

**From:** [Stewart Eastaugh](#)  
**To:** [Epc](#)  
**Cc:** [Laura Stewart - Planning](#); [Ken McCorquodale](#)  
**Subject:** 18/05427/S36; Red John Hydro, Dores  
**Date:** 21 December 2018 16:16:25

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Dear Laura,

As it stands the proposed temporary and permanent diversions of core paths and long distance trails and deletions of several paths illustrates a proposal that will have a significant detrimental medium and long term impact on public access. So much so that I recommend that either the Council object to this application or that it be made clear in any response to the Scottish Government that the proposals of the Outline Access Management Plan are unacceptable and that considerable revision is required to minimise the many adverse impacts and to maximise any potential improvements.

That revision should be part of an access management plan that is submitted for our written approval before construction begins. A condition might read:

***No works comprised in the Development shall be commenced until a detailed Outdoor Access Plan is submitted to and approved in writing by the Planning Authority. The purpose of the Outdoor Access Plan shall be to plan site tracks and paths to maintain public access routes during construction, and to enhance public outdoor access in the long-term. The Outdoor Access Plan shall be implemented as approved.***

An "Outline Access Management Plan" has been submitted as Appendix 14.3. As you might expect it has the many shortcomings that lead me to suggest we either object or set a suspensive condition requiring more detailed and acceptable access management proposals that will have a less significant detrimental impact on public access during and after construction. We should also seek proposals which see public access benefitting from the scheme in line with our Renewables, Public Access and Long Distance Routes policies in the Highland wide Local Development Plan.

Broadly:

- The plan is in "outline" and does not offer enough detail to be able to assess the full impact of the scheme on public access. I like the table and plan format but would like more commitment and detail from the developers at this stage rather than them abdicating responsibility to the Construction Contractor. We see this quite a bit. If contractors are unaware of their access management responsibilities at the outset i.e. the tender stage they are less inclined to meet reasonable standards. For example "Details of the types of reinstatement will be provided when a construction contractor has been appointed." In line with our policies we will be looking for paths, surfaces and reinstatement that offers a better resource for access takers inconvenienced by a long construction period and proposed diversions. How can developers or contractors price work on that basis? How can we reasonably expect contractors and developers to deliver higher quality routes if they remain uncommitted to them?
- 14.4.5 Standards makes references to irrelevant legislation and consultation at to late a

stage to secure the standards we will seek.

- 14.4.7 An Access Management Plan should be submitted to the Planning Authority for its written approval prior to construction starting. That approved plan is what should be communicated to the public using means outlined in that plan.
- The proposal seeks significant temporary and permanent diversion of 2 core paths. ***I recommend that consent be conditional on the successful diversion of those core paths under Section 208 of the Town and Country Planning (Scotland) Act 1997 and that the developer be required to pay for those orders whether or not they are successful***
- The South Loch Ness Trail follows the B852 here. ***I recommend that the developer be required to install a traffic-free, off-road 2m wide aggregate path suitable for walkers, cyclists and horse riders that the operators of the scheme maintain for the lifespan of that scheme.*** This is in common with Stronelairg's commitment to the South Loch Ness Trail between Fort Augustus and Glen Doe.

Regards,

**Stewart Eastaugh**

Access Officer, Inverness, Nairn and East Lochar  
Planning and Environment  
Development and Infrastructure Service  
The Highland Council  
Round Tower  
Inverness Castle  
Inverness  
IV2 3EG

Tel 01463 644831

## THC - Development and Infrastructure

Further to our meeting on the 5<sup>th</sup> February and the additional comments received on the 27<sup>th</sup> February, the Applicant provides further comments in the latter column of this document. We also attach a clean and tracked changed version of the Access Management Plan for your comment, and welcome discussions on any conditions which will be potentially placed on the consent.

