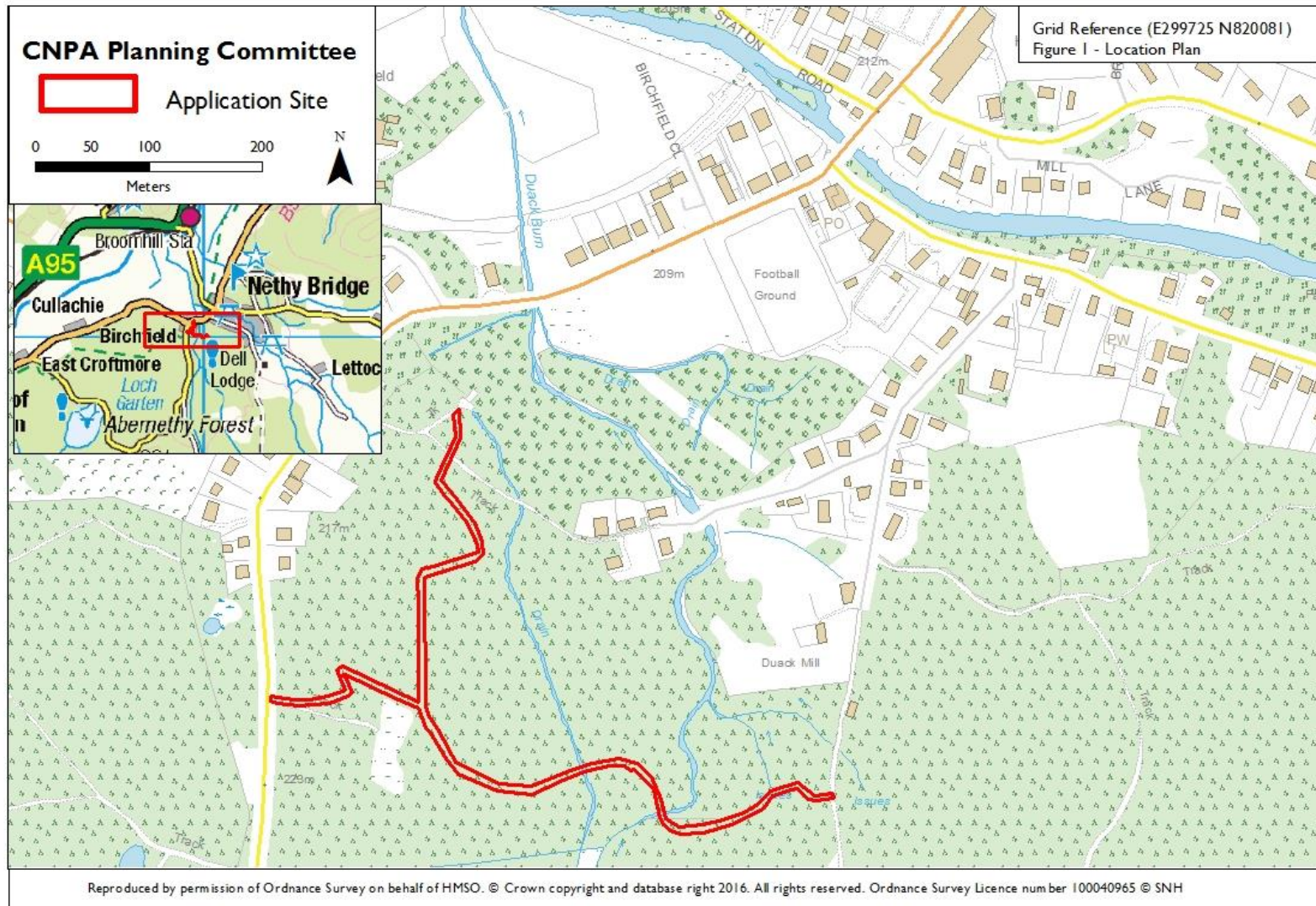

CAIRNGORMS NATIONAL PARK AUTHORITY

DEVELOPMENT PROPOSED: Build an all abilities bridge and boardwalk path between Steel's Mill, Culvardie, Nethy Bridge and the Tulloch Road, Nethy Bridge at Land 235M SW of Upper Duack Cottage, Nethy Bridge	
REFERENCE:	2016/0089/DET
APPLICANT:	Nethy Bridge and Vicinity Community Council
DATE CALLED-IN:	4 th April 2016
RECOMMENDATION:	APPROVE WITH CONDITIONS
CASE OFFICER:	David Allan, Planning Technician



SITE DESCRIPTION AND PROPOSAL

Site Description

1. The application site is located within an area of woodland between Steel's Mill and Tulloch Road at Dell Wood, Nethy Bridge. The majority of the site forms part of the SNH owned and managed Abernethy Forest National Nature Reserve (NNR) with the remainder of the site under ownership of Reidhaven Estates.
2. The site is dominated by areas of Caledonian Forest, and naturally regenerating Scots Pine and Birch woodland in areas of previously felled plantation. There is an existing network of formal paths and established trods both within the NNR and within the woodland at Tulloch Road. Both of these areas are known to be used recreationally.
3. There are a number of designations at this site including: Abernethy Site of Special Scientific Interest (SSSI), designated for Native Pinewood and Capercaillie; Cairngorms Special Area of Conservation (SAC), designated for Capercaillie and Caledonian Forest; Abernethy Special Protection Area (SPA), designated for Capercaillie and Scottish Crossbill; and, River Spey SAC designated for Otter and Atlantic Salmon.
4. Access to the site is from is from Tulloch road and Culvardie road. The Speyside Way is routed to the West and North of the site.

Proposal

5. 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/#searchApplications>

Title	Drawing Number	Date on Plan	Date Received
Location Plan	GFRB/1814/01	08/11/2014	05/04/2016
Site Plan		No date	30/06/2016
Proposed Path @ A3		No date	29/06/2016
Revised Path Survey		May 2016	29/06/2016
Ecology Report		October 2015	05/04/2016
NVC Coverage		No date	29/06/2016
Construction Method Statement	GFRB/1814	08/12/2014	05/04/2016
