Statement		23/07/18	15/10/18
Species protection plan: wood ants		01/07/18	15/10/18
Species protection plan: red squirrel		01/07/18	15/10/18
General ecological survey report		01/06/18	15/10/18
Arboricultural Impact Assessment/Method Statement.		30/07/18	15/10/18

*Where no specific day of month has been provided on the plan, the system defaults to the 1st of the month.

3. The application forms part of the larger project to extend the 66km Deeside Way long distance route. This is the first application of that project. The path will be 2m in width, roughly 2.5km in length and suitable for non-motorised access. The track will be constructed of a type one sub base and a grey granite dust surface. A copy of the plans are attached as Appendix 1.

History

- An application was previously submitted in 2017 but owing to a lack of information was withdrawn and this iteration submitted.

DEVELOPMENT PLAN CONTEXT

Policies

National Policy	Scottish Planning Policy 2014	
Strategic Policy	Cairngorms National Park Partnership Plan 2017 - 2022	
Local Plan Policy	Cairngorms National Park Local Development Plan (2015) Those policies relevant to the assessment of this application are marked with a cross	
POLICY 1	NEW HOUSING DEVELOPMENT	
POLICY 2	SUPPORTING ECONOMIC GROWTH	
POLICY 3	SUSTAINABLE DESIGN	X
POLICY 4	NATURAL HERITAGE	X
POLICY 5	LANDSCAPE	X
POLICY 6	THE SITING AND DESIGN OF DIGITAL COMMUNICATIONS EQUIPMENT	
POLICY 7	RENEWABLE ENERGY	
POLICY 8	SPORT AND RECREATION	
POLICY 9	CULTURAL HERITAGE	
POLICY 10	RESOURCES	
POLICY 11	DEVELOPER CONTRIBUTIONS	

- All new development proposals require to be assessed in relation to policies contained in the adopted Local Development Plan. The full wording of policies can be found at:
<http://cairngorms.co.uk/uploads/documents/Park%20Authority/Planning/LDPI5.pdf>

Planning Guidance

- Supplementary guidance also forms part of the Local Development Plan and provides more details about how to comply with the policies. Guidance that is relevant to this application is marked with a cross.

Policy 1	New Housing Development Non-Statutory Guidance	
Policy 2	Supporting Economic Growth Non-Statutory Guidance	
Policy 3	Sustainable Design Non-Statutory Guidance	X
Policy 4	Natural Heritage Supplementary Guidance	X
Policy 5	Landscape Non-Statutory Guidance	X
Policy 7	Renewable Energy Supplementary Guidance	
Policy 8	Sport and Recreation Non-Statutory Guidance	
Policy 9	Cultural Heritage Non-Statutory Guidance	
Policy 10	Resources Non-Statutory Guidance	
Policy 11	Developer Contributions Supplementary Guidance	

CONSULTATIONS

A summary of the main issues raised by consultees now follows:

7. **Forestry Commission Scotland** state that from the information provided it appears that as there will be no significant tree felling or loss of woodland cover as a result of the proposed development and as a result Forestry Commission Scotland has no comment to make on the application.
8. **Historic Environment Scotland** states that their view is that the proposals are unlikely to raise historic environment issues of national significance and therefore do not object.
9. **Police Scotland** has been unable to provide comments in the timescales given.
10. **SNH** have objected unless it is made subject to conditions ensuring the works are done strictly in accordance with the mitigation suggested. The mitigation suggested includes a survey for breeding Crossbill being carried out immediately prior to any development, regardless of the time of year.
11. **Aberdeenshire Council Archaeology** – recommend Historic Environment Scotland is consulted due to the proximity of the Bridge of Dee Scheduled Monument to the development site (see above).
12. **Aberdeenshire Council – Flood Risk and Coast Protection** state that due to the nature of the development has no comment to make on the application.
13. **CNPA Ecology** states the works will affect some sensitive habitats as detailed below and recommend a condition requiring an Ecological Clerk of Works to undertake preconstruction surveys and mitigate accordingly as stated in the supplied Species Protection Plans.
14. The Natural Heritage Team has carried out a Habitat Regulations Appraisal (HRA) in relation to likely significant effects on the following Special Protection Areas: Ballochbuie SAC & SPA; Cairngorms Massif SPA & River Dee SAC. They concluded no significant effect following the production of Species Protection Plans and Pollution Prevention Plans which have been included within a comprehensive Construction Method Statement.
15. The Ballochbuie SPA contains a minor population of Capercaillie which could be at threat from increased recreation disturbance. Mitigation proposals have been submitted within a Species Protection Plan to ensure no adverse effect on Capercaillie, this includes signage.
16. In terms of the Ballochbuie SAC the route has been chosen to minimise tree loss as much as possible. A comprehensive tree protection plan has been produced.
17. The HRA identified, while there could be significant impacts on the Natura sites it is demonstrated that the current proposal is the least damaging. Fresh Water Pearl

