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# CAIRNGORMS NATIONAL PARK AUTHORITY

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**Title: REPORT ON CALLED-IN PLANNING APPLICATION**

**Prepared by: ROBERT GRANT, PLANNING OFFICER (DEVELOPMENT MANAGEMENT)**

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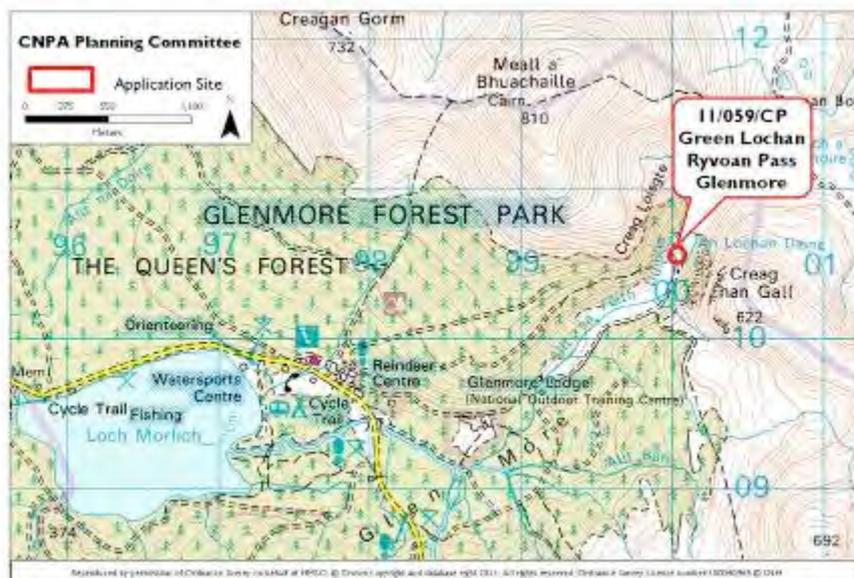
**DEVELOPMENT PROPOSED: FORMALISING 60M OF ALL ABILITIES PATH; CONSTRUCT NEW TIMBER VIEWING PLATFORM; UPGRADING OF EXISTING STEPS AND PATHS AT GREEN LOCHAN (LOCHAN UAINE), RYVOAN PASS, GLENMORE FOREST PARK, AVIEMORE**

**REFERENCE: 11/059/CP**

**APPLICANT: FORESTRY COMMISSION SCOTLAND**

**DATE CALLED-IN: 04 MARCH 2011**

**RECOMMENDATION: APPROVE, SUBJECT TO CONDITIONS**



**Fig. 1 - Location Plan**

## SITE DESCRIPTION AND PROPOSAL

1. The application site is located at the Lochan Uaine (Green Lochan) in the Glenmore Forest Park. It comprises an area of Scots Pine woodland on the banks of the Lochan containing sections of informal path and several viewpoints. A number of existing formal path networks are present in the vicinity including waymarked routes to Glenmore, Ryvoan and Abernethy (Core Path LBS127 – Glenmore to Nethy Bridge via Ryvoan). The site is within a series of designations including the NNR, NSA, SAC, SPA and SSSI.



