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# CAIRNGORMS NATIONAL PARK AUTHORITY

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**Title:** REPORT ON CALLED-IN PLANNING APPLICATION

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

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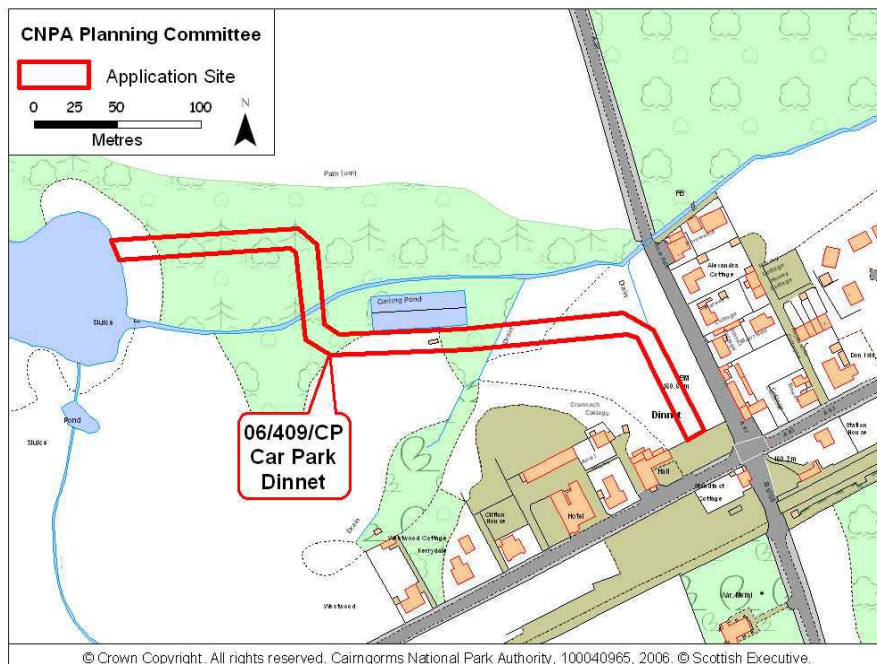
**DEVELOPMENT PROPOSED:** FULL PLANNING PERMISSION FOR THE FORMATION OF AN ALL ABILITIES PATH FROM DINNET CAR PARK TO THE EASTERN SHORE OF CLARACK LOCH AND ALSO A VIEWING PLATFORM.

**REFERENCE:** 06/409/CP

**APPLICANT:** UPPER DEESIDE ACCESS TRUST, UNIT 1, ABOYNE CASTLE BUSINESS CENTRE, ABOYNE, ABERDEENSHIRE.

**DATE CALLED-IN:** 20<sup>TH</sup> OCTOBER 2006

**RECOMMENDATION :** GRANT WITH CONDITIONS



**Fig. 1 - Location Plan**

## SITE DESCRIPTION AND PROPOSAL

1. Full permission is sought in this application for the formation of an all abilities path and also the erection of a viewing platform overlooking Clarack Loch. The all abilities path is proposed to run from Dinnet car park to the eastern shore of Clarack Loch. The subject site is located close to the eastern boundary of the Cairngorms National Park. The proposed path would extend approximately 380 metres from the car park to the viewing platform and would largely follow the well trodden route of an existing, more informal path which meanders through a mixed woodland environment.



**Fig. 2 : existing informal path leading towards Clarack Loch**

2. Although having the ability to be utilised as part of a longer route around Clarack Loch, the proposed new path is not intended to form part of a circular route but rather is intended to be a short route to “provide added purpose and incentive to encourage users to use the all abilities path” with the proposed platform intended to act as an end or focal point attraction, providing views over the loch.
3. It is proposed to excavate the existing path surface. A geotextile membrane would be positioned at the excavated level and would be overlain with a compacted 75mm sub-base and a 15mm quarry grey granite dust surfacing. The path edge would be stabilised and built up using soil or turf where appropriate, which would be generated from the formation of the path tray.
4. The new all abilities path would lead from the established car parking area in Dinnet, past the existing playground and would traverse in a north westerly direction, through the woodland and past a curling pond. After approximately 280 metres the path would cross Clarack / Dinnet Burn. A new wooden footbridge would be provided at this point. The existing footbridge at this location requires replacement as it is of insufficient width to accommodate all abilities use. The new footbridge would have a span of 5 metres across the burn and would be 1.2 metres wide. It is proposed to construct concrete abutments on both sides of the burn, with beams set on the abutments. Deck boards

