

The CNPA failed the planning test.....is there a but?

## Description



Shieling rope tow and track Saturday 21st January. Gaps between heather and holes in foreground certainly were caused by diggers scooping out vegetation for replanting under the rope tow contrary planning application.

In my two posts on the retrospective planning application for the Shieling Ski tow track last week ([see here](#)) and ([here](#)) I outlined why this was a test case for the National Park. On Friday the Cairngorms National Park Authority planning committee unanimously approved the recommendation of its officers and the application ([see here for news release](#)) or ([here](#)) for article in the Press and Journal. It was the wrong decision and while a number of Board Members asked searching questions of what is going on

at Cairngorm, the CNPA still appears to prefer to put its head in the sand rather than safeguard the area for the people who care about it, including skiers. It could have been so different.....

## **Parkspeak**

Here is what Eleanor Mackintosh, Convener of the CNPA Planning Committee said:

*“Both applications [the Shieling was one of two] comply with our planning policies but it is frustrating that the applicants did not gain the correct planning consents before undertaking their developments. That said – I am happy to support the enterprising developments at Inshriach – I think it provides the area with a unique tourist accommodation offering for visitors.*

*“I am also pleased that the proposals we are giving planning permission for at Cairngorm Mountain include a long term restoration plan for a wider area of ground, including the creation of new montane woodland habitat. This careful approach to balancing the operation of the ski resort with sensitive long term management of the ski area’s natural habitats is one we look forward to seeing as an integral part of all future plans to enhance the offering on the mountain.”*

The development may have complied with planning policies but it certainly did NOT comply with wider Park policies (including the Glenmore-Cairngorm Strategy recently approved by the Board and flood risk reduction). Development planning is supposed to support those policies, it says so in the Park Plan. It also demonstrates just how weak the Park’s Development Planning policies are: the hill track clearly contravenes SNH Guidance on Hill Tracks but this carries NO weight with the CNPA. Inevitably the gravel surface on the hill track will erode but the CNPA has nothing to say about this as it has no policy in this area. At a time when CNPA staff are struggling to respond to the unlawful hill tracks in the Park and generally atrocious standard of construction, this is a major failing which needs to put right. Any policy on hill tracks in National Parks should be far stronger than SNH’s guidance because that policy covers the country as a whole and the public has a right to expect more from protected areas.

While the montane planting is a small positive step in the right direction and was presumably negotiated behind closed doors (will it be HIE or Natural Retreats that pays for this?) perhaps Eleanor Mackintosh could explain why the CNPA didn’t take the opportunity to ask Natural Retreats to repair all the other damage it has caused in the Shieling area which was not part of the planning application?