Access Officer Comments	Applicants Response	Access Officer Comments 27 <sup>th</sup> February 2019	Applicants Further Response
<p>The plan is in “outline” and does not offer enough detail to be able to assess the full impact of the scheme on public access. I like the table and plan format but would like more commitment and detail from the developers at this stage rather than them abdicating responsibility to the Construction Contractor. We see this quite a bit. If contractors are unaware of their access management responsibilities at the outset i.e. the tender stage they are less inclined to meet reasonable standards. For example “Details of the types of reinstatement will be provided when a construction contractor has been appointed.” In line with our policies we will be looking for paths, surfaces and reinstatement that offers a better resource for access takers inconvenienced by a long construction period and proposed diversions. How can developers or contractors price work on that basis? How can we reasonably expect contractors and developers to deliver higher quality routes if they remain uncommitted to them?</p>	<p>As stated in Section 14.1.4 of Appendix 14.3, the plan submitted as part of the Section 36 application is an outline plan with the aim of demonstrating the Applicant’s commitment to addressing and maintaining access requirements.</p> <p>There are some details that are not available at this stage of the Development design and will require input from the Construction Contractor. However, the diversions, upgrades and timing of implementation have been integrated in to the Development design – as set out in Chapter 2: Project and Site Description and as such will form part of the construction contractor tender.</p>	<p>I see that there is a general comment in 2.10.23 and 2.10.24 but it is in insufficient detail, particularly if this is what is to be presented to potential contractors. I am afraid that to be able to assess the significance of the in-construction and operational impact of the proposal on core paths, long distance routes and the wider paths network we need more detail.</p> <p>Delegated authority to decide on the mechanisms to divert core paths lie with the Head of Planning and the Environment. I appreciate that the landowner and South Loch Ness Group may be content with your proposals. However the Council has to be sure that what is to be provided is of a high enough standard to meet our own policies and standards and to be certain that we can secure it from the developer.</p> <p>Yes but I would maintain that it provides insufficient detail to allow the Council to assess the impact or potential contractors to realise what will be asked of them.</p>	<p>It is not possible to confirm specific details on timing as the construction sequence has not been informed by contractor involvement.</p> <p>The Applicant has added some further information into the Outline AMP in track changes for review.</p> <p>If the Council is able to advise what additional details are required, the applicant may accept a condition which requires these details to be included in a finalised Access Management Plan to the agreed and approved in writing prior to the commencement of development.</p>
	<p>Initial comments were requested from the Access Officer prior to the submission but unfortunately comments were received too late to make any changes. However the diversions and management of the paths were discussed with the landowner and the South Loch Ness Access Group, who approved the proposals.</p>		<p>Noted, and as above, the applicant would be willing to accept a condition which requires the finalised AMP to be agreed and approved prior to the commencement of development. Further detail has been added in relation to the required information to be submitted for each diversion or upgraded route.</p>
	<p>As the Access Management Plan is proposed to be updated post-consent for approval by the Highland Council, having early sight of this outline plan provides an opportunity for early consultation in addition to that entered into prior to submission.</p>		<p>As per response above.</p>
<p>[Section] 14.4.5 [of Appendix 14.3] Standards makes references to irrelevant legislation and consultation at too late a stage to secure the standards we will seek.</p>	<p>The Applicant proposes updating the section on standards within the Access Management Plan to reference the Upland Path Advisory Group’s guidance on path construction standards and management<sup>1</sup>, The British Horse Society’s Advice for Surfaces and Horses<sup>2</sup>, and Sustrans’ Handbook for Cycle Friendly Design<sup>3</sup>. This will be undertaken once all other comments have been addressed so a complete revision can be submitted prior to determination.</p>	<p>Add Lowland Path Construction and Equestrian Access elements of the same from BHS Scotland. Highway Act 1980 and Countryside Act 2000 are irrelevant here.</p>	<p>We can confirm that the AMP has been amended to include this. See section 14.4.4</p>
<p>An Access Management Plan should be submitted to the Planning Authority for its written approval prior to construction starting. That approved plan is what should be communicated to the public using means outlined in that plan.</p>	<p>This aligns with the Applicant’s understanding of the process and agrees with the statement as set out in sections 14.1.4 and 14.4.7 of Appendix 14.3.</p>	<p>This is a safeguard measure. The preference is to have our doubts addressed here at this stage. The applicant should be aware that high standards of route choice and construction will be required in both a plan and on the ground.</p>	<p>Agreed. This has been added into the revised AMP. Please see track changes version.</p>
<p>The proposal seeks significant temporary and permanent diversion of 2 core paths. <b>I recommend that consent be conditional on the successful diversion of those core paths under Section 208 of the Town and Country Planning (Scotland) Act</b></p>	<p>The Applicant wishes to clarify as follows regarding the two core paths:</p> <ul style="list-style-type: none"> <li>- During construction both IN12.04 and IN12.05 will be diverted. Diversion 1 will apply to both routes and Diversion 2 will apply to IN12.05 only. This can be</li> </ul>	<p>Delegated authority to decide on whether or not both core paths should be diverted using Section 208 of the relevant Act lies with the Head of Planning and Environment. Without knowing the detailed location, amenity, construction standards, signposting, gradients of the proposed diversions</p>	<p>Noted, and as above, the applicant would be willing to accept a condition which requires the finalised AMP to be agreed and approved prior to the commencement of development.</p>

