
CAIRNGORMS NATIONAL PARK AUTHORITY

DEVELOPMENT PROPOSED:

Repair and improvements to existing hill road/private way at Balavil House
Kingussie Highland PH21 ILU

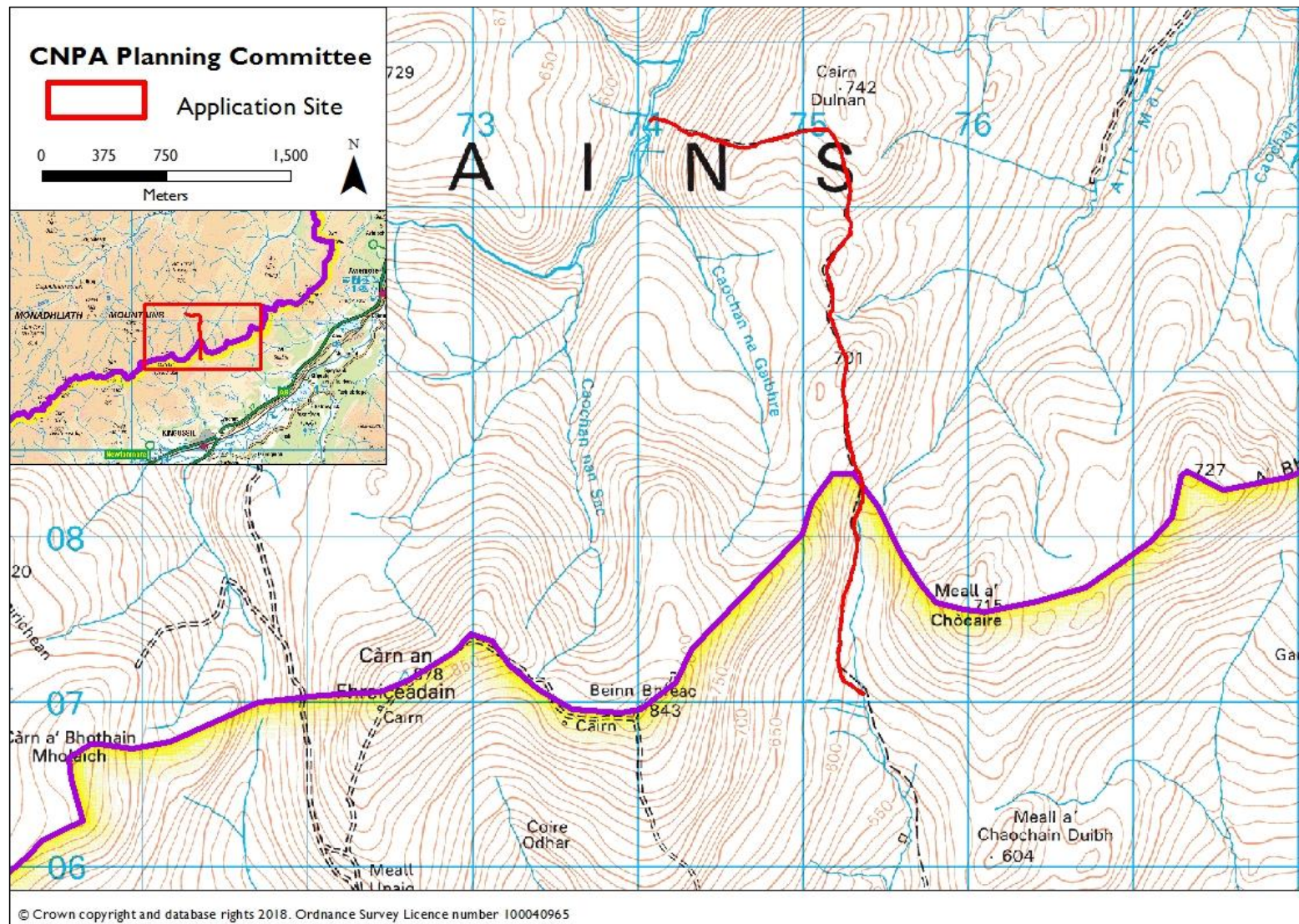
REFERENCE: 2018/0400/DET

APPLICANT: Balavil Estate

DATE CALLED-IN: 17 October 2018

RECOMMENDATION: Approve Subject to Conditions

CASE OFFICER: Edward Swales Planning Officer



SITE DESCRIPTION, PROPOSAL AND HISTORY

Site Description

- The proposed track is accessed via Balavil Farm approximately 2 miles east of the village of Kingussie. From the farm an existing estate track runs up the glen where an existing laydown/turning circle forms the end of the track, around 400m north of the Ruighe na Roig Bothy. The site is within an area of designated Wild Land and crosses open moor land. The route of the proposal is marked on ordnance survey maps as a footpath and is an established route for estate vehicles, though only some sections have been constructed in the past.