Mussels, Atlantic salmon and Otter have no significant effect from the development.

18. The HRA states there will be no impact on the population, distribution or extent of habitats supporting of Capercaillie or Scottish Crossbill subject to proposed mitigation. Therefore there will be no significant disturbance of these species. The same conclusions are drawn for the Caledonian Forest and Plants in Crevices on Base-rich rocks.
19. The HRA concludes that the development will not affect integrity of any of the SPAs. This HRA is attached as **Appendix 2**.
20. There are 4 mature trees to be removed along the route, these have been assessed as having no potential to support bats and will be removed outwith the bird breeding season.
21. A Species Protection Plan for red squirrel has been produced which recommends works are undertaken outwith the breeding season. If undertaken during the breeding season a 50m exclusion zone is required from any active drey identified by a preconstruction survey.
22. Works will be undertaken outwith the breeding season for Scottish crossbill (February to August inclusive).
23. A Species Protection Plan for Wood Ant has been produced and clarifies that following a pre-construction survey should any nest translocation be required, it will take place in spring once the wood ants are fully active.
24. The supporting statement which includes the Construction Method Statement states that the path route should try and avoid moving boulders or rocks in sensitive areas, where movement is necessary, boulders should remain in the same orientation and not be relocated on top of other places of botanical interest.
25. **CNPA Landscape** advisor states potentially the most controversial elements of the scheme are where the route weaves through existing boulder field and along the relatively open ground high above and parallel with the A93. Both will have an impact upon the landscape character of this part of the Glen and due to the proximity of the A93 will be visible to passing traffic/users.
26. However the method of construction set out in the supporting documentation demonstrate the intention of the applicant to be sensitive to these potential issues. The approach set out is therefore considered acceptable in landscape terms providing regular contact between the developer and CNPA planning is maintained.
27. **CNPA Outdoor Access Officer** states support for the application providing traffic free provision for a range of non-motorised users providing the

development is carried out in accordance with the details provided and in accordance with the Land Reform (Scotland) Act 2003 and the Scottish Outdoor Access Code.

28. **Braemar Community Council** fully supports this proposal. It will extend and enhance the Deeside Way creating a traffic-free route and catering for a range of non-motorised users. It will enhance recreational activity around Braemar, both for residents and visitors. The last leg of the route into Braemar is currently much less safe than the rest of the non-A93 route all the way from Aberdeen and this link is much needed. A copy of their comments is attached as **Appendix 3**.

REPRESENTATIONS

29. There is one representation in support of the application stating that the route will provide a safe off-road traffic free route to Braemar.
30. There is one representation objecting to the proposal on the basis that it is a new route where an existing desire line would have less landscape impact. These are attached as **Appendix 4a and 4b**.

