
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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MANAGEMENT)**

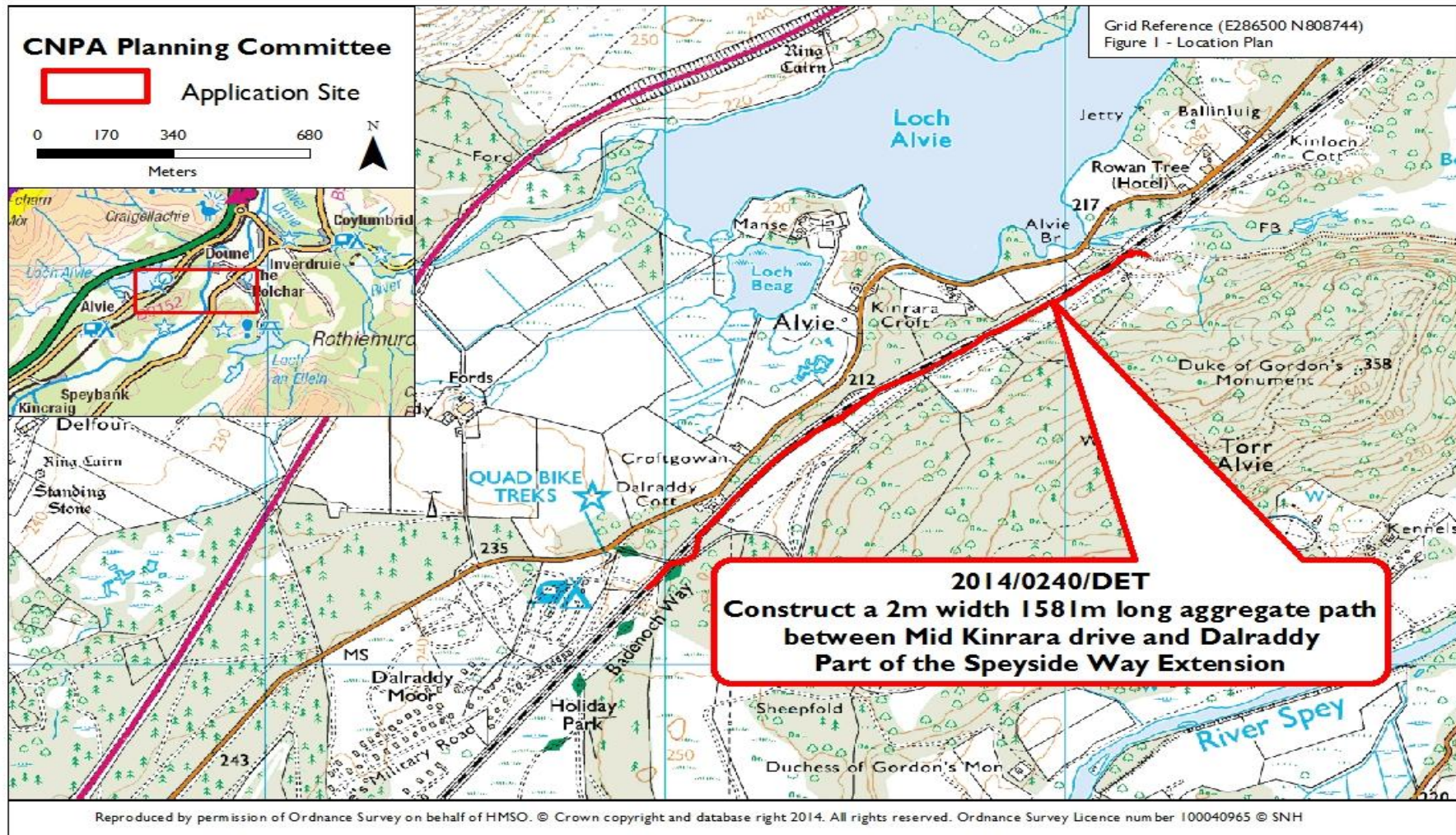
DEVELOPMENT PROPOSED: Construct a 2m width, 1581 long aggregate path between Mid Kinrara drive and Dalraddy as part of the Speyside Way extension