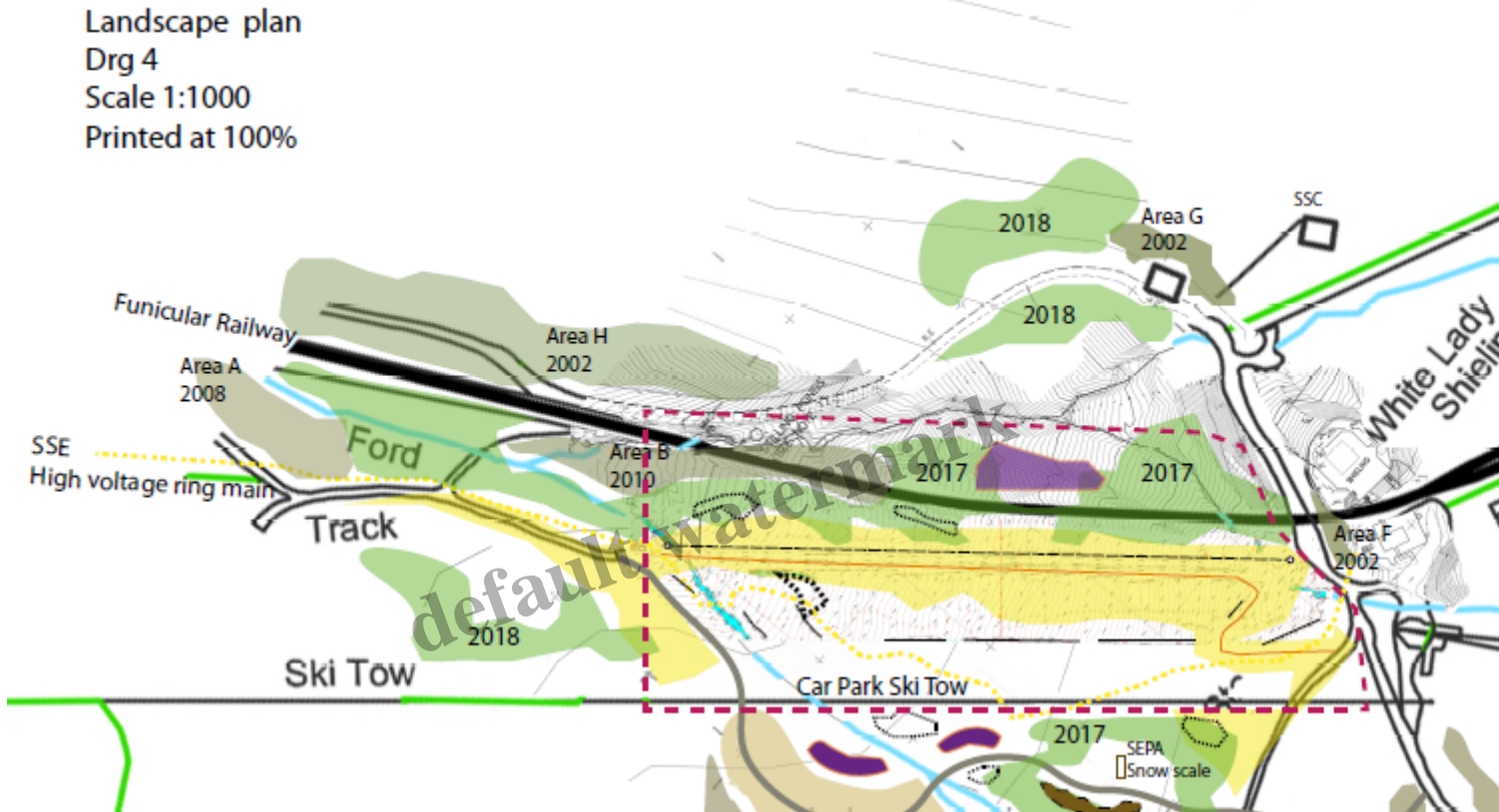
The slope above the Cas Gantry 21st January which Highland Council exempted from the need for permission. There is a drainage culvert under the stone to the left of the bottom of the V but its too small for the volume of water or became blocked, so the water overflowed causing the erosion in the centre of the gully. Another example of very poor design from Natural Retreats.



The track that has been created by vehicles driving across the heather by the Car Park t-bar rather than the existing track up to the mid-station. Natural Retreats claimed that the Shieling Hill track was needed to prevent vehicles driving all over the ski area but, the evidence suggests, continues to allow staff to drive vehicles wherever they wish.

Perhaps too Eleanor Mackintosh could explain how the CNPA's failure to take any action to stop the destruction at the Shieling three months after being told about it demonstrates a careful approach?

The problem appears to be that the CNPA simply accepts whatever land-managers say is necessary for operational purposes, even in cases such as at Cairngorm where those operators clearly haven't told the whole truth. An example came at the meeting where in response to questions to why the track was needed, I am told Natural Retreats staff said it was necessary to ensure vehicles avoided crossing the electric ring main. That this was nonsense was shown by Natural Retreats own landscape plan



The dotted yellow line starting mid-left, which illustrates the ring main, actually goes under the new hill track! Furthermore there is no issue with vehicles crossing the ring main, it simply needs to be run through a duct ([see here](#)). Unfortunately the CNPA seems incapable of challenging Natural Retreats on these false claims.

Neither does the CNPA seem capable or willing either to consider alternatives which might be more in keeping with the aims of the National Park. I know of at least two alternatives that were put to the Park. I sent one, after my last post on the Sheiling, [Email to CNPA re hill track](#), suggesting that vehicles could use the rope tow uptrack for occasional use. The North East Mountain Trust quite separately suggested that if the hill track was really only for occasional use, it should be resown and planted with heather to stop the erosion. One could debate the merits of either proposal – and I am sure they were not the only solutions – but the point is the CNPA appears to have failed to consider alternatives before taking the decision. As long as developers know the CNPA is not prepared to force them to consider alternatives, its quite predictable that the whole sorry business of unlawful developments followed by retrospective planning applications will continue.

