
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

Prepared by: MARY GRIER (PLANNING OFFICER,
DEVELOPMENT CONTROL)

DEVELOPMENT PROPOSED: PLANNING PERMISSION FOR THE CONSTRUCTION OF A VEHICLE HILL TRACK AT DRUMOCHTER LODGE, DALWHINNIE.

REFERENCE: 05/166/CP

APPLICANT: MR. JAMES FINDLAY,
C/O MILTON LODGE, NEWTONMORE.

DATE CALLED-IN: 8TH APRIL 2005

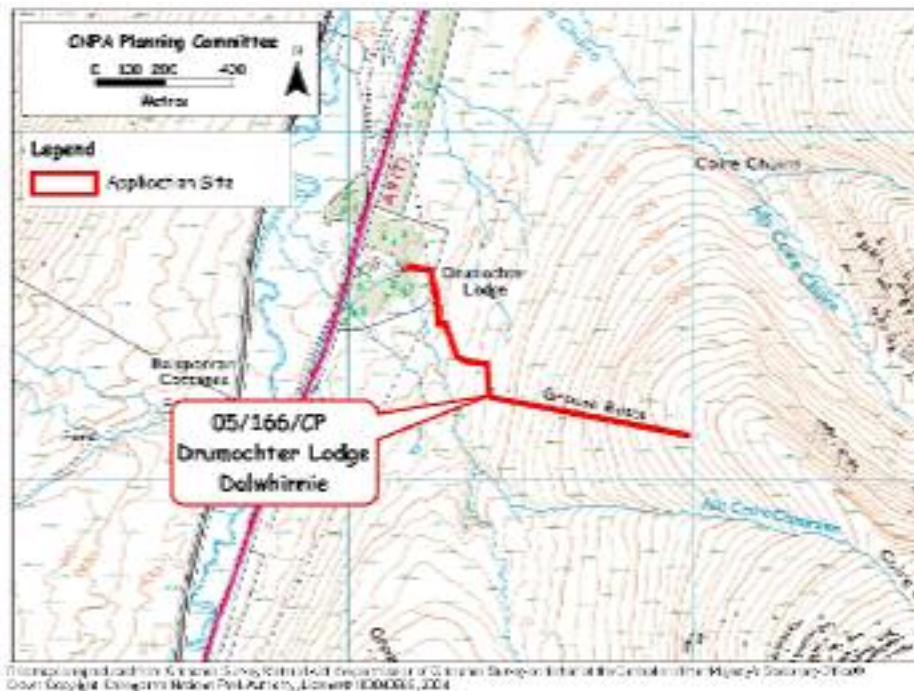


Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. The proposed site is located in the most southerly area of the Cairngorms National Park, on land to the rear of North Drumochter Lodge at Dalwhinnie, relatively close to the A9, which is the principal entry point into the Park.
2. The proposal consists of the construction of a new section of hill track on open moorland, east of Drumochter Lodge. The proposed track is intended to provide improved access to the moor for grouse shooting and deer extraction purposes, and is intended to replace a section of existing track which is badly degraded and beyond repair in any satisfactory manner.
3. The new track is proposed to extend for approximately 307 metres, to include a turning loop at the southernmost end. The majority of the new track would extend through relatively dry areas, and in such locations the proposed method of construction is to scrape to the subsoil level, and to ditch and grade the track. In the wetter areas, geotextile Terram would be laid to the top of the soil and then covered with 6 – 10 inches of aggregate. It is proposed to place turf at the exposed track edges in order to soften the aesthetic appearance. It is also proposed to put in a ditch on the top side of the track where required, and to install cross drains as required, and also to pipe two small burns under the track.
4. Although this application is solely for the construction of a new section of hill track, the proposed works are part of a larger on-going programme of works to provide access to the moor. Work is on going at present on upgrading approximately 150 metres of existing track on relatively low ground, close to the North Drumochter Lodge, and also providing improved drainage on the upper sections of the existing hill track. It is also emphasised in the application submission that the area of track to be superseded by the proposed new track is to be reinstated to its natural state.