REFERENCE: 2014/0240/DET

APPLICANT: Cairngorms National Park Authority

DATE CALLED-IN: 11 August 2014

RECOMMENDATION: APPROVAL SUBJECT TO CONDITIONS



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. Four sections of the path under applications 2013/0373/DET (Allt Dibheach Bridge and path), 2013/0391/DET (Dalraddy), 2013/0392/DET (Kinraig shinty pitch) and 2013/0393/DET (North Kinrara) were approved at Planning Committee on 7 March 2014.
4. This application is one of three further proposals and will facilitate the extension of the path from Mid Kinrara Drive and Dalraddy. The other sections are reported as 2014/0241/DET and 2014/0242/DET on this Agenda.
5. This section of the proposed path is proposed to start at Mid Kinrara Drive and heads southwest parallel to the railway line, crossing the edge of a heather clad slope and agricultural field. The route then crosses South Kinrara Drive following an open heather section through birch trees until it reaches Dalraddy field where it will link with a section of the Speyside Way path (approved under application 2013/0393/DET)
6. It is located with the Cairngorm Mountains National Scenic Area (NSA), the Alvie SSSI, and the Kinrara Gardens and Designed Landscape. Other designations include Ancient Woodland and Semi-Natural Ancient Woodland.

Development Proposal

7. The plans and documents submitted by the applicant and under consideration for this application are identified in the table below and are available on the Cairngorms National Park Authority website at:

<http://www.eplanningcnpa.co.uk/online-applications/#searchApplications>

Title	Drawing Number	Date on Plan	Date Received
Path – Construction Method Statement		30 July 2014	
Supporting Statement		Undated	
Risk Assessment		10 March 2014	
General Ecological Survey Report		14 July 2014	
Compound Plan		28 October 2014	
Compound Plan 2		28 October 2014	
Speyside Way Proposal		July 2014	
Speyside Way Extension – Mid Kinrara Drive to Dalraddy – Location Map		Undated	
Mid Kinrara Drive to Dalraddy – Site Map 1			6 November 2014
Mid Kinrara Drive to Dalraddy – Site Map 2			6 November 2014
Allt Dibheach to Dalraddy – Works Map 1		Undated	
Allt Dibheach to Dalraddy – Works Map 2		Undated	
Mid Kinrara Drive to Dalraddy – Woodland Map 1		Undated	
Mid Kinrara Drive to Dalraddy – Woodland Map 2		Undated	
Profile – As Dug Path Construction, bench cut on 10 degree slope	No.1	31 July 2014	
Profile – As Dug Path Construction (bench cut & revetment), 30 degree slope	No.2	31 October 2014	
Mitigation Statement for Removal of Trees			6 November 2014

8. The line and construction of the path largely alongside the railway line has been designed to allow the path to be used for a range of non-motorised access including by foot, horse and cycle. The route has also been designed to

- provide functional off road access between communities for both visitors and residents.
9. The path is proposed to be 1581m long and 2m in width. It is to be surfaced 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.
 10. The works also include the incorporation of ditches, rain channels, pipe culverts, two sets of half barriers, a field gate and a new stock fence. Part of the existing deer fence is to be moved out by 5m to make room for the path.
 11. Eighty three birch trees (greater than 7cm diameter at breast height (dbh)) and 8 small diameter birch trees are to be removed, together with overhanging branches to create a 2m wide, 2.1 high clear corridor free from obstruction. A mitigation statement has been submitted which states that any trees removed are to be compensated for on a three for one basis where trees have a dbh equal to or greater than 30cm and on a one for one basis where trees have a dbh less than 30cm. The replacement trees will be downy birch, silver birch, rowan and aspen of Scottish or Local Provenance 201. They will be 40 – 60cm tall, bare rooted or cell grown trees and will be hand planted at 3m apart in group or small groups. The trees will be protected by 1.2m tree stake and maintained with a 1m diameter weed-free zone around each tree until fully established. In the event any tree fails, a replacement will be planted.
 12. The General Ecological Survey Report states that the specific site has been surveyed for likely protected species including bats, badgers, pine marten, red squirrel, otter and water voles. A phase I habitat survey was also undertaken. Juniper (UK BAP) and some birch trees that could provide potential bat roosting and/or bird nesting sites were identified. Wood ants nests were also identified close to the route. It is concluded that no European Protected Species or other specially protected mammal or bird appears to be using the site surveyed so none should be affected by the proposals. The juniper bushes along the route should be avoided and the old birch trees that could provide bat roosting or bird nesting sites should also be avoided. If this is not possible then a targeted survey to check for breeding birds (season dependent) and roosting bats should be undertaken prior to any work that may affect the trees being undertaken.
 13. Two compounds are proposed; one on the Mid Kinrara Drive Estate Road near to the Railway Cottages and the other at the start of the section. They will be bounded by temporary Herras fencing, which will be opened and closed for access/agress. Both will provide space for a Dumper, 13 tonne excavator and a secure container. Aggregate path materials will be delivered via dumper/tipper.
 14. Route signing will follow CNP Design Guidance for Directional Path Signs. They will use the approved thistle logo and together with way markers will direct users along the route and to the nearest community.

