

**CAIRNGORMS NATIONAL PARK AUTHORITY**

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**DEVELOPMENT PROPOSED:**

Remove Condition 3 of Consent 2014/0339/DET at the Retained Track for Drumochter Estate at Drumochter Lodge, Dalwhinnie, Highland, PH19 1AF

**REFERENCE:** 2017/0347/DET

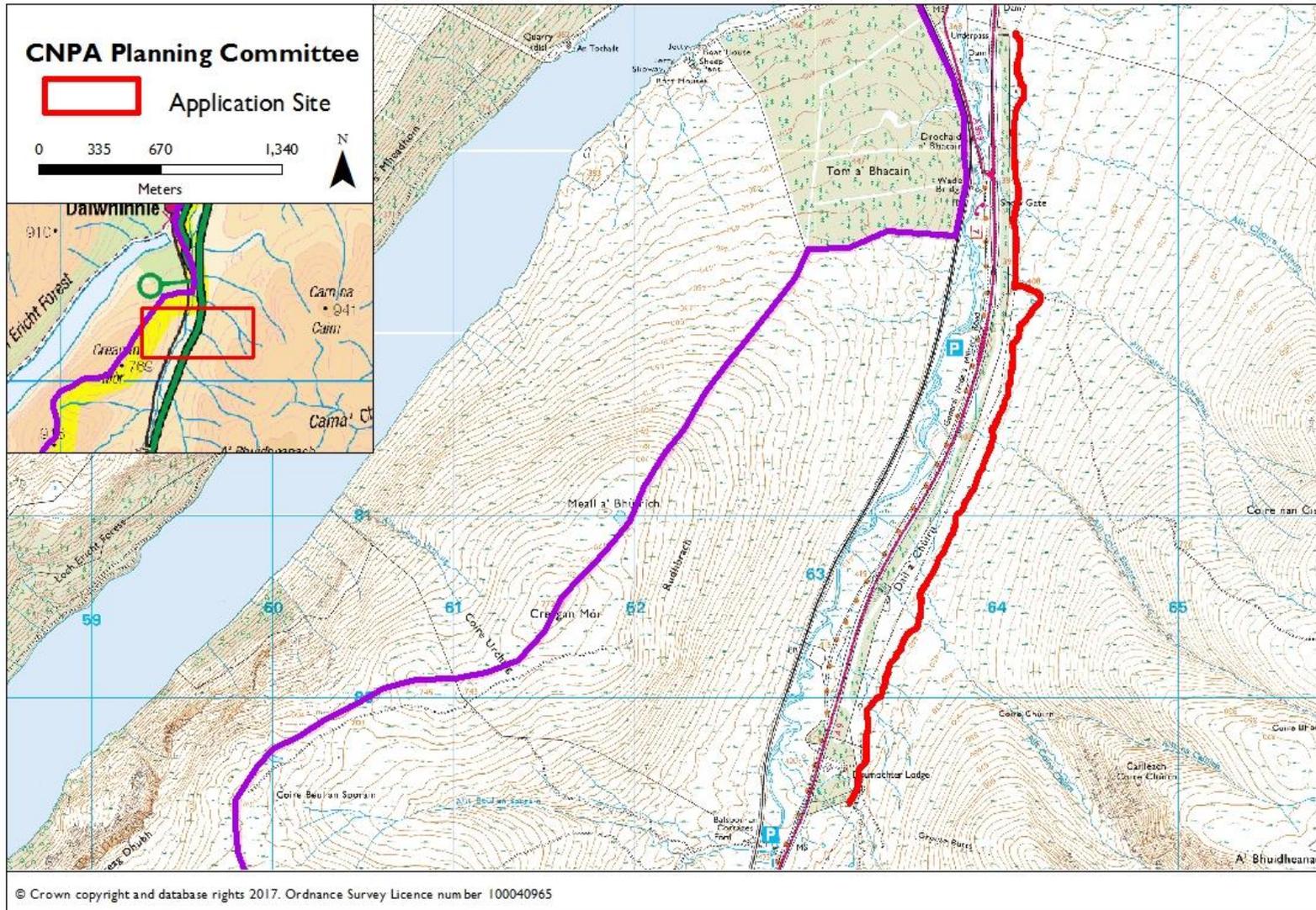
**APPLICANT:** Drumochter Estate

**DATE CALLED-IN:** 7 September 2017

**RECOMMENDATION:** REFUSE

**CASE OFFICER:** Emma Wilson, Planning Officer

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## SITE DESCRIPTION, PROPOSAL AND HISTORY

### Site Description

1. The site relates to a strip of land which runs roughly parallel with, and to the east of the A9. It is approximately 4.7 km in length. An existing track, constructed as part of the Beauly – Denny overhead line works, runs along this, the northern end adjoining the boundary of Drumochter Estate approximately 0.75 km south east of Dalwhinnie and the south end approximately 200 metres south of Drumochter Lodge. An existing shelter belt of conifer trees lies between the A9 and the track.
2. Most of the site lies within the Site of Special Scientific Interest (SSSI). None of the site falls within the Drumochter Hills Special Area of Conservation (SAC) or Special Protection Area (SPA). With the exception of a small section to the north, the application site falls within the Drumochter Pass Landscape Character Area (LCA).

### Proposal

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

<http://www.eplanningcnpa.co.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=OVYD19SI0CA00>

Title	Drawing Number	Date on Plan*	Date Received
Location Plan		09/09/14	18/09/17
Supporting Statement			18/09/17
Site Layout Plan 2 - Central			18/09/17
Site Layout Plan 1 - North			18/09/17
Site Layout Plan 3 - South			18/09/17
Landscape Statement			18/09/17
Site Plan North			18/09/17
Site Plan South			18/09/17

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

4. The application has been made under Section 42 of the Town and Country Planning (Scotland) Act 1997 to remove Condition 3 of the planning consent reference 2014/0339/DET.
5. Condition 3 states: “No development shall commence until proposals for the planting (to provide continuous cover) and future maintenance of a 5 metre wide native woodland planting belt in addition to the existing trees and