DEVELOPMENT PLAN CONTEXT

National Policy

5. **NPPG 17 : Transport and Planning** primarily covers general transport issues, whilst **PAN 57 : Transport and Planning** offers more specific advice relevant to the construction of hill tracks. Section 42 of the document notes that new roads should, where possible, follow existing gradients and work with existing landforms and landscape features, and advises in the event of planning permission being granted for the a new road / access track, provision should be made for the preservation of existing landscape character and for its enhancement by new planting using native species where appropriate.

6. **Annex 1 of PAN 57 : Transport and Planning** addresses Landscape Considerations and the Natural and Built Heritage. In particular, section 6 of Annex 1 states that “consideration should also be given in remote and rural areas to setting limits to access by motorised transport e.g. all terrain vehicles, and to the associated construction of hill tracks.” In relation to the impact of road / track building on the natural environment, section 7 advises that any loss should be compensated for by habitat creation and management. It is also required that any maintenance, construction or restoration is carried out to the highest environmental standards.

The Highland Structure Plan 2001

7. **The Highland Structure Plan 2001** in detailing policies on infrastructure does not include any specific policies relating to vehicle hill-tracks. However, sections 2.13 – 2.14 contain policies relating to the environment, and in particular to Nature Conservation and Landscape, which are pertinent to the assessment of the current proposal for a vehicle hill track.
8. The proposed site is on land which has nature conservation designations of International and National importance (candidate SAC, SPA and Site of Scientific Interest). **Policy N1** on Nature Conservation is therefore applicable, where it is stated that “new developments should seek to minimise their impact on the nature conservation resource and enhance it wherever possible”. As regards sites and species of international importance, it is the policy that “developments which would have an adverse effect on the conservation interests for which a site has been designated will only be permitted where there is no alternative solution”. A similar policy applies to sites of national importance, where “development will only be permitted where the objectives of designation and the overall integrity of the area will not be compromised or any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social and economic benefits of national importance.”
9. As regards the Landscape policy expressed in the **Highland Structure Plan 2001**, **Policy L4** on Landscape Character is applicable in the assessment of development proposals, where it is stated that “The Council will have regard to the desirability of maintaining and enhancing present landscape character in the consideration of development proposals.”
10. In addition, **Policy G2** on Design for Sustainability considers that the impacts of development should be assessed against landscape and scenery issues as well as a range of other factors.

11. **The Cairngorms National Park Authority Draft Interim Planning Policy No.3 : Vehicle Hill-Tracks** notes that there is no current policy in the statutory Development Plan on the issue of hill-tracks, and therefore emerging policies and the Park's Aims should be considered as "other material considerations." The draft interim policy is as follows:
12. **Policy VHT1 : Vehicle Hill-Tracks**
There will be a presumption against new vehicle hill-tracks, or upgrading/extensions to existing tracks, within the Park unless all of the following conditions are met, and section 7.3 is conformed with where :
 - a) The proposal can be demonstrated as necessary for the efficient working of the estate/farm, and there are no existing tracks which can be utilised.
 - b) There are no significant adverse environmental impacts on flora, fauna, habitats, drainage and landscapes/landforms which cannot be satisfactorily mitigated against.
 - c) The track does not cross a designated site (SSSI's, Reserves, Natura sites, SACs/SPA's etc.)
 - d) The track is constructed in line with section 7.3 (and Appendix b.); a method statement is required for the works, landscaping and maintenance.
 - e) It would not adversely affect the amenity of existing public access; new tracks should give consideration to public access in their design (e.g. via stiles, signage).
 - f) As part of development proposals for new tracks, the CNPA expects to see that steps are taken to ensure that tracks which are no longer required are reinstated to an approved natural condition/reduced to footpath width.
 - g) Cultural Heritage issues, e.g. relative to historic drove-roads or military roads, should be carefully considered and protected.