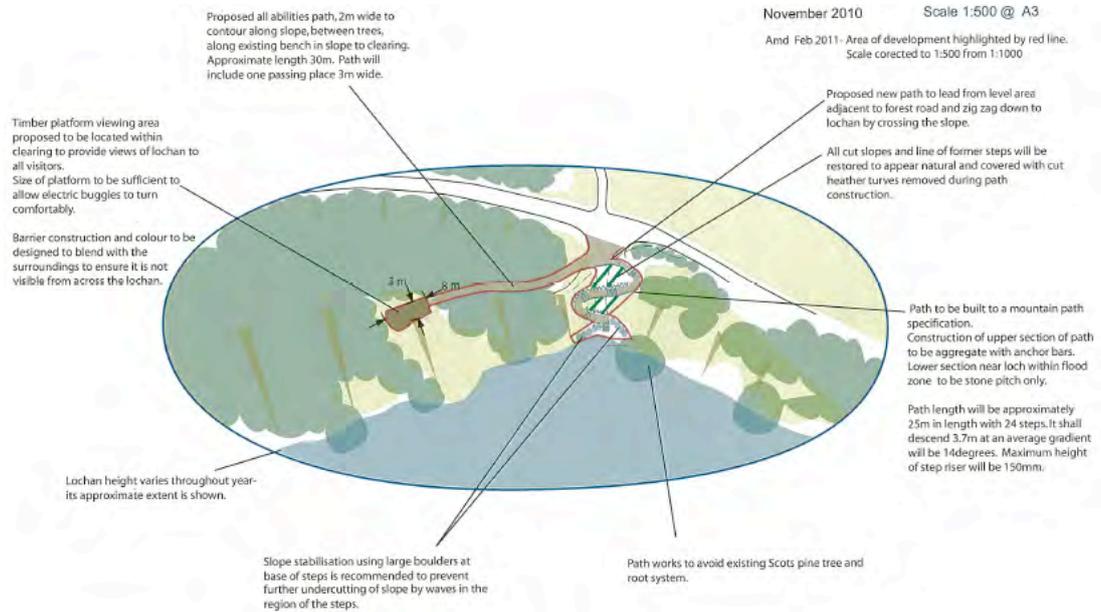
**Fig. 2 – Green Lochan**

2. Planning permission is sought to formalise a section of existing informal ‘desire-line’ path, upgrade steps down to the water’s edge and construct a timber viewing platform overlooking the Green Lochan. The proposed all-abilities pathway would be a total of 60.0 metres in length, with a typical 2.0 metre path width, and be formed with two sections to allow for access to both a viewing area and down to the Lochan (via a meandering section with a series of steps replacing the existing ‘hazardous’ steps). The viewing area would be constructed to be an organic shape and formed with oak branch rails, based on a ‘blank and beam’ platform.



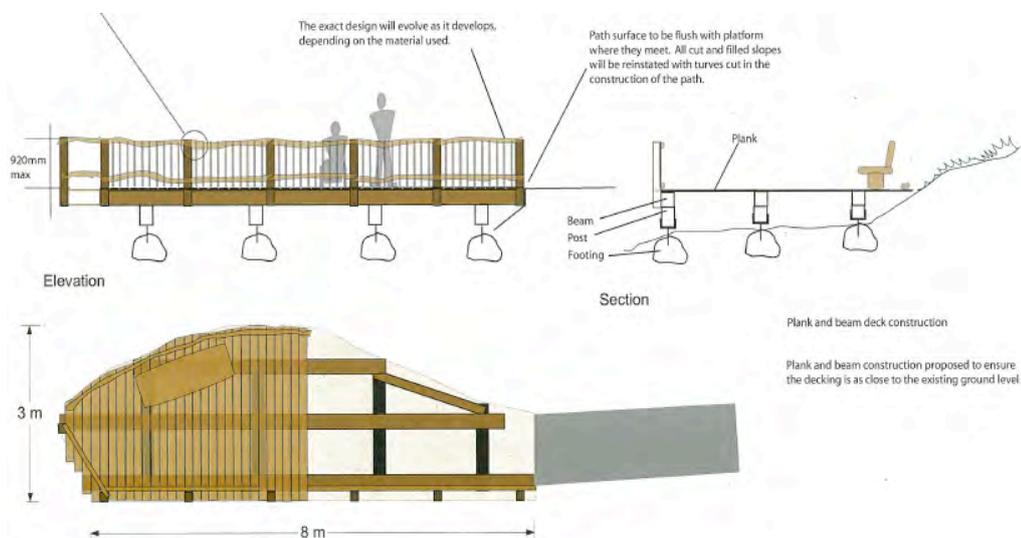
**Fig. 3 & 4 - Existing access steps to water’s edge**

- The path surface would be formed from locally-won aggregate, suitably graded and rolled and carefully integrated into the surrounding area. No trees are expected to be felled and no works are proposed to take place in the Lochan.



**Fig. 5 – Site Layout indicating viewing platform and path sections**

- The aim of the project is to formalise a well-known and popular visitor feature, including the informal viewpoint and improve the ‘desire-line’ paths which are currently used to access it. Alongside this, the existing steps are deemed hazardous and have prompted an overall need to upgrade the access arrangements around the Lochan. A statement has been submitted to outline the construction methods to be utilised.



**Fig. 6 – Viewing platform details**

## DEVELOPMENT PLAN CONTEXT

5. Part 2, Section 25 of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc (Scotland) Act 2006, requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan covering the application site comprises the Highland Structure Plan 2001 and the Cairngorms National Park Local Plan 2010.