extending along the eastern edge of the existing planting for the full length of the proposed track have been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority. The proposals shall include details of species, sizes, planting methods and protection from grazing animals. The planting shall be implemented in the first growing season following approval.”

Reason: To mitigate for the impact of the proposed development on the landscape.

6. Further information in relation to Condition 3 went on to state: “In respect of Condition 3, the tree planting shall be native broadleaved trees, including birch, rowan and native pine to a depth of 5 metres with variable spacing of 1.5 to 2 metres. Shrub planting shall include Dwarf Birch and Montane Willow species in limited areas and where ground conditions are suitable. Planting shall be in mixed species groups of variable size and density with areas of open ground located so as to give a feathered edge. Overall the planting shall be of the equivalent density of 1600 stems per hectare. Planting shall be protected from damage by deer and hares and maintained in a manner that is consistent with the estate’s long term forest plan.”
7. The applicants have submitted a statement which concludes that the proposed tree belt would offer limited difference in terms of reducing visibility of the track from the surrounding landscape and visual receptors. The existing conifer shelterbelt already screens much of the potential visibility of the track from road users on the A9, rail-users on the Inverness/Perth rail line, and any surrounding dwellings and effects on landscape character to the north-west, west and south-west. Effects to the upland areas to the east, north-east and south-east of the track will be limited also, with effects occurring on landscape character and occasional hillwalkers. The siting of the tree belt to the west of the track means it will fail to screen it from the east. Given the nature of the downhill views, the intervening landform and land cover reduce the prominence of the track.
8. They contend that the extent of visibility is limited and where it is visible this is limited. Introducing another long and linear belt of trees may appear at a variance with the open and exposed landscape character of the area and is incongruous, drawing more attention to this feature than the track would on its own.
9. They recommend that the existing landscape character is retained and introducing another long, linear shelterbelt should be avoided. If planting is necessary this should be in the form of localised copses in specific, more visible locations.

