

The Feshie hill tracks – a dereliction of duty by the Cairngorms National Park Authority

Description

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LOCAL NEWS

Estate plans 15 miles of t

By TOM RAMAGE

CONCERNS have been raised over plans to construct 15 miles of tracks over the four estates in the strath owned by Danish clothing magnate Anders Povlsen.

The estate company moved swiftly to allay fears that Glenfeshie – regarded as the jewel in the Cairngorms crown – along with Gaick, Killiehuntly and Lynaberack could be damaged.

Wildland Limited submitted an application to Highland Council last week for forestry-related private ways at Glenfeshie Lodge.

There were fears the scale of the proposed tracks that the estate said it needed for forestry access could detract from the landscape.

The plan was to build the tracks over a period of five years.

Drumguish resident John Barton said: "The open country extending from Glen Tromie to Glen Feshie is a precious resource and its remoteness would be lost forever if there is permission to build these new roads.

"It is to be hoped the planning



CONCERNS: John Barton

authorities will look carefully at all aspects of the present proposal. They should question whether all the proposed roads are indeed necessary for forestry management."

He gave as an example Wildland Limited's proposal to build nearly four miles of new road from a point above Glenfeshie Lodge across to the Alt Bhran, from where there is an existing track leading to the Tromie.

"The new road would pass



Thomas MacDonell (left) fields questions from the Royal Scottish Forestry Society at Glenfeshie.

through two plantations, which can be accessed from an existing track.

"Also, a new road extending to some two-and-a-quarter miles is proposed for upper Glean Chomhraig.

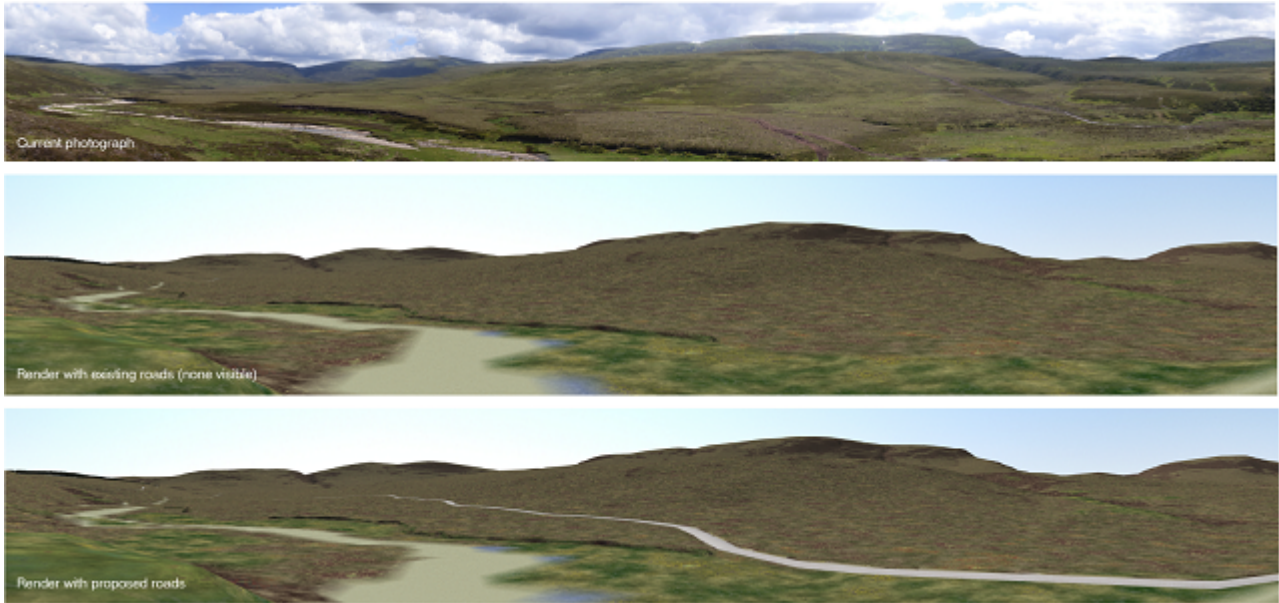
"There is no woodland in this area and one can only conclude that the road is intended to facilitate sporting activities."