15. CNPA will be responsible for the future maintenance of the path. As such, once complete the surface of the path (together with associated gates, bridges, fences, signs and other directly associated structures) will be the subject of regular route inspections and maintenance.

DEVELOPMENT PLAN CONTEXT

National policy

16. **Scottish Planning Policy (SPP, revised 2014)** sets out national planning policies that reflect Scottish Ministers priorities for the operation of the planning system and for the development and use of land. Under planning law, planning applications must be determined according to the development plan unless material considerations indicate otherwise. The content of SPP is a material consideration in planning decisions that carries significant weight. The SPP promotes consistency in the application of policy across Scotland while allowing sufficient flexibility to reflect local circumstances.
17. The SPP sits alongside four other Scottish Government planning policy documents:
 - (a) The **National Planning Framework (NPF)** which provides the statutory framework for Scotland's long term spatial development. The NPF sets out the Scottish Government's spatial development policies for the next 20 to 30 years;
 - (b) **Creating Places**, the policy statement on architecture and place containing the Scottish Government's policies and guidance on the importance of architecture and design;
 - (c) **Designing Streets**, a policy statement putting street design at the centre of placemaking. It contains policies and guidance on the design of new or existing streets and their construction, adoption and maintenance; and
 - (d) **Circulars**, which contain policy on the implementation of legislation or procedures.

Strategic Policies

Cairngorms National Park Partnership Plan (2012-2017)

18. 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
19. 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

20. 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)

21. The Cairngorms National Park Local Plan was formally adopted on 29th 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* – This policy seeks to protect the Cairngorms National Park, a Site of Special Scientific Interest or National Scenic Area from development that would adversely affect them.

25. 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.
26. Policy 4 – Protected Species – This policy seeks to protect European Protected Species from development that would adversely affect them.
27. Policy 5 – Biodiversity – Seeks to protect habitats or species identified in the UK Biodiversity Action Plan from development that would adversely affect them.
28. 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
29. Policy 7 – Gardens and Designed Landscapes – This policy seeks to ensure that development affecting this designation should protect, preserve and, where possible, enhance its character or any features of special historic interest which it possesses. There will be a presumption against development that would adversely impact on the character, or important views to, from, within or on the site or setting of component features which contribute to their value. Any significant adverse impacts will be satisfactorily mitigated and must be clearly outweighed by social and economic benefits
30. Policy 16 – Design Standards for Development – This policy seeks to ensure that the design of all development is sustainable and is in accordance with the Sustainable Design Guide.
31. 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.
32. Policy 34 – Outdoor Access – This policy states that development which improves opportunities for responsible outdoor access will be encouraged.
33. Policy 35 – Sport and Recreation Facilities – This policy states that 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

34. 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

35. 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.

Proposed Cairngorms National Park Local Plan (Proposed LDP)

36. The CNPA Planning Committee approved post-examination modifications to the Proposed LDP on 21 November 2014. The CNPA has published notice of its intention to adopt the Plan and expects to adopt in February 2015. The Proposed LDP as modified is a material consideration and carries significant weight in planning decisions though it does not replace the adopted Local Plan until it is formally adopted.
37. Policies 2:2 (Supporting Economic Growth – Tourism and Leisure Development), 3 (Sustainable Design), 4 (Natural Heritage), 5 (Landscape), 8 (Sport and Recreation), and 9 (Cultural Heritage) have been identified as being relevant to the assessment of this proposal. These policies have been checked and they raise no new issues that are not already considered in this report.