## History

10. The planning permission for the Beauly – Denny power line was granted by Scottish Ministers on 6 January 2010 subject to various conditions. The description of development included ‘the formation of temporary access track

to facilitate the construction and maintenance of the new line and substations and the dismantling of the existing 132kV line’.

11. In summary, in relation to this part of the proposals, the planning requirements were that:
  - a) Temporary tracks would be designed to follow the grain of the landscape, wherever possible, for both horizontal and vertical profiles and avoiding disturbance of natural features such as rivers and streams;
  - b) Track widths would be kept to the minimum necessary for the operational use of the track;
  - c) Reinstatement works to any disturbed areas on the edges of tracks would be undertaken to ensure that all tracks ‘fit’ well into the surrounding landscape;
  - d) Restoration of the area would be undertaken once the temporary track is removed, to ensure the landscape is returned to its pre-work condition.
12. In its decision letter, the Scottish Government said: “In respect of the Drumochter Hills Special Area of Conservation and the surrounding land... (a) the applicant shall, in carrying out any activities associated with the construction of the overhead transmission line and the dismantling of the existing 123kV OHL, implement all construction methods, mitigation proposals and restoration measure detailed in that Final Report.
13. The Final Report states in Section 3.2 that:
  - a) No permanent access tracks would be constructed in Natura sites (SACs or Special Protection Areas);
  - b) All temporary tracks used for construction of the new line would be fully restored.
14. There are two applications relating to this stretch of track. These are listed as follows:

2013/0330/DET – application for permanent retention of temporary access track from Dalwhinnie to Drumochter, built for construction of Beauly – Denny overhead powerline refused by CNPA Planning Committee in February 2014 for the following reason:

The proposed development is contrary to Policy 1 (Natura 2000 sites) of the Cairngorms National Park Local Plan (October 2010) insofar as it has not been possible to ascertain that the development will not adversely affect the integrity of the Drumochter SAC;

The proposed development is contrary to Policy 6 (Landscape) of the Cairngorms National Park Local Plan (October 2010) insofar as it would be a pronounced linear feature in the landscape which does not complement and enhance the landscape character of the Cairngorms National Park, or the setting of the proposed development.

The proposed development is contrary to the Cairngorms National Park Local Plan (October 2010) Supplementary Planning Guidance – Wilderness – insofar as the proposed development does not enhance the natural qualities of the area, is not of an appropriate scale and has adverse visual impacts on the area. The application does not include the necessary plans as existing and proposed, together with an associated construction methods statement, to enable the proposal to be considered in detail.

2014/0339/DET – remediation works and permanent retention of section of temporary track and associated bridges approved by CNPA Planning Committee in February 2015.

## **DEVELOPMENT PLAN CONTEXT**

### **Policies**

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

15. 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**

16. 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	
Policy 4	Natural Heritage Supplementary Guidance	X
Policy 5	Landscape Non-Statutory Guidance	X
Policy 7	Renewable Energy Supplementary Guidance	
Policy 8	Sport and Recreation Non-Statutory Guidance	
Policy 9	Cultural Heritage Non-Statutory Guidance	
Policy 10	Resources Non-Statutory Guidance	
Policy 11	Developer Contributions Supplementary Guidance	