All Abilities Path Statement of Requirements		No date	20/07/2016

Borrow Pit Specifications			30/06/2016
HRA (SNH)		No date	25/07/2016
HRA (CNPA)		No date	21/07/2016

6. This application seeks permission to create 740 metres of footpath between Steel’s Mill and Tulloch Road in Nethy Bridge. The footpath is to comprise 418 metres of path within the NNR built to all abilities specifications, and 322 metres of community link path built to standard paths specification.

7. Details of the route of the path together with the bridge design are included in **Appendix 1**. A full path survey detailing the route and relevant construction techniques is included in **Appendix 2** of this report. In summary, the community link path is to be 2 metres in width and will be constructed using both an “as dug” approach where materials are won through excavation of side ditches, and a raised aggregate path method using imported construction materials. The NNR all abilities path will have sections 1.5 metres and 2 metres in width, and will also use as dug and raised aggregate path construction methods. A number of borrow pits in proximity to the path are proposed to allow the sourcing of locally won construction materials and these will be reinstated upon completion.

8. The all abilities path will also include a section of raised boardwalk and bridge crossing over the Duack burn. The raised boardwalk is to be of timber construction, comprising 1.5 metre x 0.5 metre non-slip deck boards on oak piles. The proposed bridge is specified as a laminate glue and screw style bridge and will form a continuation of the boardwalk sections. Further crossings of minor tributaries to the Duack will be by use of culverts.

9. The proposed development will require the felling of approximately 25 mature and semi-mature Scots Pine and the removal of immature, naturally regenerating Birch and Scots Pine woodland. By way of compensatory planting, it is proposed to fell two existing stands (2.43ha and 0.13ha) of Lodgepole Pine and Noble Fir plantation (non-native trees) within the Dell woods on the east side of the Abernethy NNR and allow natural regeneration back to Caledonian Forest.