### National policy

6. **Scottish Planning Policy<sup>1</sup> (SPP)** is the statement of the Scottish Government's policy on nationally important land use planning matters. It supersedes a variety of previous Scottish Planning Policy documents and National Planning Policy Guidance. Core Principles which the Scottish Government believe should underpin the modernised planning system are outlined at the outset of **SPP** and include:
  - The constraints and requirements that planning imposes should be necessary and proportionate;
  - The system should .....allow issues of contention and controversy to be identified and tackled quickly and smoothly; and
  - There should be a clear focus on quality of outcomes, with due attention given to the sustainable use of land, good design and the protection and enhancement of the built and natural environment.
7. **SPP** emphasises the key part that development management plays in the planning system, highlighting that it should "operate in support of the Government's central purpose of increasing sustainable economic growth." Para. 33 focuses on the topic of Sustainable Economic Growth and advises that increasing sustainable economic growth is the overarching purpose of the Scottish Government. It is advised that "the planning system should proactively support development that will contribute to sustainable economic growth and to high quality sustainable places." Planning authorities are encouraged to take a positive approach to development, recognising and responding to economic and financial conditions in considering proposals that would contribute to economic growth.
8. Under the general heading of Sustainable Development, it is stated that the fundamental principle is that development integrates economic, social and environmental objectives, and that the "aim is to achieve the right development in the right place."
9. As a replacement for a variety of previous planning policy documents the new **Scottish Planning Policy** includes 'subject policies', of which many are applicable to the proposed development. Topics include Open Space and Physical Activity, and landscape and natural heritage. The following paragraphs provide a brief summary of the general thrust of each of the subject policies.

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<sup>1</sup> February 2010

10. *Open Space and Physical Activity* : Para. 148 of the **SPP** states that access to opportunities for recreation make important contributions to a healthier Scotland. The planning system has a role in helping to create an environment where physical wellbeing is improved and activity made easier.
11. *Landscape and natural heritage* : The **SPP** document recognises the value and importance of Scotland's landscape and natural heritage. It is accepted that landscape is constantly changing and the aim is to facilitate positive change whilst maintaining and enhancing distinctive character. As different landscapes have different capacities to accommodate new development, the siting and design of development should be informed by landscape character. There is also an acknowledgement that the protection of the landscape and natural heritage may sometimes impose constraints on development, but the potential for conflict can be minimised and the potential for enhancement maximised through careful siting and design.
12. **Scottish Planning Policy** concludes with a section entitled 'Outcomes' in which it is stated that the "planning system should be outcome focused, supporting the creation of high quality, accessible and sustainable places through new development, regeneration and the protection and enhancement of natural heritage and historic environmental assets." Planning authorities are required to be clear about the standard of development that is required. Quality of place not only refers to buildings, but also how the buildings work together as well as the relationships between buildings and spaces. Design is highlighted as an important consideration and planning permission may be refused solely on design grounds.<sup>2</sup> Finally it is stated that the planning system should be "judged by the extent to which it maintains and creates places where people want to live, work and spend time."

## **Strategic Plan**

### **Cairngorms National Park Plan (2007)**

13. The **Cairngorms National Park Plan** sets out the strategic objectives that provide a long term framework for managing the National Park and working towards a 25 year vision. Under the broad heading of **Conserving and Enhancing the Park**, some of the strategic objectives include maintaining and enhancing the distinctive landscapes of the Park and also ensuring that development compliments the landscape character of the Park. Under the theme of **Living and Working in the Park**, the National Park is recognised as being a national asset and a place of recreation and enjoyment.
14. Under the final theme of **Enjoying and Understanding the Park** there is recognition that the Cairngorms National Park is known for its outstanding environment and outdoor recreation opportunities. The vision for the Park involves developing a world class destination and this requires a sustainable approach to developing tourism, and an excellent quality provision of outdoor access and recreation opportunities.

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<sup>2</sup> Para. 256.

## Structure Plan

### Highland Council Structure Plan 2001

15. The **Highland Structure Plan 2001** includes several policies that are broadly applicable to the type of development proposed, including policies on sport and recreation, tourism and the environment. The benefits of sport and recreation facilities are highlighted in section 2.5.1 of the Plan, where they are attributed to making an important contribution to sustainable development and enhancing the health and quality of life of the residents of the Highlands.
16. Section 2.7.1 of the Plan describes tourism as a vital element of the Highland economy, and notes that opportunities to participate in outdoor pursuits are amongst key visitor attractions. The Structure Plan strategy aims to build on the Highland identity and take a proactive approach to the wise use of the natural environment as a primary resource for tourism. One of the Plan's strategic themes includes encouraging the "adoption of a proactive approach to the wise use of the natural environment".
17. The Structure Plan notes that tourism makes major demands on infrastructure and facilities and also notes that there is scope for improvement in the quality and level of provision. **Policy T2 on Tourism Development** confirms Highland Council's support for high quality tourism development proposals, particularly those which extend the season, provide wet weather opportunities, spread economic benefits more widely and provide opportunities for the sustainable enjoyment and interpretation of the area's heritage.