<sup>1</sup> <https://www.outdooraccess-scotland.scot/access-management-guidance/path-management> [Accessed 10/01/2018].

<sup>2</sup> <http://www.bhs.org.uk/advice-and-information/riding-out/free-leaflets-and-advice>. [Accessed 10/01/2018].

<sup>3</sup> [https://www.sustrans.org.uk/sites/default/files/file\\_content\\_type/sustrans\\_handbook\\_for\\_cycle-friendly\\_design\\_11\\_04\\_14.pdf](https://www.sustrans.org.uk/sites/default/files/file_content_type/sustrans_handbook_for_cycle-friendly_design_11_04_14.pdf). [Accessed 10/01/2018].

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<p><b>1997 and that the developer be required to pay for those orders whether or not they are successful.</b></p>	<p>viewed on Figure 14.3.2 of Appendix 14.3.</p> <ul style="list-style-type: none"> <li>- During operation: <ul style="list-style-type: none"> <li>o IN12.05 will be reopened along its original alignment;</li> <li>o IN12.04 will have a minor diversion around Construction Compound 1 and will join the IN12.05 approximately 200 m south of the existing junction;</li> <li>o Diversions 1 and 2 as constructed during the pre-construction phase of the Development will be retained as <i>additional</i> paths increasing access options in the area.</li> <li>o The operational routes can be viewed on Figure 14.3.5 of Appendix 14.3. The path (IN12.05) through Compound 1 during operation can be viewed on Figure 2.20 in Volume 3.</li> </ul> </li> </ul> <p>The Applicant has committed to installing the proposed construction diversions as set out within Appendix 14.3 at the pre-construction phase of the Development. The diversions will be in place before access is restricted on the existing network.</p>	<p>it is impossible to say if the alterations would be considered de minimus or if they met the Council's policies n renewables, public access or long distance routes.</p>	
<p>The South Loch Ness Trail follows the B852 here. <b>I recommend that the developer be required to install a traffic-free, off-road 2m wide aggregate path suitable for walkers, cyclists and horse riders that the operators of the scheme maintain for the lifespan of that scheme.</b> This is in common with Stronelairg's commitment to the South Loch Ness Trail between Fort Augustus and Glen Doe.</p>	<p>The Applicant proposes to provide a new path to the standards requested. There are two options for this new path which are subject to the final location of the valvehouse (which is shown on Figure 2.11 immediately adjacent to the B852) and the overall detailed design of the Tailpond Infrastructure::</p> <ul style="list-style-type: none"> <li>- The path could be moved south to the opposite side of the road (subject to private land agreements); or</li> <li>- If the security of the Tailpond Infrastructure is not compromised, then the route would continue alongside the lochside.</li> </ul> <p>It should be noted that this is an enhancement to the current route, and will be confirmed as part of the detailed design of the Development.</p> <p>The Applicant proposes to commit to providing funding for the maintenance of the path under a Section 75 agreement as part of the Development's community benefit. This would rationalise conditions on the Development. It should also be noted that a condition on the operational lifespan of the Development is not equivocal to the agreement with Stronelairg Wind Farm given the significantly longer lifespan of the Development of 80 years or greater compared to 25 years for a wind farm.</p>	<p>That is appreciated as is the comment on the timescale of the plan. If staff are on site to maintain the development it is reasonable that they might also maintain that length of path. That said if another solution is proposed or an organisation is willing to accept responsibility for the long term maintenance of the route it should form part of an access management plan.</p>	<p>The applicant is still investigating potential options for this undertaking, and would welcome any further comments the Council and Community Council in this regard. We would accept a condition for this to be confirmed prior to the commencement of construction.</p>