

**ANGUS COUNCIL**

**DEVELOPMENT STANDARDS COMMITTEE – 5 APRIL 2022**

**PROPOSAL OF APPLICATION NOTICE – LAND AT GLEN CLOVA ESTATE**

**GLEN CLOVA ANGUS**

**GRID REF: 334052:772528**

**REPORT BY SERVICE LEADER – PLANNING & SUSTAINABLE GROWTH**

**Abstract:**

This report advises Committee that a Proposal of Application Notice (PAN) (ref: [22/00150/PAN](#)) has been submitted in respect of a major development comprising the formation of forestry tracks associated with woodland operations on land at Glen Clova Estate, Glen Clova, Angus for Mr H. Niven. Committee is invited to identify issues which it would like to see addressed in the planning application that is subsequently submitted.

**1. RECOMMENDATION**

- 1.1 It is recommended that Committee notes the key issues identified at this pre-application stage and advises of any other issues it considers should be addressed in the planning application that is subsequently submitted.

**2. ALIGNMENT TO THE ANGUS LOCAL OUTCOMES IMPROVEMENT PLAN/CORPORATE PLAN**

- 2.1 This report contributes to the following local outcome(s) contained in the Angus Local Outcomes Improvement Plan and Locality Plans: -

- Safe, secure, vibrant and sustainable communities;
- A reduced carbon footprint; and
- An enhanced, protected and enjoyed natural and built environment.

**3. INTRODUCTION**

- 3.1 At its meeting on the 19 June 2014, council approved a guidance note on the role of Councillors in pre-application procedures in respect of national and major planning applications (report 275/14 refers). A key element of that guidance note requires officers to present a report to committee when a PAN is submitted. Such a report will set out what are considered to be the key considerations in the determination of any subsequent planning application and will allow Members the opportunity to identify any additional issues that they consider should be addressed when a planning application is submitted. The site is located in the Cairngorms National Park and discussions with the park authority suggest that it is likely that any subsequent planning application would be called in by the park for determination.

- 3.2 A PAN (ref: [22/00150/PAN](#)) has been submitted. It indicates that an application for planning permission is to be submitted for the formation of forestry tracks associated with woodland operations on land at Glen Clova Estate, Glen Clova, Angus. The proposed development site would measure around 2.9 hectares and the land currently consists of rough grazing, moorland and forestry. A plan showing the outline of the site on which the development is proposed is attached at Appendix 1.

- 3.3 The proposal has been subject to a screening opinion (ref: [22/00083/EIASCR](#)) which indicates that environmental impact assessment is required because the development is likely to result in significant environmental effects having regard to its nature, scale and location. A future major planning application would therefore require to be accompanied by an Environmental Impact Assessment Report.
- 3.4 The submitted PAN sets out the proposed pre-application consultation (PAC) that the applicant intends to undertake with the local community. The applicant has also indicated that a copy of the PAN was served on Councillors for the Kirriemuir and Dean Ward and the Kirriemuir Landward East Community Council. The submitted PAN indicates that information pertaining to the development would be displayed at a face-to-face public event which would be undertaken on the 20 April 2022 at the Glen Clova Hotel between the hours of 15:00 and 19:00. The applicant has been advised to carry out additional consultation activity to ensure that they comply with the current legislative requirements for PAC, which would include hosting an accessible project website and a live and interactive web-based consultation. The results of the community consultation will be submitted with any subsequent planning application in the form of a PAC Report as required by Development Management Regulations.
- 3.5 The applicant's agent has been advised that a planning application cannot be submitted prior to the 16 May 2022 (the date 12 weeks from the submission of the valid PAN).

#### **4. DISCUSSION**

- 4.1 Committee is aware that planning legislation requires decisions in respect of planning applications to be made in accordance with the development plan unless material considerations indicate otherwise.
- 4.2 Proposals for development in the Cairngorms National Park require to be assessed in accordance with the Cairngorms National Park Local Development Plan (2021) (CNPLDP).
- 4.3 The proposed tracks are required to support forestry operations including woodland creation, management and harvesting. Policy 2: Support Economic Growth provides general policy support for proposals that support the economy, where they are compatible with existing business activity and support the viability of the local economy, subject to having no adverse environmental or amenity impacts.