CONSULTATIONS

13. Scottish Natural Heritage object to the proposed development "unless it is made subject to conditions which would overcome their concerns regarding loss of important habitats."
14. The SNH report highlights the natural conservation designations applicable to the area, stating that the proposed site lies within
 - (a) the Drumochter Hills Site of Special Scientific Interest (SSSI) which is designated for its assemblages of breeding birds, montane habitats and vascular plants;

- (b) the Drumochter Hills Special Protection Area (SPA) which is classified for its aggregation of breeding birds, particularly dotterel and merlins;
- (c) the Drumochter Hills candidate Special Area of Conservation (cSAC), which is designated for a variety of interests including alpine and boreal heaths; siliceous alpine and boreal grassland; sub-arctic *Salix* spp. scrub; blanket bog; species-rich *Nardus* grassland; European Dry Heaths; hydrophilous tall herb communities of plains and of the montane to alpine levels; North Atlantic wet heaths with *Erica tetralix*; siliceous rocy slopes with chasmophytic vegetation and siliceous scree of the montane to snow levels (*Androsacetalia alpinae* and *Galeopsietalia landani*).
15. In relation to the SAC, it is noted by Scottish Natural Heritage that the location of the proposed new track is not in an area used by dotterel, nor is there any current evidence that merlin nest in the area. SNH have therefore formed the view that it is unlikely that any SAC qualifying feature will be affected significantly either directly or indirectly.
16. As regards the effects of the proposed development on the SPA, SNH consider that they are likely to be significant. There would be a direct loss of qualifying habitats, estimated at 0.0120 ha. of wet heath and 0.1068 ha. of dry heath due to track construction. There may also be some additional loss from the potential use of borrow pits, as well as some amount of indirect loss of habitat through modifications to natural drainage patterns. It is on that basis that SNH object to the proposals as they stand. However, it is highlighted in the report that significant effects can be avoided subject to a number of modifications to the proposal, including the discontinued use of the existing section of track, the use of appropriate materials in the proposed new track construction (to be agreed with SNH and CNPA), and also the reinstatement of the damaged habitat on the line of the existing track. The SNH report refers to the fact that the reinstatement of the existing track and its discontinued use would in the long term aid the recovery of 0.056 ha of dry heath and 0.078ha of blanket bog (a priority habitat) and wet heath, which would in overall terms ensure that there is no net loss of Natura qualifying habitats, and therefore no significant effect in the SAC.
17. In terms of the landscape and visual impact of the proposed vehicle hill track, Scottish Natural Heritage in their report highlight the prominence of sections of the existing hill track, particularly the section which runs "straight up two steep banks" making it very prominent in its immediate surroundings (from parts of the A9, the railway and hills to the west of the A9). The SNH report however concedes that whilst the proposed new track would also be partly visible, it follows the contours of the ground, avoiding any steep areas, and would generally represent an improvement on the existing visible and actively degrading lines of track.

18. The Natural Resources Group of the Cairngorms National Park Authority, have in their response (similar to SNH), highlighted the fact that the proposed site is located within a heavily designated area and therefore has the potential to impact on the habitat and landscape of the area. The report states that NRG support SNH's assessment of the application and note that in abiding by SNH's recommendations that the proposal would result in some habitat restoration and reinstatement along the currently eroding and wide vehicle hill track, thereby reducing its impact on the habitat and landscape of the area.
19. The NRG report also offers advice on the most appropriate method of work on hill tracks. Ideally "tracks should have dual parallel lines for wheels, with vegetation in the middle to reduce erosion and visual impact on the landscape.
20. Finally the NRG report refers to the National Park's interim planning policy on Vehicle Hill Tracks, stating that it does not encourage the construction of new tracks and that "any expansion could be seen to contravene this policy."

