

CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

**Prepared by: JANE SHEPHERD
PLANNING MANAGER (DEVELOPMENT
MANAGEMENT)**

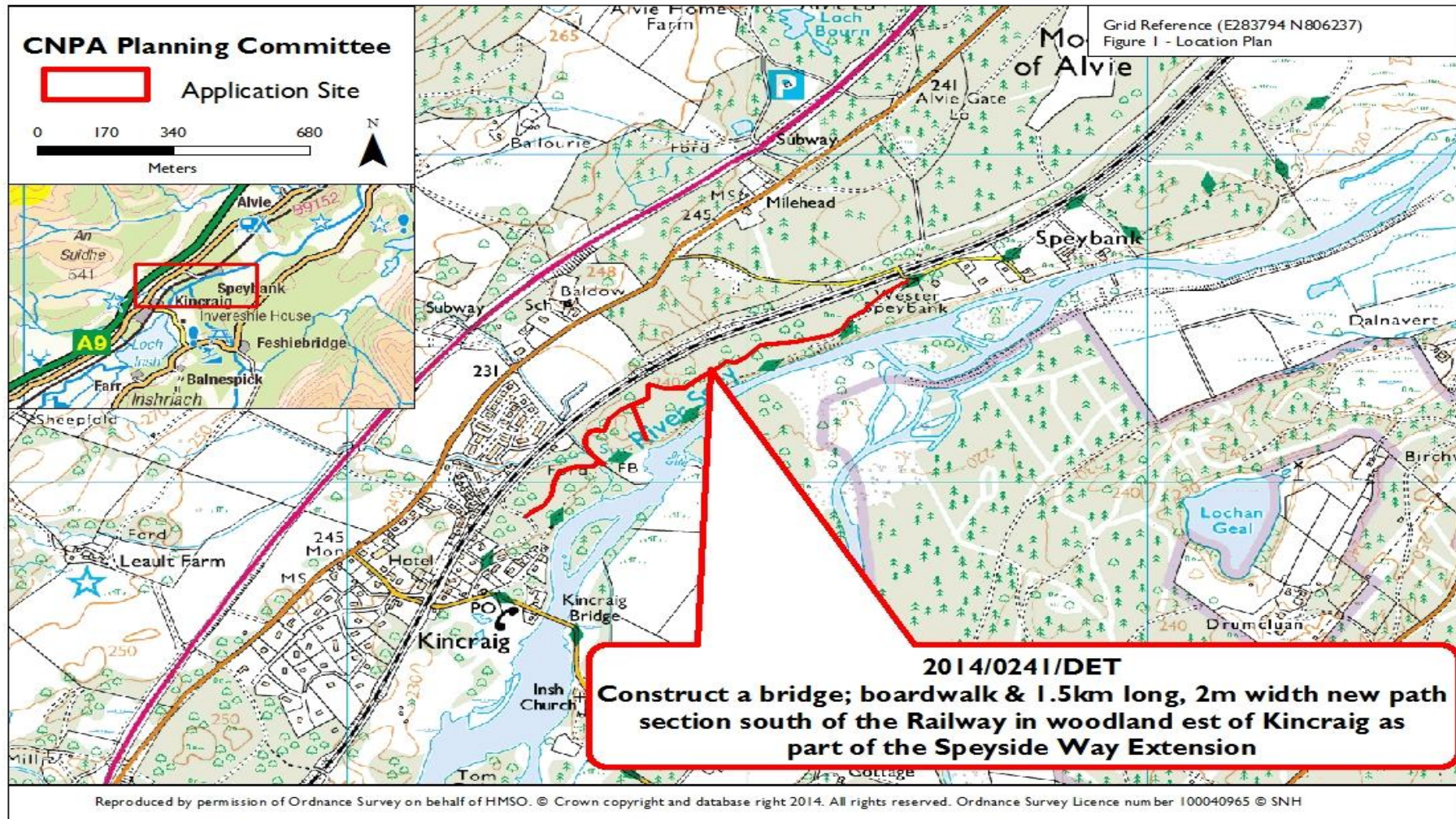
DEVELOPMENT PROPOSED: Construct a bridge; boardwalk and 1.5km long, 2m width new path section south of the railway in woodland east of Kincaig as part of the Speyside Way application

REFERENCE: 2014/0241/DET

APPLICANT: Cairngorms National Park Authority

DATE CALLED-IN: 11 August 2014

RECOMMENDATION: APPROVAL SUBJECT TO CONDITIONS



BACKGROUND, SITE DESCRIPTION AND PROPOSAL

Background and Site Description

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 Speybank to Kinraig. The other sections are reported as 2014/0240/DET and 2014/0242/DET on this Agenda.
5. This section of the proposed path is proposed to start at the existing track from Speybank adjacent to Wester Speybank and Rowan Cottage and head south above the River Spey. It crosses the Leault Burn using both board walks and bridges before linking to the Scottish Water track leading into Kinraig.
6. It is located with the Cairngorm Mountains National Scenic Area (NSA) and the I in 200 fluvial. Other designations include Ancient Woodland and Semi-Natural Ancient Woodland, and there are trees protected by tree preservation orders. The adjacent River Spey is designated as SSSI and SAC.