#### **Policy 2: Support Economic Growth**

##### *2.4 Other economic development*

*Proposals which support or extend the economy, or which enhance the range and quality of economic opportunities or facilities, will be considered favourably where they:*

- a) have no adverse environmental or amenity impacts on the site or neighbouring areas; and*
- b) are compatible/complementary with existing business activity in the area; and*
- c) support the vitality and viability of the local economy.*

*Developments that contribute to the provision of an identified local economic need, such as the provision of small business units, or contribute to the delivery of the Cairngorms National Park Economic Action Plan, will be particularly encouraged.*

- 4.4 Parts of the site are located in the Cairngorms Massif Special Protection Area designated for golden eagle. The site is also located close to the River South Esk Special Area of Conservation (designated for fresh water pearl mussels and Atlantic salmon); the Red Craig Site of Special Scientific Interest (designated for rock exposures); and in a location where there are records of European Protected Species including wildcats, pine marten and otter. Policy 4 is therefore relevant to the

proposal and states:

## **Policy 4: Natural Heritage**

### *4.1 International Designations*

*Development likely to have a significant effect on a European or Ramsar site must demonstrate no adverse effect on the integrity of the site. Where this is not possible, development will be considered favourably only where:*

- a) there are no alternative solutions;*
- b) there are imperative reasons of overriding public interest including those of a social or economic nature; and*
- c) compensatory measures are provided to ensure that the overall coherence of the network of European sites is protected.*

*Where the site has been designated for a European priority habitat or species, development will only be permitted where the reasons for overriding public interest relate to human health, public safety, benefit consequences of primary importance for the environment or other reasons subject to the opinion of the European Commission (via Scottish Ministers) or compliance with the relevant process established following the UK's departure from the EU.*

### *4.2 National 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:*

- a) it will not adversely affect the integrity of the area or the qualities for which it has been designated; or*
- b) any such adverse effects are clearly outweighed by social, economic or environmental benefits of national importance, and compensated by the provision of features of equal or greater importance than those that are adversely affected.*

### *4.3 Woodlands*

*Woodland removal for development will only be permitted where it complies with the Scottish Government's Policy on the Control of Woodland Removal and where removal of the woodland would achieve clearly defined additional public benefits.*

*There will be a strong presumption against removal of ancient semi-natural woodland, including sites in the Ancient Woodland Inventory, which is considered to be an irreplaceable resource. Only in exceptional circumstances will loss of ancient semi-natural woodland be permitted:*

- a) where the developer can clearly demonstrate that the need and justification for the development outweighs the local, national, or international contribution of the woodland; or*
- b) where it can be clearly demonstrated that the ancient semi-natural woodland site has low ecological value.*

*Where removal of ancient semi-natural woodland is deemed acceptable, compensation for such loss (involving the planting of native species) will be mandatory.*

### *4.4 Protected Species*

*Development that would have a significant adverse effect on any European Protected Species will not be permitted unless:*

- a) *the developer can demonstrate that there are public health, public safety or other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment; and*
- b) *there is no satisfactory alternative solution; and*
- c) *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.*

*Development that would have a significant adverse effect on species protected under Schedule 5 (animals) or 8 (plants) of the Wildlife & Countryside Act 1981, as amended, will not be permitted unless:*

- a) *undertaking the development will give rise to, or contribute towards the achievement of, a significant social, economic or environmental benefit; and*
- b) *there is no other satisfactory solution; and*
- c) *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.*

*Development that would have a significant adverse effect on species protected under Schedule 1, 1A or A1 (birds) of the Wildlife and Conservation Act 1981 (as amended) will not be permitted unless:*

- a) *the development is required for preserving public health and safety; and*
- b) *there is no other satisfactory solution; and*
- c) *the development will not be detrimental to the species concerned at a favourable conservation status in their natural range.*

*Development that would have a significant adverse effect on badgers or their setts will not be permitted unless the development fully complies with the requirements of the Protection of Badgers Act 1992 (as amended).*