He also said a new track would run close to Tom Fad – a deserted township with some unique

features – and deprive the its remote character'.

"Glen Feshie has already suffered over the years from roads – into the upper glen up and over the Cairngorm plateau."

Just when it appeared that the Cairngorms National Park Authority was starting to get a grip on the proliferation of hill tracks which has blighted the Cairngorms landscape, they have blown it. Faced with a proposal by WildLand Ltd, the company controlled by Anders Povlsen, the Danish billionaire to create almost 15 miles of new hill tracks between Glens Feshie and Tromie, they have decided these can go ahead without any planning approvals. This is an astonishing decision which undermines the planning system as well and the National Park Partnership Plan approved earlier this year. (You can view all the documentation that has been made public on the Highland Council Planning portal [here](#))



Photo/photomontage from the landscape assessment

The purpose of this post is not to consider the details of the proposed tracks, which form part of a wider plan to reforest a large area between the Feshie and Tromie with native woodland and which I will consider in a further post (there are I think many positive aspects to the proposals), but to look at this decision from a policy and planning perspective. What is important here is not just the size of the proposed developments – 15 miles of track in a National Park – but that 7.3km of the track are within the Cairngorms National Scenic Area and 9 km in the Cairngorms Wild Land Area.

The policy position of the Cairngorms National Park Authority and this decision

Many conservation and recreation organisations welcomed the statement in the National Park Partnership Plan approved earlier this year that there would be a presumption against new constructed tracks in open moorland areas.

This commitment was developed further in the Main Issues Report, which set out the main areas for public consultation in the forthcoming Local Development Plan, which was considered by the CNPA Board on 6th October:

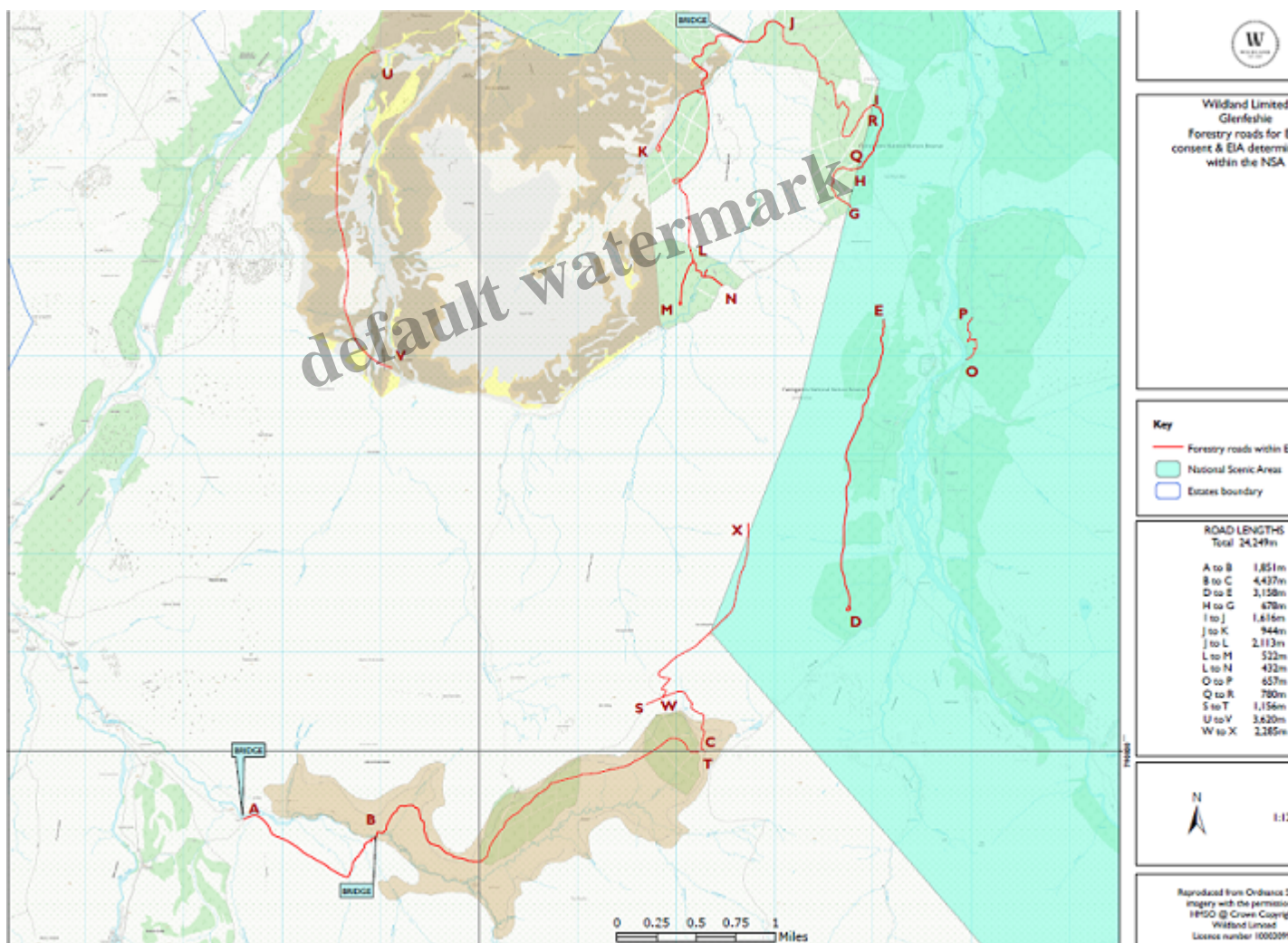
Preferred Option

The existing Local Development Plan includes a specific policy on landscape. It outlines a presumption against any development that does not conserve the landscape character and special qualities of the National Park. This has been used effectively to control and mitigate the impacts of new hill tracks in cases where they require planning permission. We think the existing policy will continue to provide an appropriate means for controlling these forms of development in the future. However, we also think that we could give more clarity on the issue

of hill tracks by amending the policy to reflect the National Park Partnership Plan's specific presumption against new tracks in areas of open moorland.

“Do you agree that the new Local Development Plan should include an amended policy to reflect the National Park Partnership Plan's presumption against new hill tracks in open moorland areas?”

It is somewhat ironic that just the day before ([see here](#)), on 5th October, CNPA staff had emailed Highland Council that despite the potentially significant landscape impact, they were content for the proposed tracks to be dealt with by Highland Council under the Prior Notification System.



The track proposals, the green area on the right mark the National Scenic Area while the tracks in the bottom half of the map are in the Cairngorms Wild Land area. Some of the proposed tracks including V, A-B and B to the green which marks the edge of the forestry plantation, run across open moorland. W-X is an upgraded ATV track which runs along the ridge of the Corbett Carn Dearg Mor.