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>

CAIRNGORMS NATIONAL PARK AUTHORITY
Planning Committee Agenda Item 15 19/12/14

Title	Drawing Number	Date on Plan	Date Received
Path - Construction Method Statement		31 July 2014	
Supporting Statement		Undated	
Bridges – Method Statement		Undated	
General Ecological Survey Report		15 July 2014	
Speyside Way Extension – Speybank – Location Map		Undated	
Speybank- New Bridges & Boardwalk – Speyside Way Board Walk Detail	GFRB/1613/05	16 October 2013	
Speybank – New Bridges & Boardwalk Speyside Way Bridge Cross Sections	GFRB/1613/04	16 October 2013	
Speybank – New Bridges & Boardwalk Speyside Way Bridge Detail	GFRB/1613/03	16 October 2013	
Speybank – New Bridges & Boardwalk Speyside Way General Arrangement	GFRB/1613/02	16 October 2013	
New Bridges & Boardwalk Speybank, Speyside Way – Site Layout Bridge & Boardwalk Layout	GFRB/1613/01	26 September 2013	
Speyside Way Extension – Speybank to Kinraig – Woodland Map 1		Undated	6 November 2014
Speyside Way Extension – Speybank to Kinraig – Woodland Map 2		Undated	6 November 2014
Speyside Way Extension – Speybank to Kinraig – Works Map 1		Undated	
Speyside Way Extension – Speybank to Kinraig – Works Map 2		Undated	

Speyside Way Extension – Speybank to Kincaig – Site Map 1		Undated	6 November 2014
Speyside Way Extension – Speybank to Kincaig – Site Map 2		Undated	6 November 2014
Speyside Way Extension – Speybank to Kincaig – Tree Root Sections 1		Undated	20 November 2014
Speyside Way Extension – Speybank to Kincaig – Tree Root Sections 2		Undated	20 November 2014
Compound Plan 1		28 October 2014	
Compound Plan 2		28 October 2014	
Speyside Way Proposal		February 2010 (revised August 2013)	
Mitigation Statement for Removal of Trees			6 November 2014

8. The line and construction of the route through woodland 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 1.5km 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. Due to the presence of tree roots on some sections of the path in particular in the first section and also the section leading into Kincaig, the path will be built over the roots with no excavated tray. Path edges will be landscaped using turfs removed during constructions. The path will be built using the top of glacial moraines and eskers to reduce gradients where possible. However given the nature of the terrain steeper sections will be unavoidable.

10. A Specification has also been submitted by the Bridge contractor, which outlines the works to construct a bridge and a boardwalk over two small tributaries of the River Spey to enable the necessary linkages for the path. All timber to be used for the construction of the bridge is to be sourced from a sustainably managed UK forest. Construction will take place to avoid risk to nesting birds.

11. The details of the bridge sections and boardwalks are proposed as follows:
 - (a) A 6m length section of bridge. The existing bridge structure is to be removed and a new 1.8m wide steel beam bridge with new abutments.
 - (b) A 5m length section of bridge. The existing bridge structure is to be removed and a new 1.8m wide steel beam bridge with new abutments and an end wall
 - (c) Leading from/to the 6m bridge and between the bridges, 5m and 16m sections of raised boardwalk with handrail, respectively, is to be constructed at approximately 500mm above ground level.
12. The works also include the incorporation of ditches, rain channels, pipe culverts and two self closing wicket gates.
13. Eighteen young trees, including fourteen birch and four aspen, are to be removed. 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 diameter at breast height (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.
14. 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. 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. Any old, senile or dead 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. It is unlikely that the proposals will affect breeding birds apart for any using the old trees as nest sites, as noted above.
15. Two compounds are proposed; at each end of this section of the proposed path. They will be fenced with temporary Herras fencing, which will be open and closed for access/egress. Each will facilitate the parking of one dumper, one 13 tonne excavator and one secure container. Aggregate path materials will be delivered via dumper/tipper.
16. 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.

17. 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

18. **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.
19. 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)

20. 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
21. 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

22. 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)

23. 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>
24. 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.
25. 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.
26. *Policy 2- National Natural Heritage Designations* – This policy seeks to protect the Cairngorms National Park and National Scenic Area from development that would adversely affect them.