## Local Plan Policy

### Cairngorms National Park Local Plan (2010)

18. The Cairngorms National Park Local Plan was formally adopted on 29<sup>th</sup> October 2010. The full text can be found at :  
<http://www.cairngorms.co.uk/planning/localplan/pdf/19-Aug-10-Local-Plan-with-PIMs-included-for-web-23-Aug.pdf>
19. 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.
20. 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.

21. Policy 1 Natura 2000 Sites : development likely to have a significant effect on a Natura 2000 site would be subject to an appropriate assessment. Where an assessment is unable to ascertain that a development will not adversely affect the integrity of the site, the development will only be permitted where,
  - (a) There are no alternative solutions; and
  - (b) There are imperative reasons of overriding public interest including those of a social or economic nature.
  
22. Policy 2- National Natural Heritage Designations: development that would adversely affect the Cairngorms National Park, a Site of Special Scientific Interest, National Nature Reserve or National Scenic Area will only be permitted where it has been demonstrated that: a) the objectives of designation and overall integrity of the designated area would not be compromised; or b) any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social or economic benefits of national importance and mitigated by the provision of features of commensurate or greater importance to those that are lost.
  
23. Policy 4 Protected Species : development which would have an adverse effect on any European Protected Species will not be permitted unless there are imperative reasons of overriding interest, including public health or public safety; there is no satisfactory alternative solution; and the development will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range. The policy is intended to ensure that the effects of development proposals on protected species are fully considered by the planning authority. Developers will be required to undertake any necessary surveys for species at their own cost and to the satisfaction of Scottish Natural Heritage and the planning authority.
  
24. Policy 5 – Biodiversity : development that would have an adverse effect on habitats and species identified in the Cairngorms Biodiversity Action Plan, UK Biodiversity Action Plan, or by Scottish Ministers through the Scottish Biodiversity List, will only be permitted where
  - (a) The developer can demonstrate that the need and justification for the development outweighs the local, national and international contribution of the area of habitat or population of species; and
  - (b) Significant harm or disturbance to the ecological functions, continuity and integrity of the habitats or species populations is avoided, or minimised where harm is unavoidable, and appropriate compensatory and / or management measures are provided and new habitats of commensurate or greater nature conservation value are created as appropriate to the site.

25. Policy 6 – Landscape : there will be a presumption against any development that does not complement and enhance the landscape character of the Park, and in particular the setting of the proposed development. Exceptions will only be made where any significant adverse effects on the landscape are clearly outweighed by social or economic benefits of national importance and all of the adverse effects on the setting of the proposed development have been minimised and mitigated through appropriate siting, layout, scale, design and construction.
26. Policy 34 – Outdoor Access : the policy encourages development which improves opportunities for responsible outdoor access and adheres to the Cairngorms Outdoor Access Strategy. Development proposals which would result in a reduction of public access rights, or loss of linear access (such as core paths, rights of way, or other paths and informal recreation areas) will only be permitted where an appropriate or improved alternative access solution can be secured.

## CONSULTATIONS

27. **Scottish Natural Heritage** has no objection to the proposal noting that no trees are to be felled or works carried out in the water. SNH note that the proposal is located within the Cairngorms Special Area of Conservation (SAC), Special Protection Area (SPA) and is within a Site of Special Scientific Interest (SSSI) but the proposal will not have a significant effect either directly or indirectly on any of the qualifying interests or natural features. They confirm an Appropriate Assessment is not required.
28. The CNPA **Heritage and Land Management Group** (HLM) has no objections but recommends conditions relating to the construction of the base of the steps to the water's edge.
29. The CNPA **Visitor Services and Recreation Group** (VSRG) has no objections.

## REPRESENTATIONS

30. No representations have been received in respect of this application.

## APPRAISAL

31. In determining this planning application regard is to be had to the development plan and the determination shall be made in accordance with the plan unless material considerations indicate otherwise.
32. The main issues to consider in this application relate to the principle of the development, the nature of the proposal including its construction and any associated implications, particularly on natural heritage and also consideration of its contribution towards access in the area.

