

Unfit for purpose – the Prior Notification system for forest tracks in the Lomond and Trossachs National Park

Description



The Inverardran Forest Rd in Upper Glen Falloch on 8th August. Forest and Land Scotland had submitted a Prior Notification of their intention to construct this road the previous week, on 29th July

On 6th September, a couple of days before my post [More forestry shenanigans – the recently constructed road in upper Glen Falloch](#), I had written to the Director of Planning at the Loch Lomond and Trossachs National Park Authority asking him to clarify when the track was built and out of what materials. I received a reply on 22nd December ([see here](#) for both my email and the reply).

The LLTNPA's response confirmed the photographic evidence, Forest and Land Scotland (FLS) had constructed this road BEFORE planning staff had had a chance to decide whether Prior Approval was required. Disgracefully, FLS had NOT told LLTNPA staff they had done so. FLS therefore acted

unlawfully. In such situations, permitted development rights, as set out in Planning Circular 2/2015 ([see here](#)), no longer apply:

“Requirement to comply with conditions and restrictions of Permitted Development Rights.

In order to benefit from PDR a person must comply with all the requirements of the relevant class as set out in the GPDO [General Permitted Development Order], otherwise the PDR do not apply. This means that where prior notification and approval is required a developer or landowner:

- must submit a prior notification before starting construction or alteration of a private way;*
- must not start construction or alteration before the prior notification is determined, the 28 day period expires or, where appropriate, prior approval is received; and,*
- must construct the private way in accordance with the details of the route, design and method of construction supplied in the prior notification or, where appropriate, as detailed in the prior approval.”*

Three “musts” all breached. Having failed to meet the requirements of the Prior Notification system, this forest road should therefore have required full planning permission.

The LLTNPA response fails to mention this point and also fails to say if they have taken the matter up with FLS, which requested as in my view FLS’ actions were threatening “to undermine the planning system”. This appears to be another example of our public authorities conniving, under the cover of “partnership” working, to undermine the law. It should be a cause of massive concern, both to the general public who care about the countryside and to politicians.

The LLTNPA’s response to me also admits that *“the officer’s report of handling ([see here](#)) was incorrect to state that ‘no new material was to be used’ as the evidence in my photos showed:*



Significant quantities of new aggregate was brought to construct the road:

How the officer made this mistake is unclear as the LLTNPA's response also states that "*The application form for this proposal [not available to the public on the LLTNPA planning portal] did confirm that the track would be surfaced with a wearing course to be imported from the nearest FLS quarry*".

The LLTNPA response goes on to add "*There is no other 'specification of works' available*". That provides more telling evidence of how the LLTNPA are failing to use their planning powers to promote the statutory objectives of the National Park. The whole point of the Prior Notification system, as set out in Planning Circular 2/2015, is that it allows Planning Authority to influence the design of what are otherwise permitted developments, like forest roads, in sensitive areas like National Parks:

3 Requiring planning applications in circumstances where the planning system can add little, or no, value imposes unnecessary costs and causes delays to development. Equally however, if permitted development rights are set too widely, there is a risk of inappropriate development taking place. Concerns have been expressed in recent years regarding the number and scale of private ways constructed, particularly but not exclusively, where these are located in sensitive upland areas. Landscape, visual and environmental impacts, flooding, drainage and erosion have all been identified as potential concerns [

my underlining].