REPRESENTATIONS

21. No representations have been received in respect of the proposed development.

APPRAISAL

22. The development which is the subject of this application is for approximately 307 metres of new vehicle hill track, culminating in a turning area. It is intended to replace a section of existing hill track and is part of an on going programme of works to improve access to the hills on the estate. As such, it is not considered that the section of new vehicle hill track proposed can be assessed in isolation, but must rather be examined in the context of the overall hill track works in the area. Indeed, as referred to earlier in this report, Scottish Natural Heritage's endorsement of the proposal is only contingent upon the carrying out of certain works on sections of the existing track which do not form part of this current application, but which are nonetheless regarded as being vitally important in the interests of ensuring an integrated approach to the conservation of the natural heritage of this general area.



Figure 1 : damaged sections of the existing track

23. Information has been provided by the applicant / agent detailing the background to the need for the proposed new section of vehicle hill track and outlining the measures taken at present and likely to be exacerbated in the future to continue to access the hill, without the benefit of the proposed new section of track. The new track is intended to assist in providing stable and easily maintained access to the hill in order to assist in the carrying out of general estate work, including deer extraction, and also grouse shooting. An access track already exists in the vicinity of the proposed new track. However, despite various repair works to the track, much of the area has experienced major erosion problems, and sections of the track have become unusable. This has resulted in a situation where vehicles are traversing across other areas of badly eroded or “boggy” land in close proximity to the unusable track, thereby widening the track and having significant adverse impacts on the area.

24. The information submitted in support of the proposed development highlights the fact that the proposed new section of track would be “routed up a subtle contour to get up the two steep ridges which have been problematic in the past” with the intention that the track would be almost completely hidden by the face of the existing ridge to the west. It is proposed that turf lifted in the course of construction of the new track would be re-set into the track which is intended to become redundant, thereby commencing the process of physical and visual regeneration of that area back to its original natural state. The agent has stated that the work on the proposed new track would be carried out by a 4½ tonne digger. Following discussions between the agent and SNH the proposal also includes a turning area at the culmination of

the proposed new section of track, as opposed to the applicants first preference of a larger vehicle parking area, where the latter option would have a significant impact on the area. The supporting information submitted to the Cairngorms National Park Authority concludes that “the whole emphasis of the construction will be to make the track as subtle as possible” and it is stressed that in conjunction the proposed development, the old eroding track would be reinstated back to its hill state.



Fig.2 Location of proposed section of new hill track

25. In light of the lack of policy guidance within either the relevant Structure Plan or Local Plan, it is considered pertinent to assess the proposed development in terms of the Interim Planning Policy. In the context of that policy there is a presumption against new vehicle hill tracks, or upgrading / extensions to existing tracks within the Park unless a number of criteria and conditions are met. The following comments can be made in respect of the proposed developments compliance / non compliance with the general criteria and conditions.
- (a) The proposal is detailed as being necessary for the efficient working of the estate in terms of providing access to the hill, and the alternative to a new track would be the continued use of the existing badly damaged area, which would over time result in the excessive widening of the track and lead to potentially irreparable damage of the area where boggy ground conditions currently cause difficulty.

- (b) It has been highlighted in the SNH report that the proposed development would be likely to have an impact on small areas of wet and dry heath, as well as some indirect loss of habitat through modifications to natural drainage patterns. However, the effects can be mitigated subject to the carrying out of works to the existing track.
 - (c) The proposed track lies within a number of designated sites (SSSI, SPA and SAC).
 - (d) The route of the proposed new section of track largely follows and works with existing contours, and is proposed to be developed in a relatively low lying area, which has the potential to minimise the visibility of the proposed track. 9" piping is proposed to be used to pipe across two small burns, and other water release would be by sleeper cundy where required. Such aspects of the proposal are generally in accordance with the interim policy recommendations for the construction of new tracks. The construction method in dry areas is to scrape to the subsoil level and ditch and grade the track, whilst in wetter areas geotextile Terram would be laid on top of the soil and then covered by 6-10" of aggregate.
 - (e) The proposed new section of track would not adversely affect the amenity of existing public access and could in fact facilitate easier access to the hill than presently exists.
 - (f) The supporting information submitted to the Cairngorms National Park Authority indicates a commitment and acceptance on the part of the applicant / agent to discontinue the use of the existing track and to reinstate it to its natural condition. This intention was also clearly highlighted to me in the course of a site visit, and also accounted for significant on site discussions between the agent and Scottish Natural Heritage.
 - (g) The area in which the section of new hill track is proposed is not known to have any adverse impact on cultural heritage issues.
26. Essentially, the proposed development of a new section of vehicle track fails to meet all of the criteria/conditions stipulated in the interim planning policy on Vehicle Hill Tracks, and therefore on first impressions it would appear that a refusal of planning permission is warranted. However, as outlined at the outset of this appraisal, it is considered necessary to assess the proposal from a wider perspective, and in particular to examine the potential benefits likely to accrue from the discontinued use of a section of the existing vehicle hill track. It has been accepted by Scottish Natural Heritage and the Natural Resources Group of the Cairngorms National Park Authority that the proposed new track in the short term would result in the direct loss of qualifying habitats within the Special Area of Conservation, but the development proposal when combined with the reinstatement of the existing track