would then be fixed to each beam and a timber handrail would be provided on both sides of the bridge. The proposed design of the footbridge is intended to avoid excavating in the water and also avoid any need to put temporary supports of scaffolding in the burn.



**Fig. 3 : The footbridge is proposed to resemble the recently installed bridge near Clarack Farm.**

5. At the end of the 380 metre all abilities path, the viewing platform would extend to approximately 4.9 metres at its widest point, and would extend 2.46 metres out towards the loch, with its span gradually decreasing to 2 metres. Initial details submitted as part of the application indicated that the proposed viewing platform would be either in wood or recycled plastic. Further to concerns raised by the CNPA and others in the course of the initial assessment regarding the choice of materials, the applicants, Upper Deeside Access Trust (UDAT) confirmed that the platform would be constructed in wood, with the options being either European larch, Douglas fir or oak. The timber would remain untreated and left to the elements it is expected to weather to a uniform 'silver grey' colour.
6. As the proposed all abilities path largely follows the existing informal path in the area, it would not result in the loss of any significant level of vegetation in the vicinity. A minor deviation away from the established path is proposed in an area close to the curling pond in order to avoid the pond bank. The deviation would require the removal of a limited amount of 'scrub birch.' The second point on the proposed new path at which there would be some loss of vegetation is in an area approaching the footbridge. Again a marginal deviation along a 20 metre section of pathway would occur in order to allow a gently sloping sweep up to the proposed new bridge, and thereby render the path capable of all abilities use. It is estimated that this would require the removal of a 1.2 metre corridor of 'scrub birch' which are between 3 and 5 metres tall at present. Finally, the removal of two small Scots pine is also proposed in an area close to the loch shore line. The removal of the trees is required in order to maintain a path width of 1.2 metres.

7. A case has been advanced on the need for the proposed viewing platform as opposed to simply allowing path users to view the area from the existing natural edge of the loch. The case put forward by UDAT contends that the platform will “enable the less-abled to get safely to the loch edge and will enable enhanced views of the loch beyond the wooded edge” and it would also offer the visitor an enhanced experience as they would effectively be taken off the shoreline to be surrounded by water on three sides. Such an experience is described as being quite different compared to experiencing the area from the normal vantage point on the loch shore.



**Fig. 4 : Example of the type of platform proposed**

8. The platform would be created by means of main supporting posts pile driven into the ground to a depth of 600mm. Deck boards would create the platform area and a balustrade handrail would be constructed along the side and front of the platform. The balustrade height would be a maximum of 920 mm in order to serve as an appropriate safety barrier whilst also ensuring clear visibility of the loch for wheel chair users for example.
9. A detailed construction method statement has been submitted in the course of the application assessment. Details have been provided on each of the three aspects of the proposal (all abilities path, footbridge and platform) including reference to materials, construction methods and maintenance regime. UDAT propose to maintain the bridge and platform “at its entire expense to a safe and satisfactory standard to ensure safe and free passage on foot or wheelchair by the public until 31 March 2017.”<sup>1</sup> Inspections would be carried out every six months and any necessary minor repairs identified in the inspections would be carried out immediately. The proposed footbridge and platform would also be inspected by a structural engineer every three years in order to ensure its safety. The construction method statement also includes reference to temporary and preliminary site measures to be taken to

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<sup>1</sup> UDAT propose to enter into an agreement with Dinnet and Kinord Estate in relation to the maintenance agreement. Failing an agreement to extend the Agreement in 2017 the bridge would be removed and UDAT also explicitly state that “under no circumstances will the landowner become responsible for the maintenance of the bridge.”

prevent pollution. Many aspects of the construction phase include preventative control measures to avoid 'run off' to the watercourse. In terms of site demobilisation in the post construction period it is intended that all contractor equipment plant and all traces of occupation of the site would be removed within one week of the footbridge and platform works finishing. In conjunction with this all ground vegetation surface wear and tear would be repaired to its former natural state.<sup>2</sup>

10. Information provided in relation to the proposed construction period indicates that the all abilities path and the associated footbridge would be constructed in March 2007 (subject to necessary planning consent being secured) and that the viewing platform would be constructed in a period between July and September 2007. The latter construction period has been chosen as it is "during low water level and outwith the most sensitive period for Salmon."