Proposal

- The drawings and documents associated with this application are listed below and are available on the Cairngorms National Park Authority website unless noted otherwise:

<http://www.eplanningcnpa.co.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PGR2UASIOCH00>

Title	Drawing Number	Date on Plan*	Date Received
Other - Wild Land Area Impact Assessment		18/06/18	22/10/18
Other - Assessment of the potential engineering and construction impact on the water environment for the proposed track upgrade		18/06/18	22/10/18
Other - Supporting Statement			22/10/18
Other - Peat depth survey along the proposed route of the track upgrade		18/06/18	22/10/18
Other - Operational Need Assessment		01/06/18	22/10/18
Other - Method Statement			22/10/18
Other - Phase I Habitat Survey		18/06/18	22/10/18
Other - Environmental Statement		18/06/18	22/10/18
Plan - Wild Land Area Assessment Map 2 Photograph Locations		18/06/18	22/10/18
Plan - Typical Borrow Pit Detail			22/10/18
Plan - Typical Construction Layout For Repairing Tracks Inc. Shallow Borrow Pits			22/10/18

Plan - Re-alignment Of Peat Erosion			22/10/18
Plan - Existing Watercourse Culvert			22/10/18
Plan - Road Crossing Culvert From Parallel Borrow Pit/Drainage Channel			22/10/18
Plan - Site Plan		01/07/18	22/10/18
Plan - Location Plan/Site Plan		01/12/17	22/10/18

*Where no specific day of month has been provided on the plan, the system defaults to the 1st of the month.

- At the laydown/turning circle the proposed track will cross the watercourse and run 3 miles north towards Cairn Dulnain, then drop down to the west and downhill towards the River Dulnain, part of the River Spey SAC stopping around 400m from the banks of the river. 1 mile of the track is within the National Park boundary and 2 miles are outside the boundary. In the Operational Need Assessment the proposed use of the track will be mixed between agricultural and sporting. The plans are attached as Appendix I.

History

- The applicant entered Pre-app discussions with the National Park where it was agreed they should consider an alternate route avoiding deep peat. It was recommended that the track is extended 400metres to the north across the dry heath area and then a new route zig-zags down the hill through an area of shallow peat and dry heath habitat thereby avoiding the deep peat area, although the proposal has addressed concerns with varying the route in the Justification through a Wild Land Assessment and Peat Depth Survey which has explained why this is not feasible.

DEVELOPMENT PLAN CONTEXT

Policies

National Policy	Scottish Planning Policy 2014	
Strategic Policy	Cairngorms National Park Partnership Plan 2017 - 2022	
Local Plan Policy	Cairngorms National Park Local Development Plan (2015) Those policies relevant to the assessment of this application are marked with a cross	
POLICY 1	NEW HOUSING DEVELOPMENT	
POLICY 2	SUPPORTING ECONOMIC GROWTH	
POLICY 3	SUSTAINABLE DESIGN	X
POLICY 4	NATURAL HERITAGE	X
POLICY 5	LANDSCAPE	X
POLICY 6	THE SITING AND DESIGN OF DIGITAL COMMUNICATIONS EQUIPMENT	
POLICY 7	RENEWABLE ENERGY	
POLICY 8	SPORT AND RECREATION	
POLICY 9	CULTURAL HERITAGE	

POLICY 10	RESOURCES	X
POLICY 11	DEVELOPER CONTRIBUTIONS	

5. All new development proposals require to be assessed in relation to policies contained in the adopted Local Development Plan. The full wording of policies can be found at:

<http://cairngorms.co.uk/uploads/documents/Park%20Authority/Planning/LDPI5.pdf>

6. As part of the track falls outside the Cairngorms National Park boundary, that section requires to be considered against the policies within the Highland-wide Local Development Plan 2012.