#### *4.5 Other Biodiversity*

*Development that would have a significant adverse effect on species listed in Schedules 2 and 4 of The Conservation (Natural Habitats &c.) Regulations 1994 (as amended in Scotland) will not be permitted unless:*

- a) *there is no other satisfactory solution; and*
- b) *the development will not be detrimental to the maintenance of the species concerned at a favourable conservation status in the natural range.*

*Development that would have a significant adverse effect on habitats or species identified in the Cairngorms Nature Action Plan, UK Biodiversity Action Plan, Birds of Conservation Concerns (red and amber) or by Scottish Ministers through the Scottish Biodiversity List, including any cumulative impact will only be permitted where:*

- a) *the developer can demonstrate that the need and justification for the development outweighs the local, national or international contribution of the area of habitat or populations 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 equal nature conservation value are created as appropriate to the site.*

#### *4.6 All Development*

*Where there is evidence to indicate that a protected or priority habitat or species may be present on, or adjacent to, a site, or could be adversely affected by the development, the developer will be required to undertake a focused survey of the area's natural environment to assess the effect of the development on it and to submit a species/habitat protection plan where necessary to set out measures to*

*avoid, reduce or mitigate such effects.*

- 4.5 The landscapes of the Cairngorms are one of the National Park's most valuable assets and the introduction of forestry tracks has the potential to result in significant landscape impacts. A small area of the site is located in the Lochnagar – Mount Keen Wild Land Area. Policy 5 deals with landscape matters and indicates:

#### **Policy 5: Landscape**

##### *5.1 Special Landscape Qualities*

*There will be a presumption against any development that does not conserve or enhance the landscape character and special landscape qualities of the Cairngorms National Park including wildness and the setting of the proposed development.*

*Development that does not complement or enhance the landscape character of the National Park and the setting of the proposed development will be permitted only where:*

- a) any significant adverse effects on the special landscape qualities of the National Park are clearly outweighed by social or economic benefits of national importance; and*
- b) all the adverse effects on the setting of the proposed development have been minimised and mitigated through appropriate siting, layout, scale, design and construction to the satisfaction of the planning authority.*

##### *5.2 Private Roads and Ways*

*There will be a presumption against new private roads and ways in open moorland areas unless:*

- a) it can be demonstrated that they are essential for land management purposes; and*
- b) they are designed to minimise landscape and environmental impacts, and they conserve and enhance the landscape character and special landscape qualities of the National Park including wildness; or, where appropriate*
- c) they form part of a programme of works including the removal of other existing private roads and ways to deliver a net benefit for the special landscape qualities of the National Park including wildness.*

- 4.6 Other policies in the CNPLDP will be relevant to the determination of the planning application that is subsequently submitted, including those that deal with the built environment, access and the water environment.

- 4.7 In these circumstances it is considered that the key issues in relation to the determination of a subsequent planning application will be whether the proposal complies with relevant development plan policy or whether there are other material considerations that justify a departure from that policy. In this respect it is considered that the key issues in relation to the determination of a subsequent application are likely to be: -

- locational justification for the development;
- landscape and visual impact;
- impact on amenity;
- impact on the natural environment including protected sites and species;
- cultural and built heritage impacts;
- impacts on infrastructure including the public road network and private water supplies;
- impact on the water environment, including flood risk;
- impact on soils, including peat;
- any opinions expressed on the proposal by statutory and non-statutory consultation bodies; and

- material considerations including relevant national and local guidance, and third-party representations that raise material planning issues.

4.8 While other issues may emerge through the publicity and consultation process associated with any planning application, the above matters are considered to represent the main issues that should be considered at the pre-application stage and that are likely to be determining factors for any subsequent planning application. However, Committee is invited to identify any additional material planning considerations that it would wish to see addressed.

## 5. OTHER IMPLICATIONS

The human rights implications associated with the proposal will be considered in the determination of any subsequent major planning application for planning permission.

**NOTE:** No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above report.

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**DATE: 28 MARCH 2022**

APPENDIX 1: Site Location Plan

APPENDIX 2 : Planning Service Presentation