Fig. 5 : Curling pond adjacent to path



Fig. 6 : Existing path approaching footbridge (which is to be replaced)

## DEVELOPMENT PLAN CONTEXT

### National Policy

11. According to **NPPG 14 Natural Heritage** attractive and ecologically rich environments where natural heritage is valued and cherished are essential to social and economic well-being. Para. 9 advises that conservation and development can often be fully compatible, and with careful planning the potential for conflict can be minimised. **NPPG 14** details the various national and international statutory designations and the objectives of designation. Para. 46 also makes reference to the fact that natural heritage is not confined to the statutorily designated areas, but is found throughout the countryside.

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<sup>2</sup> The repairs are detailed as involving an "appropriate reinstatement technique such as spot turfing or blanket turfing with local heather transplants and reseeding using an approved SNH grass seed mixture. This repair work would be carried out by the contractor once the site infrastructure has been vacated, and to the satisfaction of the Upper Deeside Access Trust, CNPA and landowners."

12. In the **Aberdeen and Aberdeenshire Structure Plan 2001-2016 (North East Scotland Together, NEST) Policy 19** states that development which would have an adverse effect on a Natura 2000 or Ramsar site will only be permitted where there is no alternative solution and there are imperative reasons of over-riding public interest, including those of a social, environmental or economic nature. Where a priority habitat or species (as defined in Annex 1 of the Habitats Directive) would be affected, prior consultation with the European Commission (through Scottish Natural Heritage) is required unless the development is necessary for overriding public health or safety reasons.
13. In the **Aberdeenshire Local Plan 2006** the main policy that covers this location is **Policy Env\1 (International Nature Conservation Sites)** where development likely to have a significant impact on a site designated or proposed under the habitats or birds directives (i.e. SAC and SPA) and not directly connected with or necessary to the conservation management of the site, must be the subject of an appropriate assessment for the implications for the site's conservation objectives. Development will only be permitted where the appropriate assessment indicates that
- (a) it will not adversely affect the integrity of the site; or
  - (b) there are no alternative solutions; and
  - (c) there are imperative reasons of over-riding public interest, including those of a social and economic nature.

Where development is allowed which could affect any designated site, including beyond their boundaries, the developer must demonstrate that adequate measures will be taken to conserve and enhance the site's ecological, geological and geomorphological interest.

14. **Policy Env\2** details the policy in relation to National Nature Conservation Sites, stating that development which would have an adverse effect on a Site of Special Scientific Interest or a National Nature Reserve will be refused unless the developer proves :
- (d) any significant adverse effects on the quality for which the area has been designated are clearly outweighed by social and economic benefits of national importance;
  - (e) the objectives of the designation and overall integrity of the area will not be compromised; and
  - (f) there is no alternative site for the development.

In the event of development being allowed which could affect any of the designated sites, including beyond their boundaries, similar measures to those detailed in **Policy Env\1** are required, in terms of the developer demonstrating that adequate measures will be taken to conserve and enhance the site's ecological, geological and geomorphological interest. The aim of both policies **Env\1 and Env\2** is to give nature conservation sites of international and national importance adequate protection from damaging development.

15. Access issues are touched upon in **Policy Env/22** of the **Aberdeenshire Local Plan**. The policy is intended to ensure that existing public access is protected and that future development does not restrict future opportunities for the extension of the public access network. The policy also states that encouragement will be given to new access routes which promote 'green transport' while not adversely affecting the land concerned.