27. 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.
28. Policy 4 – Protected Species – This policy seeks to protect European Protected Species from development that would adversely affect them.
29. 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
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 29 - Integrated and Sustainable Transport Network – This policy seeks to ensure that development gives adequate consideration to maintaining or improving the sustainable transport network.
32. 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.
33. Policy 34 – Outdoor Access – This policy states that development which improves opportunities for responsible outdoor access will be encouraged.
34. 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

35. 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

36. 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)

37. 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.
38. Policies 2:2 (Supporting Economic Growth – Tourism and Leisure Development), 3 (Sustainable Design), 4 (Natural Heritage), 5 (Landscape) and 8 (Sport and Recreation) 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

39. **Scottish Natural Heritage (SNH)** advise that the site lies outwith any designated site and therefore have no comments to make.
40. **SEPA** advise that the new bridge and boardwalk over Leault Burn is in the 1 in 200 year flood risk area. They have no objection to the proposed development on flood risk grounds provided that a conditions be imposed ensuring all the bridges are appropriately sized to be able to convey the 1 in 200 year plus climate change design flow, without impeding the flow or increasing flood risk elsewhere. Notwithstanding this position they expect the Highland Council to undertake responsibilities as the Flood Prevention Authority.
41. **Kincraig and Vicinity Community Council** – No response
42. **Highland Council Forestry Officer** originally advised of concerns relating to the impact upon trees protected by TPO. The River Speyside TPO covers the woodland at the southern end of the site. The loss of the 18 small trees (of which 4 are aspen) does not represent a significant impact over the whole length of the path. However, this figure downplays the number that would actually need to be removed. The applicant needs to supply details of tree planting proposals to fully compensate for the loss. Concern is also raised regarding the amount of excavated path proposed through the woodland. Revisions should be provided replacing the excavated path with a raised path. Any machinery and material storage areas should also be identified and must be fully outwith the crown spread of existing trees.

As a result of negotiations, a mitigation statement for the tree replacement and details of the path raised over the tree roots has been supplied and the Forestry Officer is now satisfied with the proposals subject to conditions being imposed covering tree protection and planting.

43. **Highland Council Roads Officer** advises that the only issue from a local roads perspective will be the use of the roads for access for construction vehicles. As such it is recommended that prior to any works commencing a Construction Traffic Management Plan (CTMP) aimed at generally controlling and minimising the impact of construction traffic on the public road network be agreed in consultation with the Roads Authority. The CTMP is to include details of appropriate traffic management arrangements for the works and measures to protect the fabric of the public roads, particularly at the temporary vehicular access points to the site. They also advise that any works within or alongside the public road will require a permit from the Roads Authority.
44. **CNPA Ecology Officer** advises that the development would have a minor impact on ecology but has the potential to be addressed by appropriate mitigation measures. Issues raised relate to the confirmation on the location of possible small cow wheat and details of tree compensation be provided on a three for one basis of the same species in accordance with the guidelines provided. It is also advised that the footpath design and construction must allow space around existing trees to prevent damage during construction and compaction. Also machinery and material storage must allow room for tree roots and minimise the risk of compaction. (It was subsequently established that there was no small cow wheat in proximity of the path.)
45. **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. The construction of the Speyside Way extension will allow more people to access and appreciate the special landscape qualities of this part of the National Park.
46. **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

47. None

APPRAISAL

48. The application stands to be determined against the Development Plan policies unless there are material considerations which would indicate otherwise.
49. 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.
50. It has been concluded with Highland Council Forestry Officer following negotiation and the subsequent submission of amended plans and a mitigation statement 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.
51. 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) and would have no impact upon any designations protected by Policy 2 (National Natural Heritage Designations). Conditions are recommended to ensure their protection both during and after construction.
52. It has been demonstrated above that the proposed development would comply with and 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.
53. The proposals incorporate good sustainable design principles and therefore comply with Policy 16 (Design Standards for Development).
54. The proposals have been assessed by Highland Council, as Roads Authority, and found to be acceptable subject to the imposition of conditions and informatives. As such, the proposals comply with Policy 29 (Integrated and Sustainable Transport Network).
55. The extension of this path network will enhance tourism within the Park and therefore fully comply with Policy 33 (Tourism- Related Development).
56. 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.

57. The proposals promote enhanced informal recreational facilities in the National Park and therefore comply with Policy 35 (Sport and Recreation Facilities).
58. 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). 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

59. 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

60. 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

61. 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

62. 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

63. 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 bridge; boardwalk and 1.5km long, 2m width new path section south of the railway in woodland east of Kincaig 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. 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. No development shall commence until a Construction Traffic Management Plan (CTMP) aimed at generally controlling and minimising the impact of construction traffic on the public road network, has been submitted to and agreed in writing by the Cairngorms National Park Authority, acting as Local Planning Authority, in consultation with the Roads Authority. The CTMP is to include details of appropriate traffic management arrangements for the works and measures to protect the fabric of the public roads, particularly at the temporary vehicular access points to the site.

Reason: In the interests of road safety.

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 to acquire an appropriate permit from Highland Council, as Roads Authority, prior to the commencement of any works within or alongside a public road.
4. You are advised to ensure that all works are carried out in strict accordance with the Construction Method Statement to safeguard against pollution control.
5. You are advised that a breeding bird survey will be required for any felling works taking place between April and July inclusive.
6. You are advised that pruning to allow machinery access must be undertaken outside of the bird breeding season (April – July)

Jane Shepherd

planning@cairngorms.co.uk

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.