## **CONSULTATIONS**

17. A summary of the main issues raised by consultees now follows:
18. **SNH** advises that there are natural heritage interests of Natura and national importance on the site, but these will not be affected by the proposal. The proposal could affect the Drumochter Hills SAC and SPA, however, Condition 3 relates to tree and shrub planting on the SSSI and not on either SAC or SPA. For that reason, they consider that it is unlikely that the proposal to remove the condition would have a significant effect on any qualifying interests, either directly or indirectly. An appropriate assessment is therefore not required. In terms of the SSSI, the removal of the condition would have no negative effect because the site will remain in its current state.
19. **CNPA Ecology Advisor** provided a detailed consultation response to the previous application 2014/0339/DET. They observed that the track was close to the Drumochter SSSI where the habitat had already been subject to a level of disturbance from plantation planting and the creation of the access track to install the pylons. They concluded that the permanent retention of the track would have a minor impact on ecology but that this could be addressed through mitigation measures. They advised that appropriate species should be used for hydroseeding and a compensatory planting scheme sought to enhance the existing woodland and complement upland mosaic habitats. Conditions were recommended to address potential impacts on the burns from erosion and siltation and also in relation to water dependant habitats.
20. In terms of the current application to remove Condition 3 requiring the planting of native trees, the Ecology Advisor contends that conditions have not changed and as such this enhancement measure should be implemented.
21. **CNPA Landscape Advisor** also provided a detailed consultation response to the previous application 2014/0339/DET. They observed that the landscape of this part of the National Park has been significantly affected by the permitted Beauly / Denny line. As such the proposal was not assessed against a pristine landscape but against the planned and permitted development in its restored state. She advised that the track would have a moderate level of landscape and visual impact and a low level of additional cumulative effect in the short term (1 to 2 years) given its 'raw' and clearly visible linear appearance. In the medium to

longer term the width and prominence of the track and its impact as a linear feature in the landscape will be reduced in scale and as such will have a lower magnitude of landscape and visual effect. However, this has to be assessed against the baseline of the fully restored Beaully / Denny track. The Landscape Advisor considers that in this landscape overlooked by sensitive recreational receptors, this would lead to a persistent low level of landscape and visual impact and a persistent low level of cumulative effect in addition to the existing man-made features. She advises that it will take some time for this level of effect to be achieved but in the longer term neither landscape nor visual impact would be significant and the proposal will complement the landscape character of the immediate area.

22. In order to minimise the ongoing cumulative effects that lead to incremental and irreversible change in a landscape, secure the 'enhancement' component of Landscape Policy 6 and guarantee the screening effects of the plantations into the longer term, she advises that the applicant should plant native trees along the eastern side of the conifer belts. The Landscape Advisor considers that this enhancement measure would:
  - a) Break up the rigid effect of the woodland and reduces the cumulative landscape impacts and adverse effects on the visual amenity of those using the surrounding slopes and hills for recreation, including wild land areas;
  - b) Compensate for residual landscape impacts resulting from the retention of the access track;
  - c) Introduce structural and species diversity and strengthen the screening potential of the shelter belt into the longer term.
23. The Landscape Advisor concluded that assuming the proposed condition can be fulfilled, the landscape and visual impact of this development both on its own and cumulatively would, after a period of years, not be significant.
24. In terms of the current application to remove Condition 3 requiring the planting of native trees, the Landscape Advisor contends that conditions have not changed and as such this enhancement measure should be implemented.

## REPRESENTATIONS

25. The application has been advertised and there has been three letters of representation received, two were objections and one provided comments.
26. The objections raised were as follows:
  - a) The reasoning for this application is primarily convenience and cost saving which is insufficient justification;
  - b) The existing conifer belt does not provide complete or adequate screening of the track and therefore the introduction of a belt of native trees is strongly supported and will provide landscape benefits.
  - c) The conifer belt may be felled and as such would expose the track making it highly visible;

- d) Any planting should be in staggered 'localised copses' to avoid further linear planting.
- e) The proposed species are not appropriate in this context. Planting plans should take account of and be responsive to local topography, drainage and soils; and take account of dependant habitats.

27. Comments made are summarised as follows:

- a) An EIA should be undertaken to support it;
- b) If the track is screened it should not cause any undue intrusion within the landscape
- c) Monitoring by CNPA is essential to ensure compliance with the planning permission.