DEVELOPMENT PLAN CONTEXT

Policies

National Policy	Scottish Planning Policy 2014
Strategic Policy	Cairngorms National Park Partnership Plan 2012 - 2017
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 I	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	X
POLICY 9	CULTURAL HERITAGE	
POLICY 10	RESOURCES	
POLICY 11	DEVELOPER CONTRIBUTIONS	

10. 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

11. 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	X
Policy 9	Cultural Heritage Non-Statutory Guidance	
Policy 10	Resources Non-Statutory Guidance	
Policy 11	Developer Contributions Supplementary Guidance	

CONSULTATIONS

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

13. **SEPA** initially raised concerns over the potential impact on Groundwater Dependent Terrestrial Ecosystems (GDTEs) and requested a phase I habitat survey be carried out. This has been provided by SNH. Subsequent discussions between SNH and SEPA regarding the construction of the raised boardwalk and bridge at the crossing of the Duack Burn have concluded that there will be no adverse impact to GDTEs, and as such there is no objection to this proposal. There is also no objection on grounds of potential flood risk.

14. **SNH** have advised that there are natural heritage interests of international importance on the site, but in their view these will not be adversely affected by the proposal.
15. As the application site is designated as both a SAC and SPA, and as the proposal is not necessary for conservation management, an appropriate assessment under the Habitats Regulations is required. SNH have carried out their own appraisal and consider that there is likely to be a significant effect on both Caledonian Forest through the loss of field layer, and on Atlantic Salmon through works during the spawning season. However, through their assessment they have concluded that both of these impacts are able to be mitigated and as such there will be no overall adverse effect on the integrity of the site.
16. **The Highland Council (Contaminated Land)** noted that a short section of the proposed path crossed a historic landfill site. Whilst they did not object to the proposal, it was advised that the applicant be aware of the health and safety risks of promoting a public path through a landfill site. It was further recommended that the path be directed away from the area of landfill. To mitigate against any potential health and safety risks to contractors and path users, the route of the path has been amended to avoid crossing the historic landfill.
17. **The Highland Council (Flood Prevention)** did not submit any comment on this application.
18. **CNPA Ecology Adviser** advises that the proposal will involve the loss of ancient woodland inventory habitat which is designated under National and European designations. The habitat comprises of Scot's pine woodland, regenerating Scot's Pine and birch and lodge pole pine plantation. The scale of habitat loss however, compared to the total area of designated woodland, is relatively small and is not considered to affect the integrity of the ancient woodland or the designated sites.
19. Compensation for loss of trees is provided by the way of removal of non-native conifers from another part of Dell Wood, twice the size of that to be lost, and allowing native Scots Pine to regenerate.
20. No resting sites of protected mammals have been recorded, but a Species Protection Plan for Otter and Atlantic Salmon is required, to prevent disturbance during construction. The track is to be micro-sited to avoid slave-making ant (*Formica Sanguinea*) nests and stumps supporting the rare Highland stump lichen (*Cladonia Botrytes*). Felling and construction is to be timed to avoid disturbance to red squirrel dreys in the vicinity of the proposal.
21. Due to impact on the Cairngorms SAC (i.e. loss of qualifying habitat), Abernethy SPA (potential impact on qualifying species) and River Spey SAC (potential impact on qualifying species) the Cairngorms National Park Authority has carried out a Habitats Regulation Appraisal of the proposal. This is included as **Appendix 3** of this report.

22. **CNPA's Landscape Adviser** notes that the advice provided by CNPA's Ecology Adviser in regards to minimising adverse effects on biodiversity and habitats will provide a sensitive landscape outcome.
23. **Nethy Bridge and Vicinity Community Council** are the applicants and have not submitted any comments on this application.