APPRAISAL

Principle of a new footpath

31. **Policy 3:** Sustainable Design of the Cairngorms National Park Local Development Plan 2015 states that the development must minimise the effect of the development on climate change in terms of siting and construction while using materials and the landscape to complement the setting of the development and maximising all opportunities for responsible outdoor access.
32. The supporting statement accompanying the submission of the application provides sufficient justification that the development complies with Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

Environmental issues

33. **Policy 4:** Natural Heritage of the Cairngorms National Park Local Development Plan 2015 seeks to ensure that there is no adverse impact upon protected species or biodiversity.
34. The impacts upon internationally designated sites have been fully considered in the Habitat Regulations Appraisal (HRA - see **Appendix 2**) undertaken by the CNPA Natural Heritage Team which has concluded that there will not be an adverse effect on the integrity of the site providing the mitigation as described within the supporting information and submitted documents is carried out in their entirety.
35. The species protection plans along with general ecological survey submitted with the application show the proposed mitigation has already been well considered and with some additional mitigation as suggested by the relevant consultees demonstrate the proposal complies with Policy 4: Natural Heritage of the Cairngorms National Park Local Development Plan 2015.

36. **Policy 5:** Landscape of the Cairngorms National Park Local Development Plan 2015 presumes against development which does not conserve and enhance the landscape character and special qualities of the National Park and in particular the setting of the proposed development.
37. As the method of construction has been considered throughout the supporting documentation and considered to be appropriate, subject to the addition of an Ecological Clerk of Works the proposal complies with **Policy 5:** Landscape of the Cairngorms National Park Local Development Plan 2015.

CONCLUSION

38. The application involves the creation of a new footpath, extending the Deeside Way closer to Braemar achieving an extension to a pre-existing long distance route which subject to appropriate planning conditions fully complies with the relevant policies within the Cairngorms National Park Local Development Plan 2015. Approval is therefore recommended.

RECOMMENDATION

That Members of the Committee support a recommendation to Approve the Construct New Link Path/Cycle Route at Deeside Way Footpath A93 Ballater To Braemar Road Braemar for the following reasons/subject to the following conditions:

Those conditions listed below in bold text are suspensive conditions, which require to be discharged prior to implementation of the development.

Conditions

1. **No work shall commence on site until an Ecological Clerk of Works (ECOW) has been appointed by the developer who shall thereafter oversee the pre-construction site works and ensure compliance with the approved construction method statement during the construction. Prior to appointing the ECoW, a 'scope of works' for that person shall be submitted to, and approved in writing by, the Cairngorms National Park Authority acting as Planning Authority (CNPA) and thereafter details of the appointed person shall be supplied to the CNPA.**

Reason: To ensure that environmental impacts are reduced and mitigated in accordance with Policy 4: Natural Heritage of the Cairngorms Local Development Plan 2015.

2. **No development shall commence unless a Pre-Construction check for breeding birds, specifically Scottish Crossbill, has been undertaken, submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority. If the survey indicates that any breeding birds will be directly affected by the development, this will require mitigation, which should be detailed in a submission to the**

Cairngorms National Park Authority. In this case, the approval in writing will only be forthcoming if the mitigation measures are acceptable and implemented in accordance with the details submitted.

Reason: To ensure that there is no risk to breeding birds in accordance with Policy 4: Natural Heritage of the Cairngorms Local Development Plan 2015.

Informatives

1. The development hereby approved must commence within 3 years of the date of this decision notice. If development has not commenced within this period then this planning permission will lapse.
2. The person undertaking the development is required to give the Planning Authority prior written notification of the date on which it is intended to commence the development. Attached to this decision notice is a Notice of Initiation of Development for completion and submission. Submission of this information assists the Cairngorms National Park Authority Monitoring and Enforcement Officer in monitoring active work within the area to ensure compliance with the approved details and to identify and correct any potential problems, as they arise, rather than later when it may be more difficult and more costly to rectify. Failure to give notice would constitute a breach of planning control which may result in enforcement action being taken.
3. Following completion of the development, a notification of the completion shall, as soon as practicable, be given to the Planning Authority. Attached to this decision notice is a Notice of Completion of Development for completion and submission. Submission of this form will assist the Cairngorms National Park Authority Monitoring and Enforcement Officer in making a final inspection and checking compliance with the approved drawings and conditions. If the development hereby approved is to be carried out in phases, then a notice of completion should be submitted at the completion of each phase.

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.