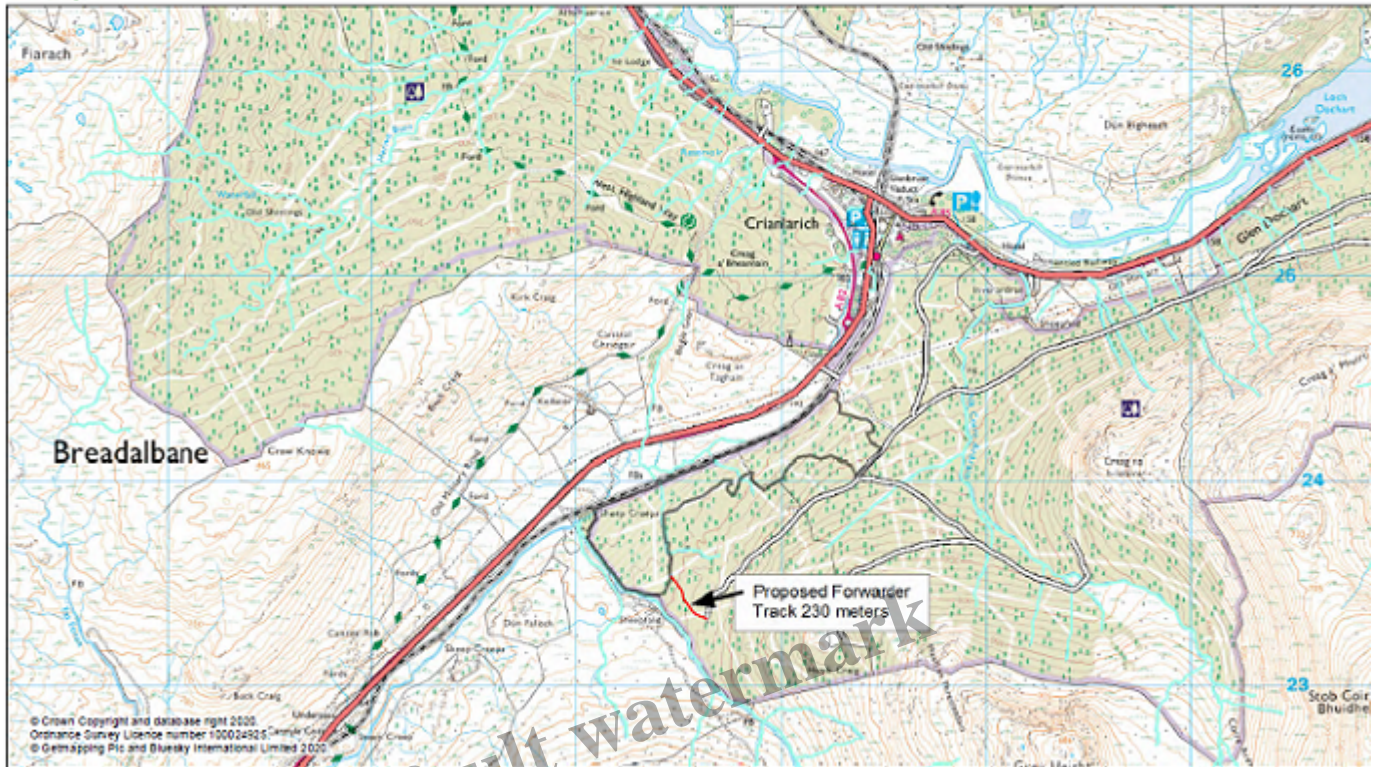
4. The introduction of the prior notification procedure is intended to balance these concerns by providing authorities with a means of regulating, where necessary, important aspects of agricultural and forestry development for which an application for full planning permission is not required by virtue of the the GPDO. Prior notification is therefore an important tool in preventing inappropriate construction of private ways.

Once notified of an otherwise permitted development, like a forest road, through the Prior Notification system, a Planning Authority can then require Planning Approval. This allows Planning Authorities to influence the design details:

“Prior approval allows the PA to consider the proposed design and manner of construction of the private way, the details of the materials to be used and the route, and to request any amendments they consider necessary to these details in the context of its setting. Where amendments are considered necessary it is expected that the planning authority will require that the private way is constructed or altered in accordance with the amended details that they approve.”