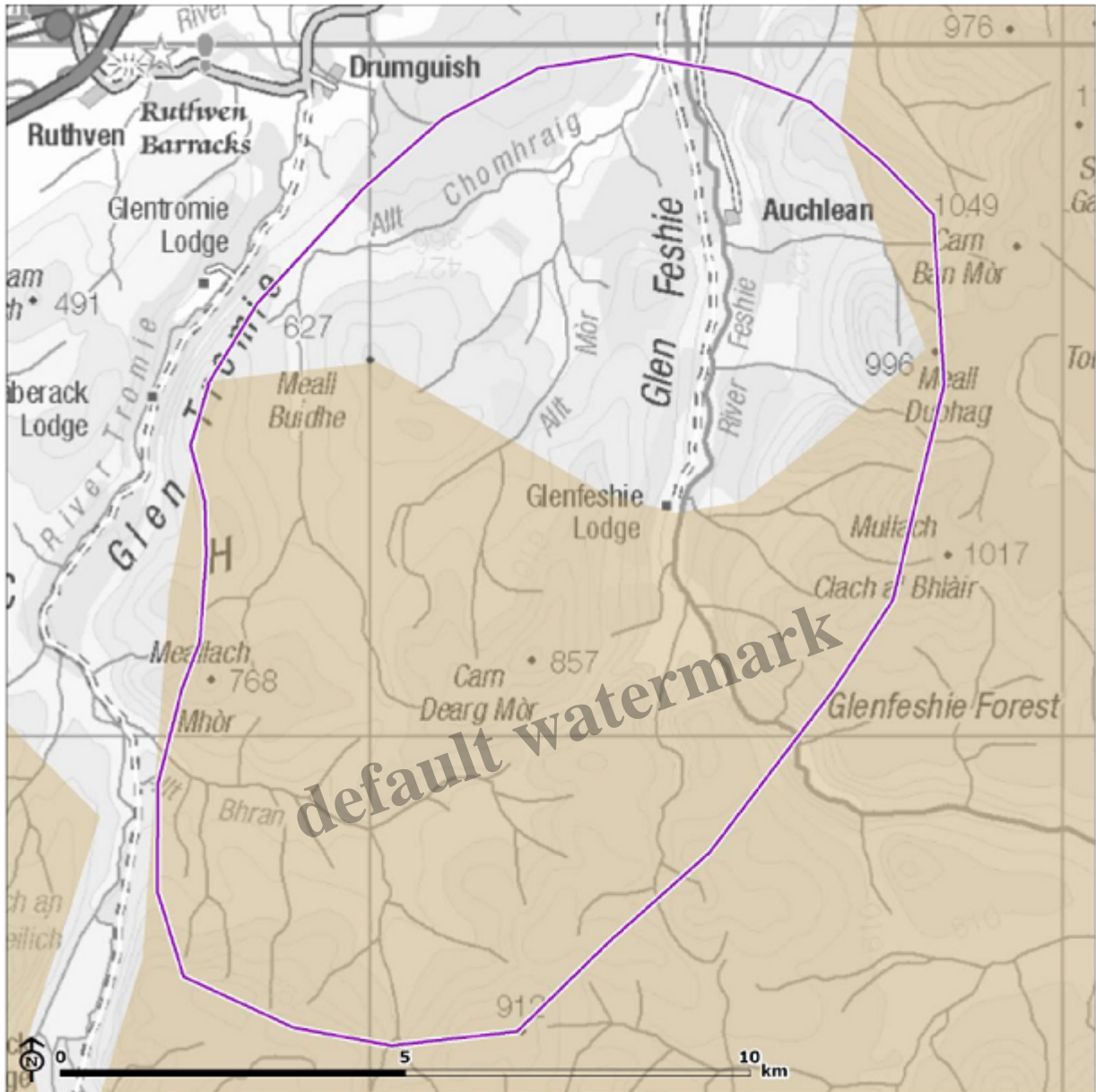
What is even more extraordinary about the CNPA decision is that back in the Spring, in their response

to the Government planning consultation on People, Places and Planning they had argued (rightly in my opinion) that the whole Prior Notification system for hill tracks was flawed and that tracks should require full planning permission:

We also consider that the review should consider whether some development that can be undertaken through prior notification or approval as agricultural and private roads and ways should simply require planning permission. Many tracks on open moorland and hills have some link to an agricultural purpose, even where the primary use is for sporting activities. These tracks can be contentious, but the public may never know of their approval nor have an opportunity to make representation on them. We suggest that new tracks on open ground that are not in enclosed farmland should simply require planning permission, irrespective of the purpose of the track.

The Feshie track proposal was, one might have thought, an ideal opportunity for the CNPA to consider properly the implications of a large development of hill tracks under the planning system and allow the public to comment. Instead, the CNPA have totally contravened their own policy position.

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The brown shading marks the Cairngorms Wild Land areas where there is supposed to be a presumption against new developments. Most of the proposed tracks in the application which fall into this area are in what is currently open moorland.

The situation is much worse than that however. By allowing the proposal to be decided under the Prior Notification system – which was introduced for agricultural and forestry tracks which are treated as permitted developments under our planning system – even if significant parts of the development were justifiable, the CNPA has lost any ability to control what happens under what the planning development and left the entire development to trust.

