
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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DEVELOPMENT MANAGEMENT)**

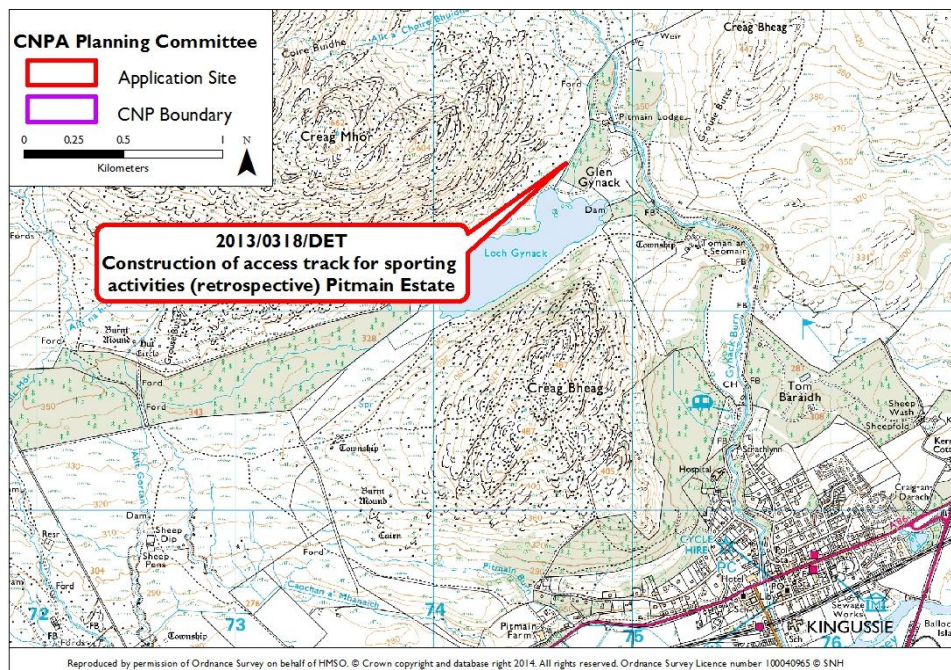
**DEVELOPMENT PROPOSED: CONSTRUCTION OF
DIVERSIONARY VEHICULAR
ACCESS TRACK & PARKING AREAS
FOR SPORTING ACTIVITIES
(RETROSPECTIVE) AT PITMAIN
LODGE KINGUSSIE**

REFERENCE: 2013/0318/DET

APPLICANT: PITMAIN ESTATE

DATE CALLED-IN: 07 October 2013

**RECOMMENDATION: APPROVAL SUBJECT TO
CONDITIONS**

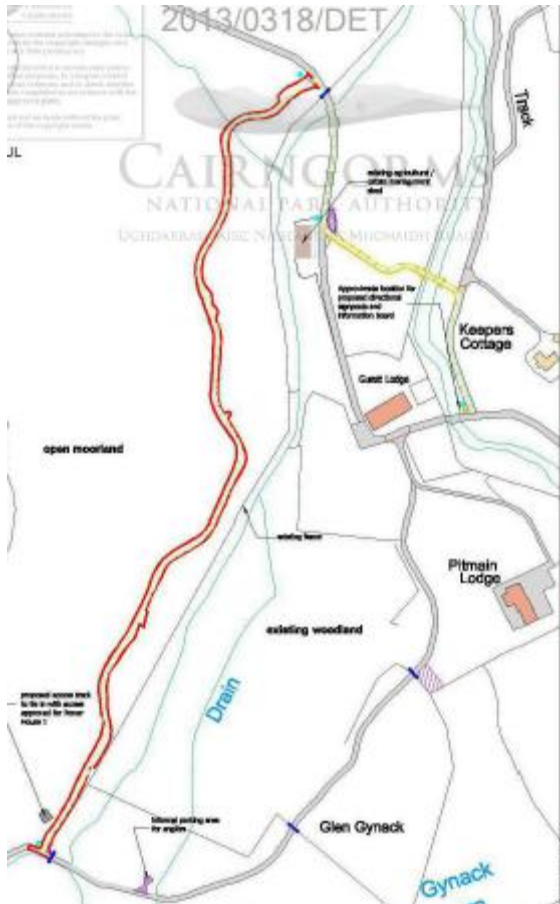


Grid reference: (E/274965, N/802799)

Fig. I - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. This application seeks retrospective planning permission to form a track with an approximate distance of 750 metres. It runs around the back of woodland at Pitmain Estate and provides an alternative link track for estate use which avoids going through the policies of Pitmain Lodge and guest accommodation. It is intended to provide simplified access for recreational and sporting users. The route is shown outlined red in **Figure 2** below and goes across moorland/hill land.