33. In terms of the principle of development, there is general support in planning policy contained within the Development Plan. The policies which have been detailed in paragraphs 6 to 26 of this report all generally encourage increased recreational opportunities in the National Park, where they can be reconciled with the need to conserve the natural heritage of an area.
34. The site is located within an area of Scots Pine woodland with several sensitive natural heritage designations (NNR, NSA, SAC, SPA and SSSI), while the Green Lochan itself is a distinctive and picturesque landmark in an area popular with walkers. It is recognised that the proposal aims to formalise an existing informal viewpoint on the western edge of the Lochan, upgrade several areas of pressurised 'desire-line' trodden path and replace an existing set of steps down to the water's edge.
35. The proposal would allow for more responsible outdoor access, improving the opportunity to view the Lochan and bringing with it safety and environmental benefits. This would accord with Policy 34 Outdoor Access.
36. The proposed aggregate pathway would follow the sloping terrain sympathetically, tying in with the existing formal core paths network in the area, and utilising a sympathetic and sensitive route following natural clearings in the woodland. The introduction of a formal section of path would reduce the pressure on the surrounding vegetation by directing walkers to a purpose built viewpoint allowing for the reinstatement of the Pinewood understorey habitat. The existing unsafe steps would be replaced by a new section of meandering path with a series of gentle steps providing safe access to the water's edge, and allowing for the surrounding area to be restored to a more natural condition. The timber viewing platform would be located within an existing clearing and be constructed to be just above ground level, with an organic shape and oak handrails. The design is considered to be sympathetic and unobtrusive. Other examples of similar platforms are found nearby.
37. The CNPA's Landscape Officer has no concerns about the proposals and considers that they would complement and enhance the experience of the Lochan. It is considered that the proposed path and viewpoint would not impact on the character and nature of the area or detract from its setting, and there would be virtually no landscape or visual impact.
38. Any environmental impacts from what would be relatively minor construction works would be very limited and SNH have expressed no objection to the works in relation to these conservation designations. The applicant states that no trees are to be felled and sensitive construction techniques would be used, with all machinery work carried out outwith the bird breeding season. Given the nature of the works the proposal is not considered to conflict with Policy 1 Natura Sites, Policy 2 National Natural Heritage Designations or Policy 4 Protected Species of the CNP Local Plan.

## Conclusion

39. Overall, it is considered that the proposal is acceptable in terms of planning policy, design and impact on landscape and natural heritage. While recognising the sensitive nature of the site, this is considered to be a positive proposal that will allow for access improvement around the Green Lochan while conserving and enhancing the setting of this popular visitor destination, accordingly the application is recommended for approval subject to conditions.

## IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

### Conserve and Enhance the Natural and Cultural Heritage of the Area

40. The development is considered to have positive implications for this aim; the proposal has no real landscape and natural heritage impact. In cultural heritage terms the proposal would allow for the sensitive use of the Lochan and would form a section of all abilities path.

### Promote Sustainable Use of Natural Resources

41. The aggregate material will be sourced from a local quarry.

### Promote Understanding and Enjoyment of the Area

42. The proposed path would form a new viewpoint for walkers and afford improved access opportunities to the Lochan, directly contributing to the promotion of understanding and enjoyment of the area enabling greater appreciation of the natural heritage of the Park.

### Promote Sustainable Economic and Social Development of the Area

43. The improvement of local visitor destinations would result in improved facilities for locals and visitors.

## RECOMMENDATION

**That Members of the Committee GRANT Planning Permission for the formalising 60m of all abilities path; construct new timber viewing platform; upgrading of existing steps and paths at Green Lochan (Lochan Uaine), Ryvoan Pass, Glenmore forest park, Aviemore subject to the following conditions:-**

- I. The development to which this permission relates must be begun within three years from the date of this permission.

**Reason:** To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc (Scotland) Act 2006.

2. The path hereby approved shall be constructed in accordance with the construction details contained within the submitted method statement dated May 2011. In the event any trees are required to be felled, the works should be approved by the CNPA in writing.

**Reason:** In accordance with the application detail and to ensure the proposed path does not cause any environmental pollution or damage and prevent the loss of trees.

3. Any works to stabilise the slope at the base of the steps to prevent further undercutting by waves should be formed with a combination of carefully placed large boulders to dissipate the power of waves, and a coursed dry stone detail to retain soils and vegetation.

**Reason:** To ensure any works are appropriate and would complement and enhance the character of the area.

**Advice Notes:**

- (a) Care should be taken to avoid the spread of invasive, non-native plant species to the site either through planting, or because of construction activities, e.g. the importing to the site of soil contaminated with seeds of any of the above species. Should it be clear that any of the above species have arrived at the site because of the development, then effectively removing them as soon as possible and disposing of them responsibly should be made the responsibility of the applicant. Equally, if any of these species occurs on the site already, then the development should not allow the species to spread off-site.

**Robert Grant**  
**09 May 2011**  
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