Relevant Policies

POLICY 57	NATURAL, BUILT AND CULTURAL	X
POLICY 60	OTHER IMPORTANT HABITATS AND ARTICLE 10 FEATURES	X
POLICY 61	LANDSCAPE	X

Planning Guidance

7. Supplementary guidance also forms part of the Local Development Plan and provides more details about how to comply with the policies. Guidance that is relevant to this application is marked with a cross.

Policy 1	New Housing Development Non-Statutory Guidance	
Policy 2	Supporting Economic Growth Non-Statutory Guidance	
Policy 3	Sustainable Design Non-Statutory Guidance	X
Policy 4	Natural Heritage Supplementary Guidance	X
Policy 5	Landscape Non-Statutory Guidance	X
Policy 7	Renewable Energy Supplementary Guidance	
Policy 8	Sport and Recreation Non-Statutory Guidance	
Policy 9	Cultural Heritage Non-Statutory Guidance	
Policy 10	Resources Non-Statutory Guidance	X
Policy 11	Developer Contributions Supplementary Guidance	

CONSULTATIONS

A summary of the main issues raised by consultees now follows:

8. **SEPA** initially objected on the ground of a lack of information on flood risk but the agent has contacted them and given them the assurances they require to remove the objection provided that a suspensive condition requiring information to demonstrate that both the watercourse crossing and the culverts can convey the 1 in 200 year flow is added to any approval granted.
9. **SNH** have concluded that the proposed track will not impact on the River Spey SAC and that the track should be constructed in a manner which would avoid unacceptable impacts on the qualities of the wild land area.

10. This conclusion has been made by the fact that there is already an ATV route through the glen which will only create more of a permanent scar should this practice continue, although it is on the proviso that a condition requiring a construction method statement is sought to ensure sensitive construction.
11. **CNPA Ecology** states construction of the proposed formal track, 3m wide with drainage and associated borrow pits has potential to have a significant adverse impact on deep peat habitats. This is through direct loss of habitat (under the track footprint) and damage to peat soils and associated hydrology during and post construction, which can lead to further deterioration over time (such as peat wash outs and peat hags).
12. In line with the comments by SNH and CNPA Landscape if the track is built to a high standard, narrowed to 2.5m and restoration of previously damaged ATV ground then the track will have minimal impact to that habitat.
13. In addition to the repairing of existing damaged peat alongside the proposed track, as compensation for the permanent loss of habitat through construction of a formal track, the following is required to be included in the proposals;
 - a) Details of drain blocking on Meall á Chòcaire
 - b) Detailed proposals for juniper woodland to be created/restored in association with the track descending to the river Dulnain.
14. **CNPA Landscape** states that there will be a locally significant impact in the short to medium term (where the track crosses deep peat and ascends steeper slopes), but not significant in the long term.
15. The overall judgement of the significance of the effect of the proposed track on the Wild Land study area as submitted as part of this application is concluded to be 'not significant' and unlikely to have an impact on the wider Monadhliath Wild Land Area. The Landscape advisor agrees with that statement on the basis that a construction method statement is submitted prior to works commencing, in line with SNH and CNPA Ecology comments. This will be controlled through a detailed suspensive condition requiring a Construction Method Statement.
16. **CNPA Peatland Officer** supports the comments provided by the CNPA Landscape Advisor and Ecologist on the need for better design statements for the track construction particularly over the areas of deep peat. Also that the upgrading of the ATV track to a hill track with a mineral surface will have significant localised negative impacts on the blanket bog habitat.
17. The Peatland Officer also recommends mitigation in line with that of ecology, landscape and SNH. As with those comments these will be addressed through a suspensive condition.
18. **Kingussie and Vicinity Community Council** have made no comment to date regarding this proposal.