## **CONSULTATIONS**

16. In the initial consultation response from **Scottish Natural Heritage** reference is made to the proposed path lying adjacent to the Clarack Burn, which is part of the River Dee Special Area of Conservation and that the viewing platform would also be within the SAC at Clarack Loch. The River Dee SAC is designated for its populations of Atlantic salmon, freshwater pearl mussel and otter. The area in which the platform is proposed is also within the Muir of Dinnet Site of Special Scientific Interest.
17. In setting out its position, **SNH** in principle support the proposal and "consider that it will provide improved opportunities for informal enjoyment of the natural heritage." Nonetheless, SNH initially objected to the proposal considering it likely to have a significant effect on the qualifying interests of the site, in particular salmon and freshwater pearl mussels. As a consequence **Scottish Natural Heritage** required the CNPA, as the Planning Authority, to undertake an appropriate assessment of the implications of the proposal for the site, with the assessment including an appraisal of the risk of sedimentation during construction, and also the measures set out in the methodology to minimise this.
18. In terms of the impact on otter, which is another of the qualifying features of the SAC, the findings of an otter survey carried out in October 2005 are referred to, in which it was concluded that pathworks in this area were unlikely to have a significant impact on the species, were accepted. However, the consultation response advised in the event of development proceeding and contractors uncovering any suspected otter resting sites or holts, all work should cease and further advice should be sought immediately from Scottish Natural Heritage.
19. In relation to the impact of the development on the Muir of Dinnet SSSI, the response noted that it is designated for a range of habitats and species, including its breeding bird assemblages. In the interests of avoiding disturbance of breeding birds **SNH** recommend that all work is carried out outside the peak bird breeding season of 1<sup>st</sup> March and 31<sup>st</sup> July.

20. Further to the carrying out of an appropriate assessment by the CNPA's Natural Heritage Group, a revised consultation response was received from **Scottish Natural Heritage**. **SNH** advise in relation to the River Dee SAC, having considered the method statement, that the proposal is not likely to have an adverse impact upon the integrity of the site. Consequently the previous objection to the proposal is removed "subject to the mitigation measures described in the method statement being enforced through the use of appropriately worded planning conditions."
21. **SEPA** in its initial response stated that the principal concern is with any potential runoff from paths and ditches into watercourses, both in the construction phases and from the final completed development. On the basis of the lack of information initially submitted with the application **SEPA** objected to the proposal and requested further information on the detailed engineering of the crossing, in order to ascertain whether or not adequate protection would be afforded to watercourses.
22. Further to the receipt of the required additional information a revised response was received from **SEPA** in which it was noted that the footbridge would be designed with abutments outwith the burn. On that basis **SEPA** clarified that the proposals are acceptable and as the development would not have a significant impact on the waterbodies in question, **SEPA** no longer wish to maintain an objection.
23. The **Transportation and Infrastructure (Roads)** section of Aberdeenshire Council examined the proposal and had no comments to make. The **Flood Prevention** section of that department also assessed the proposal and stated that the service had no comments to make on the application.
24. A consultation response was also received from the **Environment** section of Aberdeenshire Council. On the subject of countryside access the proposal was deemed acceptable. It was also considered 'acceptable subject to action' in relation to trees and woodland, designated site and biodiversity / nature conservation. The recommended action included the proposal being designed and implemented to minimise the loss of trees and other habitat, and it was also recommended that the proposed viewing platform should be constructed of timber and finished to the highest standards, given its sensitive rural setting.
25. The CNPA's **Natural Heritage Group** assessed the proposal and noted that its chief potential impact relates to possible effects on the qualifying features of the River Dee SAC. Similar to the comments from **Scottish Natural Heritage**, **NHG** required the submission of a detailed method statement for the path, bridge and viewing platform in order to demonstrate that sediments will not be released during or after construction which would negatively affect the qualifying interests of the River Dee SAC.