CONSULTATIONS

38. **Scottish Natural Heritage (SNH)** advises that the site lies outwith any designated site and therefore have no comments to make.
39. **Historic Scotland** advises that given the location and the materials used they are content that the development will not have an adverse impact on the Inventory designed landscape and therefore are not minded to object. However, they note that a section of the path passes through woodland of predominantly mixed broadleaf adjacent to Railway Cottages, south of Croftgowan, which may survive as part of the Kinrara policy woodlands. For this reason, they advise that CNPA may wish to protect the roots and trunks of the existing trees during the construction of the path. Notwithstanding these comments, Historic Scotland confirm that CNPA should proceed to determine the application without further reference to them.
40. **Network Rail** originally advised that they have concerns regarding the possible impact of the proposed path relating to (a) ensuring that appropriate measures are applied to dissuade people from using private level crossings along this section of the Speyside Way or crossing of the line generally as a

result of the detailed design of the path, and (b) the absence of details about the measures which might be appropriately applied to the path to prevent or deter inappropriate use of the operational railway corridor. They therefore object unless safeguards can be secured by conditions being attached to this consent as follows:

- (a) A risk assessment for this section of the path and provide any mitigation measures, such as fencing and signage to reduce the risk of trespass on the railway, if required; and
- (b) No promotion of the route by the CNPA, the COAT or Highland Council until the footpath, and all associated infrastructure has been provided.

Furthermore, as the only access to the site for construction is either under or over the railway, Network Rail must approve the site works proposals.

Subsequently, a Risk Assessment has been submitted by the applicant and this has been considered by Network Rail to meet the above requirements in (a).

- 41. **Highland Council Forestry Officer** advises that although the intention is to remove the smaller trees within wooded areas, there will need to be tree planting proposals to compensate for the removal of 83 birch trees. It is advised that the path is routed so that it is fully outwith the crown spread of existing trees in order to protect roots of trees intended for retention. Concern is also raised regarding the lack of material and machinery storage areas identified and the need for them to be provided fully outwith the crown spread of the existing trees. However, in conclusion, the impact upon trees and the woodland would appear to be minimal and no objection was raised.
- 42. Following further negotiations and the submission of compound details, no objection is raised on the basis that conditions are attached relating to tree protection and planting.
- 43. **Highland Council Archaeologist** confirms that predicted impacts on the historic environment are not such that would require mitigation in this instance.
- 44. **Aviemore and Vicinity Community Council** – No response
- 45. **CNPA Ecology Officer** has advised that the development would have a minor impact upon ecology but has the potential to be addressed by appropriate mitigation measures. Conditions and informatives are recommended to deal with tree protection and replacement, protection of wood ants, reptiles, breeding birds, and bats.
- 46. **CNPA Landscape Officer** advises that the proposed path is low key and built structures appropriate to the site. Neither will have any significant adverse effects on landscape character, or the special landscape qualities of the area.

47. **CNPA Outdoor Access Officer** concludes that the path would have a significantly positive impact upon outdoor access. The path exceeds the accessibility standards advocated by the Fieldfare Trust for paths in a rural and working landscape – sufficient width for passing, correct surface stone size and accessible gate. Furthermore the design fits well with the Cycling by Design requirements for off road cycle paths – a desirable minimum of 2m for traffic flows up to 150 cycles per hour.

REPRESENTATIONS

48. None

APPRAISAL

49. The application stands to be determined against the Development Plan policies unless there are material considerations which would indicate otherwise.
50. However, 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.
51. It has been concluded 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 and informatives are recommended to ensure the protection of retained trees and the provision of compensatory tree planting.
52. 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). The development would also have no impact upon any designations protected by Policy 2 (National Natural Heritage Designations) or habitats/species protected by Policy 5 (Biodiversity). Conditions and informatives are recommended to ensure their protection both during and after construction.
53. It has been demonstrated above that the proposed development would comply with Policy 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.
54. Furthermore, in consultation with Historic Scotland, it has been concluded that there will be no impact upon the Kinrara Gardens and Designed Landscape and therefore no mitigation is deemed necessary. As such the proposals comply with Policy 7 (Gardens and Designed Landscapes). As an

advisory, Historic Scotland suggests that the tree roots are protected during construction. A condition is recommended accordingly.