LLTNPA planners, however, decided Prior Approval was not needed. In my view, the photos speak for themselves, this short road has a significant impact on the landscape and environment in upper Glen Falloch. The LLTNPA dismissed this in their report on the Prior Notification stating *“There is not considered to be visual impact on the landscape from the village of Crianlarich”*. A quick look at the map accompanying the retrospective “Prior”Notification should have told them this is nonsense:

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Extract from map on LLTNPA planning portal

Criarlach is two kilometres away, out of sight over the col separating Glen Falloch from Strath Fillan and separated from the village by large blocks of conifers.

What matters is the view from Upper Glen Falloch, which is popular with hillwalkers which the LLTNPA failed to consider. There, as I pointed out in my earlier post, the LLTNPA has rightly required Glen Falloch Estates to undertake restoration work on their botched hydro track, so why are they allowing Forestry and Land Scotland to get away with different standards on the other side of the river?

In a further indication that it has abdicated its planning responsibilities, the LLTNPA's response to me states:

"This track is we understand to be temporary and the above land management plan confirms that, when no longer needed for extraction of timber, the width will be narrowed and the surface allowed to green over"

This tells you that the LLTNPA decided FLS could go ahead with this road without Prior Approval without even having established whether it would be permanent or temporary. While now claiming its temporary, the LLTNPA then contradict themselves by stating that when no longer needed it will be narrowed – by how much and what will happen to all the aggregate? – and then allowed to "green over". It looks as if any restoration will be just left to nature. The LLTNPA have completely ignored the longer-term impacts that dumping aggregate onto soils to create the new road will have on their ability to absorb carbon and on ecosystems.

Having failed to ask for any documentation, the LLTNPA now have no recourse should FLS decide to do something different. So far, none of the erroneous documentation on the Planning Portal has been corrected.

There is nothing in either the planning report or their response to me to suggest that the LLTNPA Planning Department is doing anything to further the Park's statutory conservation duty. Instead, this case provides further evidence that the Prior Notification system for forest tracks is not working and the LLTNPA are in cahoots with Forest and Land Scotland.

Regular readers may recall that James Stuart, Convener of the LLTNPA, is also paid to be a member of the Scottish Forestry Strategic Advisory Group ([see here](#)), which regulates the whole industry:

James Angus Stuart (Non-Executive)			
Directorship			
Company	Role	Date of Appointment	Date of Resignation
One Planet Consulting Ltd	Director	02 April 2020	Current
Other Public Appointments	Role	Date of Appointment	Date of Resignation
Loch Lomond and the Trossachs National Park	Convener (Chair)	03 March 2017	Current
Any transactions with Scottish Forestry during 2019-20			
Name of company and role: None			
Description of transaction(s)	Aggregate amount of transactions for the year	Amount outstanding at 31 March 2020	Amounts written off during the year
N/A	N/A	N/A	N/A
Any other matter			
Chair of National Parks UK – voluntary role			
Member of Industry Leadership Group for Scottish Tourism – voluntary role			
Consultancy – paid commissions mainly in tourism sector			

Extract from Declaration of Interests

While James Stuart may not have done any commercial business with Scottish Forestry in 2019-20, what this declaration fails to say is that in 2019-20 the LLTNPA approved its Trees and Woodland Strategy ([see here for posts](#)). This gave a green light to FLS and other forestry interests to apply the same standards to their forest operations in the National Park as they do elsewhere. That strategy undermines even the weak protections offered by the Prior Notification system which advocates that, in sensitive areas like National Parks, Planning Authorities:

" will also need to consider issues such as; the visual effect of the development on the landscape, flood risk, the impact on local amenity and environmental impacts to soils and the water environment,

including wetlands.”

I will now write to Mr Stuart asking that he takes up the failures evident in this case both with his own staff and with Forestry Scotland. He is ideally placed to change the current set-up which allows industrial forestry practices, which have trashed so much of the National Park, to continue unabated.

Category

1. Loch Lomond and Trossachs

Tags

1. Forestry and Land Scotland
2. forestry scotland
3. hill tracks
4. landscape
5. natural environment
6. planning

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