26. In terms of the landscape impact, the response from **NHG** noted that the setting for the proposal has a natural and undisturbed feel. Consequently the proposed viewing platform is described as being a marginal detractor from the area, particularly due to its design which would 'jut into the loch' and would therefore be quite visible. Despite this concern it is nonetheless recognised that the timber, if left untreated, would weather over time to a muted grey colour and in addition existing vegetation around the edges would colonise.
27. Upon receipt of the required information the **Natural Heritage Group** carried out the required appropriate assessment. The findings indicated that the development would not have any potential impact on otter and that the likely impacts on the qualifying features of the SAC relate to Atlantic salmon and freshwater pearl mussels. Reference is made to the details contained in the construction method statement noting that it outlines steps to minimise the release of sediment and other pollutants into watercourses during all phases of the proposal. **NHG** examined in detail the three aspects of the development proposal (all abilities path construction, footbridge construction and the timber viewing platform construction). In reaching an overall conclusion on the impact of the proposal on Atlantic salmon and freshwater pearl mussels, **NHG** commented as follows –
- “the timing of the works in the area of the loch suggests that any pollutants arising, including silt, would not be likely to have a negative impact on Atlantic salmon. In any case, the precautions that would be employed by the applicants, as indicated in their construction method statement, would considerably reduce the risk of any pollutants entering the loch. The construction work associated with the path and the footbridge would occur during a time when salmon would be sensitive to siltation. Steel particles and dust, although identified as a potential pollutant, would likely occur only in very small quantities and would not be harmful to the aquatic life, should they ever be released to the watercourse. Therefore the impacts on Atlantic salmon and freshwater pearl mussels of this particular type of pollution, is not likely to have a detrimental impact. However, the precautions which would be taken by the applicant would considerably reduce the risk of any pollutants entering the burn and thus having an adverse impact on Atlantic salmon. Given these precautions, and that freshwater pearl mussels do not occur in the immediate vicinity of the site, occurring some distance downstream on the main stem of the Dee, they are also unlikely to suffer an adverse impact from the development proposal.”*
28. In concluding the appropriate assessment **NHG** indicate that a condition is required in the event of the granting of planning permission to ensure that the development is undertaken in accordance with the construction method statement supplied by the applicant, as the statement provides the detailed working practices that need to be followed in order to ensure that there will be no adverse impacts on site integrity.

29. The CNPA's **Visitor Services and Recreation Group** commented that the proposal would provide an opportunity for less able people to view one of the three lochs that lie close to the village of Dinnet. Reference was made to the condition of the current path in the area, which is described as a "beaten sward path with the occasional tree route crossing a narrow bridge." The proposed new path is welcomed as providing a robust walking surface that would also be suitable for wheelchairs and would remove the current trip hazards. It was also noted that the loch, while lying close to the village, is surrounded by trees and consequently provides a 'remote and secluded feel' and offers excellent opportunities for bird watching on the loch. The development is described as being consistent with the CNPA's draft Outdoor Access Strategy which seeks to create greater opportunities for the less able to enjoy the special qualities of the National Park.
30. Prior to the submission of the applicants supporting statements in relation to the viewing platform, the **VSRG** response raised a minor query on the need for the platform. Despite querying this, the response nonetheless conceded that "the barrier may be useful for leaning against for those who are unsteady on their feet."
31. **Mid Deeside Community Council** was consulted on the development proposal. However, no response has been received to date.

## **REPRESENTATIONS**

32. No representations have been received directly by the CNPA in respect of the proposed development. However, a copy of a letter of support from Deeside Access Panel has been submitted by the applicants. The letter emphasises the support of Deeside Access Panel for the proposal to upgrade the path from Dinnet Car Park to Clarack Loch to make it accessible for all. The proposals are described as allowing "most wheel chair users access to this most scenic part of Deeside." It also describes the plan for the viewing platform as 'commendable' noting that it would be the only location around the three lochs where disabled access would be available right up to the water's edge.

## **APPRAISAL**

33. The main issues to be considered in this application relate to the principle of the development, the nature of the proposal including its construction and the associated implications, particularly on the natural heritage designations affecting the area, and also consideration of its contributions towards the provision of access in the area.