55. The proposals incorporate good sustainable design principles and therefore comply with Policy 16 (Design Standards for Development)
56. The extension of this path network will enhance tourism within the Park and therefore fully comply with Policy 33 (Tourism- Related Development)
57. 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 bicycles.
58. The proposals promote enhanced informal recreational facilities in the National Park and therefore comply with Policy 35 (Sport and Recreation Facilities)
59. The proposals have also been assessed by Network Rail following the submission of a Risk Assessment and found to be acceptable for the purposes of public safety subject to the imposition of a condition relating to promotion of the route. An informative is recommended to remind the applicant of the need to comply with the terms of the Assessment.
60. The Proposed LDP (as modified) addresses the above issues through Policies 2:2 (Supporting Economic Growth – Tourism and Leisure Development), 3 (Sustainable Design), 4 (Natural Heritage), 5 (Landscape), 8 (Sport and Recreation), and 9 (Cultural Heritage) There is no significant difference between the policy intention or tests in the adopted Local Plan and Proposed LDP so the proposal also complies to meet the policy tests of the Proposed LDP (as modified)

CONCLUSION

61. 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, 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

62. 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

63. 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

64. 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

65. 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 2m width, 1581 long aggregate path between Mid Kinrara drive and Dalraddy as part of 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 Tree Planting Plan and maintenance programme has been submitted to and approved in writing by Cairngorms National Park Authority, acting as Local Planning Authority, in consultation with Highland Council (Forestry Officer). The Tree Planting Plan shall be implemented in full during the first planting season following commencement of development or otherwise agreed in writing by Cairngorms National Park Authority, acting as Local Planning Authority. Any trees removed must be compensated for in full accordance with the submitted Mitigation Statement for the Removal of Trees.

Reason: In the interests of amenity

3. There shall be no promotion of the route by Cairngorms National Park Authority, COAT or Highland Council until the path, and all associated infrastructure has been provided.

Reason: The informative devices, i.e. signs etc need to be installed prior to the opening of the path as ill-informed users may assume private crossings meet 'public' use standards and attempt to use these, or any other part of the railway corridor

4. No development shall commence until all wood ant nests are marked and protected by temporary fencing in accordance with details that shall be submitted to and approved in writing by Cairngorms National Park Authority, acting as Local Planning Authority. All wood ants nests shall be retained and construction must come no closer than 2m at any point.

Reason: To ensure the protection of wood ants.

5. Any construction works between the months of April and September must take precautions to avoid potential injury and killing of reptiles. To mitigate against potential impact on reptiles the heather along the pathway route should be strimmed/swiped to below six inches prior to works to deter reptiles from using the area

Reason: To ensure the protection of reptiles.

6. Footpath design and construction must allow space around existing trees to prevent damage to roots through path construction and compaction. A buffer zone must be provided to prevent damage to tree roots, in accordance with British Standards 5837:2012.

Reason: To ensure the protection of trees and their roots during construction and thereafter.

7. No development shall commence until a preconstruction check for bats is undertaken on any mature birch trees to be removed.

Reason: To ensure the protection of bats.

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 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 for to ensure that the movement of machinery of construction must minimise the risk of compaction on tree roots in accordance with British Standard 5837: 2012.
4. You are advised to acquire an appropriate permission from Network Rail, prior to the commencement of any site works in order to ensure that the safety and integrity of the railway is maintained throughout construction and that access rights are taken into account.
5. You are advised to ensure that all works are carried out in strict accordance with the Construction Method Statement to safeguard against pollution control.
6. You are advised that a breeding bird survey will be required for any felling works taking place between April and July inclusive.
7. You are advised that pruning to allow machinery access must be undertaken outside of the bird breeding season (April – July)
8. You are advised of the need to fully comply with the terms of the Risk Assessment hereby approved and the need to review this regularly with Network Rail.

Jane Shepherd

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Date: 8 December 2014

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.