Still, according to feedback I have had from the meeting (its not in the news release), Eleanor Mackintosh did agree to write to Natural Retreats expressing the Committee's displeasure at the retrospective nature of the application. This is the third time I am aware of that she has written such letters in the recent past (other cases have been the Dinnet Hill Tracks and the extensive development at Badaguish). It would be interesting to know if the CNPA can provide evidence that this has made any difference? Ultimately its actions, not words, that count.

What is different this time though is that the CNPA also agreed to write to HIE as landowner. This is significant and a step forward because HIE as landowner has failed to exert any control over Natural Retreats, its tenant, and indeed, as parkswatch revealed last week, had actually paid them for the illegal works (though it is now asking for £2000 back). Whether HIE will get this back, is less certain. As of at 11am on 31st January the accounts for the year to December 2015 for both Cairngorm Mountain Ltd (due on the 24th January) – the company vehicle through which Natural Retreats operates Cairngorm – and Natural Assets Investment Ltd (due 17th January) which owns CML Ltd were marked overdue on the Companies House website. Is this failure in financial governance acceptable to HIE? The best explanation for all the destruction at Cairngorm continues to be that this is all about money and the only reason for the hilltrack at the Shieling is that having destroyed the ground cover it was the cheapest option available to HIE and Natural Retreats. Unfortunately the CNPA is continuing to allow money to be put before the natural environment.

## **The planning problem**

While the Planning Committee has told Natural Retreats it expects them not to make retrospective planning applications in future, this is unlikely in itself to do anything to stop the destruction at Cairngorm. First, Highland Council has simply approved certain works on a de minimis basis despite the evidence of the destruction Natural Retreats is causing through such works.



The poor “restoration” of the new car park t-bar cabling agreed by Highland Council on a de minimis basis. Boulders have been dumped by the fence and the cable trench has not been properly filled in so a ditch has been created.

Second, where Highland Council did require Planning Permission, for the West Wall Poma, the CNPA failed to call in the planning application and Highland Council, like the CNPA at the Shieling, have failed to enforce planning requirements. Perhaps they expected the CNPA to take this up?



The vegetation on the slope above the top of the new West Wall poma return station has been destroyed by Ptarmigan beyond. Whatever work was done here does not appear to have been part of the planning for the West Wall poma and the re-seeding pellets show the “restoration” has taken far too late in the process. Photo taken Saturday 21st January.

Third, Natural Retreats continues to drive vehicles and shift boulders and vegetation all over the hill – there is extensive evidence for this.

## **The way forward**

Any long-term solution to the problems at Cairngorm will require a proactive National Park, a new



landowner to replace HIE and an operator at Cairngorm which is accountable to the local community, recreational and conservation interests. Meantime though, here are some things the CNPA could do to start tackling the problems at Cairngorm:

1. In their letter to Natural Retreats the CNPA should also ask them to produce an inventory of all the damage across the mountain with a view to developing proper plans – as were eventually submitted for the retrospective application for how to restore it – which should be subject to public consultation. There is no need that the only consultation that ever takes place is when planning permission is required.
2. The CNPA should also ask Natural Retreats to produce a policy and proper procedures on how to protect the environment at Cairngorm (everything from use of vehicles to restoration of ground) as requested by Murray Ferguson in an email last year. This too should be subject to public consultation. Both could form part of the masterplan for Cairngorm which Natural Retreats has committed to producing this year as part of the Glenmore-Cairngorm Strategy.
3. The CNPA in their letter to HIE should ask them publicly to commit to the points in points 1 and 2 above and, assuming they wish to continue their lease with Natural Retreats, amend it to incorporate these points.
4. The CNPA should also write to Highland Council asking them to agree a joint approach to planning at Cairngorm which should involve no further works being agreed on a de minimis basis or emergency basis (which avoids the need for planning permission) and a rapid response to any reported breaches of planning requirements. They should also agree what resource/expertise they need to oversee any future ground works at Cairngorm and who is in the best position to do this.

### **Category**

1. Cairngorms

### **Tags**

1. CNPA
2. HIE
3. hill tracks
4. planning
5. restoration

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