34. The principle of the development is generally acceptable in planning policy terms. An appropriate assessment has been carried out in which it has been determined that the development would not adversely affect the integrity of the River Dee SAC, over which the new footbridge would be constructed. As detailed earlier in this report a comprehensive construction method statement has been submitted outlining the measures that would be put in place to ensure the protection of designated area in the course of construction and also after this phase, where the restoration of the river bank in the vicinity of the footbridge is proposed. In addition the construction of the footbridge within the Special Area of Conservation is necessary and in the public interest, providing an improved crossing of the burn usable by all abilities. Without a new bridge, the all abilities aspect of the new path could not be achieved.
35. The final comments of both **Scottish Natural Heritage** and the CNPA's **Natural Heritage Group** indicate acceptance of the development proposal, subject to the development being undertaken in accordance with the construction method statement.
36. The overall path and associated structures – the viewing platform and a new footbridge – are in relatively well screened locations and are not considered to have the potential to become obtrusive features in the landscape. Foregoing sections of this report refer to the proposed new path generally following the line of the existing, more informal route from Dinnet car park towards Clarack Loch and will have minimal interference with existing vegetation, resulting only in the loss of a small amount of birch scrub and two scots pine along the entire 380 metre route of the path. Although recognising that the viewing platform will appear somewhat prominent in that it is a man made feature within an otherwise relatively undisturbed natural environment, it is my view that the agreement of the applicants to use timber which would be allowed to weather naturally, as opposed to the original suggestion of recycled plastic, will assist in allowing the platform to blend into its proposed setting.
37. In conclusion, the overall proposal represents the opportunity to provide enhanced access to the rural area, and the all abilities aspect is therefore to be particularly welcomed. In this regard the provision of the viewing platform at the culmination of the new path is also a logical addition and its benefits have been alluded to earlier in this report. The platform would provide enhanced opportunities of views over the loch, would take the individual further into the lochside environment in a far safer manner than would be possible by merely standing on the shoreline as far as water levels would allow – with an unstable shoreline presenting difficulties for the less sure footed user, and finally it would also serve as an effective place for users of the path to rest securely.

## **IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK**

### **Conserve and Enhance the Natural and Cultural Heritage of the Area**

38. In terms of landscape the proposed development is a relatively small project, which with the exception of the proposed viewing platform resembles the existing path network in the area and it will not have any detrimental visual impact. An appropriate assessment has indicated that the development would not adversely affect natural heritage designations in the area.

### **Promote Sustainable Use of Natural Resources**

39. No details have been provided as to where the actual material will be sourced from for the bridge and platform construction and also for the surfacing of the path. However, it is likely that the timber component will be sourced locally. It is also understood that it is the intention of the applicants to employ locally based contractors to carry out the proposed works.

### **Promote Understanding and Enjoyment of the Area**

40. The proposed all abilities path and viewing platform would provide enhanced opportunities for all abilities access in this area of the National Park and would therefore contribute to the opportunity for the general public to access and enjoy the area.

### **Promote Sustainable Economic and Social Development of the Area**

41. The all abilities path and associated new footbridge and viewing platform is a project undertaken by the Upper Deeside Access Trust which has a tradition at project level of employing local people. Such work helps to raise the profile of the organisation which in a small way contributes to this aim. The improvement to the route may result in more walkers in the area which could have spin-offs for local shops and services.

## RECOMMENDATION

42. That Members of the Committee support a recommendation to:

**Grant Full Planning Permission** for an all abilities path from Dinnet Car Park to the eastern shore of Clarack Loch (380 metres) and also a viewing platform, subject to the following conditions : -

1. The development to which this permission relates must be begun within 5 years from the date of this permission.
2. The development shall be undertaken in accordance with the construction method statement submitted in conjunction with the planning application.
3. The all abilities path, footbridge and viewing platform shall be maintained in accordance with the maintenance regime set out in the construction method statement.
4. All work shall be carried out outwith the peak bird breeding season i.e. before 1<sup>st</sup> March and after 31<sup>st</sup> July, in order to avoid disturbance to breeding birds.
5. In the event of any suspected otter resting sites or holts being discovered in the course of construction, all work shall immediately cease and shall not recommence until the advice and guidance of Scottish Natural Heritage has been sought and implemented.

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**31 January 2007**

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.