REPRESENTATIONS

24. There were no public representations for this application.

APPRAISAL

Principle and Sport and Recreation

25. The proposal is for the construction of visitor management and recreation infrastructure within a site which has multiple natural heritage designations. Development. Opportunities for enjoyment and understanding of the Park are supported by the aims of the Park and Local Development Plan Policy 8: Sport and Recreation. The proposed development is located between two existing path networks and will contribute to enhanced opportunities for recreation in the area. Subject to acceptable design and mitigation of landscape and ecological impacts the principle for this development can be supported. The proposals therefore comply with Local Development Plan Policy 8: Sport and Recreation.

Ecology

26. The HRA, included as **Appendix 3** of this report, contains an assessment of the possible impacts of this proposal on the designated sites where there are likely to be significant effects. These include: Abernethy Forest SPA, River Spey SAC, and Cairngorms SAC. It also includes an assessment on specific qualifying features including Scottish Crossbill, Otter, Atlantic Salmon, and Green Shield Moss. In summary, it concludes that while there is potential for either temporary or permanent impacts on to each of the designations and species, there will only be an actual significant impact on the Cairngorms SPA through loss of habitat. This will in part be dependent on adherence to approved working methods which include measures such as appropriate working hours, avoidance of salmon spawning season and breeding bird season, and covering of excavations overnight.
27. It is acknowledged that the proposal will result in the temporary loss of 1.28 hectares of Caledonian Forest field layer, comprising the felling of approximately 25 semi-mature and mature Scots Pine and the removal of naturally regenerating Scots Pine and Birch. As part of the wider management of the designated site, 2.56 hectares of Lodgepole Pine and Noble Fir plantation are to be felled and allowed to naturally regenerate with Scot's Pine. This would represent compensatory creation of SAC qualifying feature habitat at a ratio of 2:1. This would have to be secured by way of an agreement.

28. It is also concluded within the HRA that in the context of a contiguous habitat network, the scale of the works will not adversely affect the distribution, structure and function of designated habitats. Therefore, notwithstanding any compensatory habitat creation, the integrity of the existing habitats is retained.
29. A planning condition has been requested by CNPAs Ecology Adviser requiring that the path route be pegged and taped prior to construction. This is to ensure that as far as is practicable, all works are contained within the development corridor, thereby minimising the risk of unnecessary impacts on surrounding habitats. Micro-siting of the path during this process will further allow appropriate consideration of ecological features including ant nests, squirrel dreys, and valuable areas of dead wood.
30. Whilst there will be a short-term loss of designated habitat, the provision for an area of similar habitat on a greater scale, and the mitigation of impacts to species present demonstrates that this proposal complies with Local Development Plan Policy 4: Natural Heritage.

Sustainable Design

31. Path specifications and an accompanying path survey are included in **Appendix 2** of this report and these documents illustrate the construction techniques required in response to the locational needs of individual path sections. Adherence to these methods will ensure that the path is constructed to a high quality in terms of route, surface finish, and durability.
32. The section of path proposed for visitor management within the NNR is required to be to an all abilities standard and is proposed to conform with the standards described in Countryside for all Good Practice Guide published by the Fieldfare Trust. This includes consideration of physical aspects such as material finishes, gradient, turning areas, camber and path width. Provided works are carried out in accordance with the approved survey and specifications this section of path will within reason be suitable for all pedestrian users. Whilst the community link path is not explicitly to all abilities standard, it is acknowledged that this section of path is within an area of relatively flat ground and is to be built using the same construction methods. It is also to be built to a similar standard as the nearby Speyside Way.
33. A number of borrow pits are proposed which provides an opportunity to source construction materials on-site, reducing the need to import construction materials. Reinstatement of the borrow pits post-construction will ensure that short-term landscape and impacts and habitat loss are mitigated.
34. As this proposal will link into existing path networks and promote opportunities for responsible outdoor access and ecological interest, it therefore complies with Local Development Plan Policy 3: Sustainable Design.