REPRESENTATIONS

19. There have been no representations for this application.

APPRAISAL

Principle of a new track in the proposed location

20. **Policy 3:** Sustainable design of the Cairngorms National Park Local Development Plan 2015 states that new development in this context should minimise the effect of the development on climate change in terms of siting and construction.
21. The principle of this proposal is to consider whether a new track is acceptable in its proposed location given the wild land, ecology and landscape impacts of the development.
22. The track is described as a repair and improvement and shown on the OS maps as being a pre-existing track, although aerial imagery and a visit to the site shows there is relatively little development on the ground and that much the track is a repeatedly driven ATV route. The principle of allowing the track aligns with the advice given by the internal heritage consultees and SNH in that if well designed and constructed, it will reduce the landscape and physical impacts of damaged ground. Accordingly under the terms of **Policy 3** there is policy support for the track repair and improvement providing it complies with all other relevant Local Development Plan policies.

Environmental Impacts

23. **Policy 4:** Natural Heritage of the Cairngorms National Park Local Development Plan 2015 seeks to ensure that there is no adverse impact upon protected species or biodiversity whilst **Policy 5:** Landscape presumes against development which does not conserve and enhance the landscape character and special qualities of the National Park and in particular the setting of the proposed development.
24. **Policy 57:** Natural, Built and Cultural Heritage of the Highland-wide Local Development Plan 2012 states that all development proposals will be assessed taking into account the level of importance and type of heritage features, the form and scale of the development, and any impact on the feature and its setting, **Policy 60:** Other Important Habitats and Article 10 Features states that where it is judged that the reasons in favour of a development clearly outweigh the desirability of retaining those important habitats, the authority will seek to put in place satisfactory mitigation measures, including where appropriate consideration of compensatory habitat creation and **Policy 61:** Landscape of the Highland-wide Local Development Plan 2012 states new developments should be designed to reflect the landscape characteristics and special qualities identified in the Landscape Character Assessment of the area in which they are proposed. The impacts of the proposed track are considered to be less than those caused by a repeatedly driven ATV route on the basis that the construction will be a high standard and limited to narrowing the track sides to 2.5m, providing site specific construction details, including post construction, details of borrow pit restoration and peatland restoration.

25. In addition, confirmation of setting out a construction corridor, pegging out of the route, timings of any works planned, the provision of an ECoW with a scope of works to oversee the development will be required to be required via suspensive conditions.
26. Subject to these conditions the proposal complies with **Policy 4**: Natural Heritage and **Policy 5**: Landscape of the Cairngorms National Park Local Development Plan 2015 as well as **Policy 57**: Natural, Built and Cultural, **Policy 60**: Other Important Habitats and Article 10 Features and **Policy 61**: Landscape of the Highland-wide Local Development Plan 2012.
27. **Flooding and Drainage**
28. **Policy 10**: Resources of the Cairngorms National Park Local Development Plan 2015 sets out the need to fully consider impacts on flooding and water resources. SEPA have requested a condition also be attached requiring the submission of information to demonstrate that both the watercourse crossing and the culverts can convey the 1 in 200 year flow. This should be in the form of plans showing the crossing of the culverts with their width retained in order that the flow will not be constricted. The plans should also demonstrate the track at no point will increase ground levels within the functional floodplain. As a result the proposal complies with **Policy 10**: Resources of the Cairngorms National Park Local Development Plan 2015.

CONCLUSION

29. The track itself will introduce a new feature within an area of wild land but through the use of conditions requiring construction to be of the highest standard it is considered the principle of this development complies fully with Local Development Plan policies.

RECOMMENDATION

That Members of the Committee support a recommendation to repair and improve the existing track at Balavil Estate, Kingussie subject to the following conditions:

Those conditions listed below in bold text are suspensive conditions, which require to be discharged prior to implementation of the development.

Conditions

- I. **No work shall commence on site until the submission of information to demonstrate that both the watercourse crossing and the culverts can convey the 1 in 200 year flow has been submitted to and approved by the CNPA acting as Planning Authority in consultation with SEPA. Plans of the crossing and culverts should show that they will retain the width of the channel and will not constrict flow. It should also be confirmed that the approved track will not increase ground levels within the functional floodplain. This should be provided for the written satisfaction of the planning authority in consultation with SEPA prior to the works and carried out as per the approved plans.**

Reason: To protect people and property from flood risk in accordance with Policy 3: Sustainable Design of the Cairngorms Local Development Plan 2015.