and its discontinued use would in the long term aid the recovery of heath and bog. The reinstatement programme is considered an appropriate mitigatory measure and one that would ensure that there is no net loss of Natura qualifying habitats, and therefore no significant effect on the SAC.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

27. The proposed development would be unlikely to affect any SPA qualifying feature of the Special Protection Area (SPA) as the track is not proposed in an area used by dotterel and there is no evidence that merlin nest in the area. As has been noted in the foregoing section (Appraisal – para. 26) any loss of habitats such as wet and dry heath associated with the formation of the proposed new hill track, would be off set in the long term by the discontinued use and restoration of the existing track and the consequent recovery of dry heath, wet heath and blanket bog.

Promote Sustainable Use of Natural Resources

28. The proposed construction method of the hill track in dry areas is intended to scrape to the subsoil level and ditch and grade the track. The excavated material is to be reused in a sustainable manner to repair the currently existing eroding track in order to assist in its restoration to its original natural state.

Promote Understanding and Enjoyment of the Area

29. The proposed new section of vehicle hill track is not considered to have any direct benefit in terms of promoting the understanding and enjoyment of the area. In light of the fact that the proposed hill track is located on the lower levels of the hillside and generally follows the contour lines, avoiding steep areas, limited glimpses of the track will only be available. The development would therefore be unlikely to result in significant adverse landscape and visual impacts, and could in fact be considered to represent an improvement on the existing visible and actively degrading line of track.

Promote Sustainable Economic and Social Development of the Area

30. The new section of vehicle hill track is intended to provide improved stable and easily maintained access to the hill in order to carry out general estate work such as the extraction of deer, and also to facilitate sporting activities such as grouse shooting. As such the development is of assistance to the economic development of this rural estate and could therefore be considered to be of indirect benefit to the wider economic development of the area.

RECOMMENDATION

That Members of the Committee support a recommendation to:

Grant planning permission for a new section of vehicle hill track at Drumochter, subject to the following conditions -

1. The extent of the new vehicle hill track shall be confined to the 307 metres of new track identified on the site layout plan submitted to the Cairngorms National Park Authority as additional information. For the avoidance of doubt, this permission does not authorise the development of any new sections of track extending uphill to the east of the proposed turning area.
2. The development of the new 307 metres of track shall only take place in conjunction with the carrying out of reinstatement works on the section of existing track that is to be disused.
3. Use of the existing section of track (which the proposed section of new track is intended to replace) shall be discontinued upon completion of the new hill track.
4. Prior to the commencement of development, the source of materials to be used in the track construction shall be agreed with the Cairngorms National Park Authority and Scottish Natural Heritage.
5. Prior to the commencement of development, a method statement and programme for the reinstatement of the damaged habitat on the line of the current existing track shall be submitted for the agreement of the Cairngorms National Park Authority and Scottish Natural Heritage. All works shall subsequently be carried out in accordance with the method and programme agreed.
6. The width of the proposed new access track shall be restricted to 3 metres.
7. The proposed vehicular turning area shall be used for that purpose only and shall not be used for the parking of vehicles.

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