Where a track is agreed through the planning system, a planning authority will always attach conditions, for example about how it should be constructed. Wildland Ltd has produced far more documentation than would normally be submitted for Prior Notifications, for which it is to be

commended, and many of these look good. However, not only is the public being given no chance to comment – representations from the North East Mountain Trust who were consulted privately that the visual impact of the tracks would be reduced by a vegetated central strip have been ignored – the CNPA and Highland Council now have no means of ensuring what has been proposed happens in practice. Without planning conditions, there can be no enforcement. This development is being left to trust.

What is going on?

I do not think responsibility for this mess lies with the Feshie Estate/WildLand Ltd but with our public authorities. These include Forestry Commission Scotland, SNH, Highland Council as well as the Cairngorms National Park Authority. Its clear from references in the planning documentation that Wildland Ltd consulted with our public authorities as early as last December. Its also appears that initially the CNPA did the right thing and asked for a full landscape assessment, as is evidenced by his extract from a communication quoted in the landscape assessment produced by Wildland Ltd:

"The proposed development is an integral part of a large enhancement project. However there will be a considerable be achieved and over the next few decades the new tracks upgraded and repaired existing tracks, risk having a significant of the special landscape qualities and Wild Land experience. Whilst the desired end result of a natural-appearing wood protracted and there is always a risk that this will not be prominent features in the landscape. This risk, along with experience of special landscape qualities (SLQ) and Wild Land recommend that a SLQ impact assessment and a Wild Land out, either as part of an EIA or as free-standing assessment mitigation opportunities is built into the assessment. Con assessment process."

What then happened is also revealed by the WildLand Ltd documentation:

Following an on-site meeting between Highland Council on 25th and 26th of April 2016, there was an agreed outcome applied for road construction in relation to woodland roads on how these roads will be constructed, along with the plans have also recently been given consent through the planning process, which are appended within this report. Further to the EIA screening process a Special Landscape Quality Assessment has been undertaken (Appendix m), along with a NVC survey (Appendix n).

So, just as the CNPA were telling the Scottish Government that the Prior Notification system was not fit for the purpose and before they had received any detailed information about whether the tracks could be said to be forestry or not, they had agreed that the proposals should be dealt with under the Prior Notification system. This effectively pre-judged the decision and ruled out any public engagement and consultation. I had been feeling a bit guilty that it has taken me three weeks, since I first heard about the proposals, to consider them on parkswatch but its clear the decision was effectively made well before then.

There is nothing to indicate that WildLand Ltd would have objected if they had been asked to submit a full planning application which could have been considered by the public. While there are legal complexities about when a forestry track is a forestry track, the Wildland Ltd documentation makes it clear that these tracks are also to assist with deer management and have been designed to improve recreational access by walkers and cyclists. In other words they are not pretending, as many estates do, that these tracks are solely for forestry purposes and therefore don't require planning permission. And while there might have been complexities in considering in one application tracks that did not require planning permission with those that should have required it, it is clear from the fact that WildLand Ltd submitted this as one proposal – rather than the normal track creep which is so evident in places like Drumochter – that they are trying to be open and transparent. Its our public authorities which are the issue.

I can think of several possible explanations for the CNPA's stance, none of which in my view are appropriate for a National Park:

- A full planning application – which would have required Board visits etc – was too much work.
- The CNPA trust WildLand Ltd, in a way that they don't trust other estates – hence they don't see the need for planning conditions.
- That because Glen Feshie has been successfully reducing deer numbers and enabling native woodland to regenerate, its crucial to the National Park achieving its landscape scale restoration targets, and the CNPA therefore did not want to risk this being disrupted in any way through a planning application.

To me though none of these quite ring true. I had started out by thinking perhaps the CNPA was under huge pressure from Glen Feshie estate but looking at the planning I don't think that is the case. Feshie appear to have been co-operative. I am left with the suspicion that there is some hidden factor behind this terrible decision. Perhaps the CNPA will disprove this and publicly explain their position and why they appear to have ignored their own and national policy?

Its time the CNPA started to put its money where its mouth is, trust public consultation processes and use them properly. Had they done so, I am sure the end result could have been a new track network which achieved conservation purposes but with less impact on the landscape and wild land then the current proposals. Examples of this will be considered in a future post.

Category

1. Cairngorms

Tags

1. CNPA
2. Forestry Commission Scotland
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