Landscape

35. The construction of this path will introduce new infrastructure within a woodland setting. However, this is in the context of managed reserve which already has a network of paths. Similarly, the community link path constitutes an extension to an existing path network. Therefore, provided the works are carried out to a high standard, with sympathetic reinstatement of drainage channels, verges and borrow pits this proposal complies with Local Development Plan Policy 5: Landscape.

CONCLUSION

36. This proposal seeks to deliver infrastructure which will contribute to opportunities for informal recreation and enjoyment of woodland habitats within the National Park. The design and construction methods for the path will ensure that its use is inclusive to all pedestrians. As the application site is within an area designated for, amongst others, its Capercaillie populations, this path will serve to focus these recreation opportunities away from key Capercaillie locations. Whilst there will be a known loss of SAC qualifying habitat, this loss is not considered to impact on the wider integrity of the site. Further to this, through ongoing site management, compensatory habitat creation is to be provided at a ratio of 2:1 and delivery will be secured by an agreement.

RECOMMENDATION

That Members of the Committee support a recommendation to: approve full planning permission to build an all abilities bridge and boardwalk path at land 235metres Southwest of Upper Duack Cottage, Nethy Bridge, subject to an agreement to secure the delivery of the compensatory habitat and the following conditions:

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

- 1. No development shall commence on site until such time that the whole of the path route has been pegged and taped and subsequently inspected and approved in writing by Cairngorms National Park Authority, acting as Planning Authority. This is to include the identification of and exclusion from the route of slave-making ant nests and tree stumps which support Highland Stump Lichen.**

Thereafter the development shall be implemented in accordance with the hereby approved plans and documents.

Reason: To ensure that development boundaries are satisfactorily defined on site to prevent unnecessary adverse landscape and ecology impacts in accordance with Policy 4: Natural Heritage, and Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015.

2. **No development shall commence on site until a pre-construction survey for protected mammals has been carried out.**

Thereafter the development shall be implemented in accordance with the hereby approved plans and documents.

Reason: To ensure that no protected mammals or their resting sites are accidentally harmed in accordance with Policy 4: Natural Heritage of the Cairngorms Local Development Plan 2015.

3. The path, hereby approved, shall be constructed in accordance with the details and specifications included in the Revised Path Survey (dated May 2016), the All Abilities Path Statement of Requirements (dated as received 20 July 2016). The bridge/boardwalk shall be constructed in accordance with the specifications included in the Construction Method Statement (dated 8 December 2014). The construction and reinstatement works associated with the borrow pits shall be in accordance with the Borrow Pit Specifications (dated as received 30 June 2016)

Reason: To ensure that the construction works have minimal impact and are mitigated in accordance with Policy 4: Natural Heritage and Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015.

4. The construction of the bridge and boardwalk crossing at the Duack Burn is to be carried out during working hours that are a minimum of two hours after sunrise and a minimum of two hours before sunset and shall not take place during the Atlantic Salmon spawning season, last week October to second week December.

Reason: To ensure that there is no disturbance to Otter or Atlantic Salmon in accordance with Policy 4: Natural Heritage of the Cairngorms Local Development Plan 2015.

5. During construction works, any excavations are to be covered overnight and checked each morning for Otter.

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

6. No tree felling shall take place during the bird breeding season (March to September).

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

7. No felling of trees or construction works shall take place in the section of track containing red squirrel dreys during the red squirrel breeding season (February to September)

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

Informatives:

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 three 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. Prior to the commencement of development, a notice of the intended date of initiation of development shall be submitted to the CNPA acting as Planning Authority and such notification shall contain the information set out in the 'Notification of Initiation of Development Notice as appended, pursuant to Section 27A(1) of the Town and Country Planning (Scotland) Act 1997.
3. Following the completion of the development, a notification of the completion shall, as soon as practicable, be submitted to the CNPA acting as Planning Authority and such notification shall contain the information as set out in the 'Notification of Completion of Development' Notice as appended, pursuant to Section 27B(1) of the Town and Country Planning (Scotland) Act 1997.

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.