2. **No work shall commence on site until a revised detailed, site specific Construction Method Statement (CMS) has been submitted to and approved by the CNPA acting as Planning Authority in consultation with SNH. The CMS shall cover the following matters;**
 - a) **Confirmation of the working corridor, route and track width, demonstrating how the track will be restricted to 2.5m in width, along with section specific methods of construction. Section specific methods of construction shall also include protection of watercourses, avoidance of habitats including, but not limited to, acid flushes, bog pools and Groundwater Dependent Terrestrial Ecosystems.**
 - b) **Details of restoration, including the rolling restoration along the route, restoration of the surrounding ATV tracks and associated peatlands and restoration of borrow pits.**
 - c) **Duration, timing and phasing of works (including any in river works) and including restoration timetable.**

The CMS shall also include details for ecological compensation including:

- a) **Details of drain blocking on Meall á Chòcaire**
- b) **Detailed proposals for juniper woodland to be created/restored in association with the track descending to the river Dulnain.**

The works shall be implemented in accordance with the details submitted to the CNPA.

Reason: To ensure that the development conserves and enhances the landscape character of the wild land area in accordance with Policy 4: Natural Heritage and Policy 5: Landscape of the Cairngorms Local Development Plan 2015 as well as Policy 57: Natural, Built and Cultural, Policy 60: Other Important Habitats and Article 10 Features and Policy 61: Landscape of the Highland-wide Local Development Plan 2012.

3. **No work shall commence on site until an Ecological Clerk of Works (ECOW) has been appointed by the developer who shall thereafter oversee the site works and ensure compliance with the environmental monitoring plan and construction method statement during the construction and restoration phases of the development hereby approved. Prior to appointing the ECoW, a 'scope of works' which shall include a timetable for visits and submission of reports, shall be submitted to, and approved in writing by, the Cairngorms National Park Authority acting as Planning Authority (CNPA) and thereafter details of the appointed person shall be supplied to the CNPA.**

Reason: To ensure that environmental impacts are reduced and mitigated in accordance with Policy 4: Natural Heritage and Policy 5: Landscape of the Cairngorms Local Development Plan 2015 as well as Policy 57: Natural, Built and Cultural, Policy 60: Other Important Habitats and Article 10 Features and Policy 61: Landscape of the Highland-wide Local Development Plan 2012.

4. Notwithstanding the approved plans and documents the track width shall be limited to 2.5meters.

Reason: To ensure that environmental impacts are reduced and mitigated in accordance with Policy 4: Natural Heritage and Policy 5: Landscape of the Cairngorms Local Development Plan 2015 as well as Policy 57: Natural, Built and Cultural, Policy 60: Other Important Habitats and Article 10 Features and Policy 61: Landscape of the Highland-wide Local Development Plan 2012.

Informatives

- 1 The development hereby approved must commence within 3 years of the date of this decision notice. If development has not commenced within this period then this planning permission will lapse.
- 2 The person undertaking the development is required to give the Planning Authority prior written notification of the date on which it is intended to commence the development. Attached to this decision notice is a Notice of Initiation of Development for completion and submission. Submission of this information assists the Cairngorms National Park Authority Monitoring and Enforcement Officer in monitoring active work within the area to ensure compliance with the approved details and to identify and correct any potential problems, as they arise, rather than later when it may be more difficult and more costly to rectify. Failure to give notice would constitute a breach of planning control which may result in enforcement action being taken.
- 3 Following completion of the development, a notification of the completion shall, as soon as practicable, be given to the Planning Authority. Attached to this decision notice is a Notice of Completion of Development for completion and submission. Submission of this form will assist the Cairngorms National Park Authority Monitoring and Enforcement Officer in making a final inspection and checking compliance with the approved drawings and conditions. If the development hereby approved is to be carried out in phases, then a notice of completion should be submitted at the completion of each phase.

The map on the first page of this report has been produced to aid in the statutory process of dealing with planning applications. The map is to help identify the site and its surroundings and to aid Planning Officers, Committee Members and the Public in the determination of the proposal. Maps shown in the Planning Committee Report can only be used for the purposes of the Planning Committee. Any other use risks infringing Crown Copyright and may lead to prosecution or civil proceedings. Maps produced within this Planning Committee Report can only be reproduced with the express permission of the Cairngorms National Park Authority and other Copyright holders. This permission must be granted in advance.