28. The objectors have requested to be heard at Committee.

## **APPRAISAL**

### **Introduction**

29. The application has been submitted under Section 42 of the Town and Country Planning (Scotland) Act 1997, whereby the planning authority can only consider the question of conditions subject to which planning permission should be granted. The planning authority may therefore modify, add or remove conditions. If they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly. If, however, they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, the application should be refused.

### **Principle**

30. The principle of the retention of the track has been accepted by the previous decision and therefore does not require to be given further consideration. However, in determining this application, consideration must be given to any material changes in planning policy or approved non-statutory guidelines since the original application was granted and the merits of the justification put forward by the applicant.

### **Impact on Natural Heritage**

31. It was recognised at the time the previous application was determined that the permanent retention of the track would not further compromise the integrity or objectives of the Drumochter SSSI. However, it was established that the planting of appropriate species within the vicinity of the track would mitigate any ecological impact associated with its permanent retention and as such conditions should be imposed to ensure such measures were undertaken. Condition 3

addresses such requirements and given there has been no significant change to the site's condition, the removal is not justified in this instance.

### **Impact on Landscape**

32. The original application was determined against the provisions of the Cairngorms National Park Local Plan 2010. In assessing the acceptability for the permanent retention of the track (application reference number 2014/0339/DET), it was considered that the planting of native trees along the eastern edge of the existing conifer belts would:
  - a) Break up the rigid effect of the woodland and reduce the cumulative landscape impacts and adverse effects on visual amenity of those surrounding slopes and hills for recreation, including wild land areas;
  - b) Compensate for residual landscape impacts resulting from the retention of the access track;
  - c) Introduce structural and species diversity and strengthen the screening potential of the shelter belt into the longer term.
33. This design measure would ensure that the proposal would satisfy the enhancement element of Policy 6: Landscape, of the adopted local plan.
34. The Local Plan has now been superseded by the Cairngorms National Park Local Development Plan 2015. Notwithstanding this, policy remains the same in terms of landscape. Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015 reiterates the importance of enhancement in new development proposals.
35. The argument put forward by the applicants not to undertake the enhancement measures with native tree planting is not sufficient to warrant removal of Condition 3. There has been no fundamental policy change and site conditions have not significantly altered. As such there is no justification to remove Condition 3 or change the conditions in respect of the previous permission.

### **Other Issues Raised in Consultations and Representations**

36. Issues raised in the letters of objections will be covered by the requirements of Condition 3 in terms of an appropriate planting plan detailing species, sizes, planting methods and protection. It has already been established that a tree belt is the most appropriate form of mitigation in this instance.
37. In terms of the comments made, the principle of the development has been accepted under planning permission previously granted. An EIA was not required for the determination of that previous application. Monitoring has been carried out and will continue to be done by CNPA to ensure the relevant conditions are adhered to and the mitigation measures necessary for the proposals to be acceptable are undertaken.

## CONCLUSION

38. It was recognised that at the time the previous application - 2014/0339/DET – was under consideration, the retention of the track would have landscape and visual impacts, in particular the introduction of another linear feature into the landscape and the potential prominence this would have. The restoration and reinstatement proposals, however, would reduce its prominence over time and, along with the introduction of a native woodland planting belt, would provide enhancement, helping reduce the cumulative impact and providing landscape benefits. Not fulfilling the requirements of condition 3, the proposal will not contribute to the conservation and enhancement of the special qualities of the National Park.

## RECOMMENDATION

**That Members of the Committee support a recommendation to REFUSE PLANNING PERMISSION to remove Condition 3 of consent 2014/0339/DET at the retained track for Drumochter Estate at Drumochter Lodge, Dalwhinnie, Highland, PH19 1AF for the following reason:**

### Reason

1. The proposal to remove Condition 3 of consent 2014/0339/DET by reason of the absence of a native woodland belt would result in the retained track being overly prominent to the detriment of landscape quality and special qualities of the National Park contrary to the Cairngorms National Park Local Development Plan 2015 Policy 5: Landscape, in respect of landscape enhancement.

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.