2. Pitmain Estate is located to the north of Kingussie accessed by a tarred road leading up past the Golf Course, with a network of tracks leading into the hills beyond and also to Loch Gynack to the east and leading to Newtonmore. This is a popular walking area close to the town and is covered by a number of environmental designations protecting the watercourses with a designated right of way running through the estate.
3. The track has been formed in advance of planning consent being granted and is of hardcore construction, following the contours of the land in a winding route avoiding any extensive cut and fill works. It is around 3 metres wide and it is proposed to seed the middle of the track so that over time it resembles a traditional estate track. Additional supporting information was submitted relating to post restoration and monitoring proposals and

landscape management plan. These set out how the track will be finished off to ensure good restoration and minimal environmental impacts.

4. A supporting planning statement was also submitted outlining the background of the application, that being the desire to separate estate management, guest lodge and recreational users. A copy is attached as **Appendix I**. This also explains that the applicants are aware of the right of way through the grounds of Pitmain Lodge and the need to follow the appropriate legislative process for diversion should they wish to close this right of way on the basis of an alternative route being available.
5. A landscaping summary statement and construction method statement were also attached.
6. The track connects existing tracks north of Pitmain Lodge and the associated agricultural workshops to tracks leading from Pitmain Lodge west to Loch Gynack. A previous planning application for a bridge over the Allt Mor watercourse to provide improved access from the Gamekeeper's house to the workshop area has now been implemented and as a result this new network of tracks would enable the Pitmain Lodge environs to be avoided by wider users.
7. At present there is an existing right of way through the Pitmain Lodge environs and this current proposal would provide an alternative route. During the course of consideration of this current application it was noted that the gates through to Pitmain Lodge from the south west were closed with a "*private policies – no unauthorised access*" sign erected together with installation of "private" signs on the track leading south to Pitmain from the agricultural workshop. This meant that the existing right of way was effectively blocked, although an alternative was in place and no complaints from the public have been received. The agents have been advised to investigate this situation and to liaise with our Access Officers regarding any legislative requirements.

Planning History

8. There has been a fairly extensive planning history at Pitmain which is summarised as follows There is relevant planning history at Pitmain Estate which is summarised below and helps explain the background to the current proposals:
 - a) 09/017/CP- full planning consent was granted in 2009 by the Cairngorms National Park Authority (CNPA) for erection of new house and garage for the estate keeper at land to the north of Pitmain Lodge. This new house is now built and is located to the east of the Allt Mor burn within a spruce and pine tree plantation, part of which was felled to accommodate the new development.
 - b) 11/03085/FUL – planning consent granted by Highland Council in 2011 for the demolition of former keeper's house, flat, and workshop and erection of new guest accommodation to the north east of Pitmain

Lodge, which sits in its own grounds. This new development is now built and is located close to the existing right of way, with a planning condition imposed requiring that there be no obstruction to this right of way. It is located on the west side of the Allt Mor burn.

- c) 11/02328/AGR- an agricultural notification was dealt with by Highland Council in 2011 for the erection of a new agricultural workshop/storage building at Pitmain to the west of the right of way and north of the guest accommodation. The need to keep this right of way free from obstruction was again highlighted. The workshop and associated parking areas are now constructed and are very well used with considerable evidence of quad bike and other vehicular use here. Spruce and pine trees required to be removed to accommodate this development which sits within a wooded setting.
- d) 2011/0281/DET - Further north the CNPA granted full planning permission for a hydro scheme on the Allt Mor burn with powerhouse beside Loch Gynack
- e) 2012/402/DET – a planning application for a new bridge over the Allt Mor watercourse together with short section of new track was approved by the CNPA Planning Committee (reference in December 2012. This network linked the Gamekeeper’s new house to the agricultural workshop more simply avoiding the need to drive through the immediate policies of Pitmain Lodge and holiday accommodation.

9. At the time of application (e) above, an indicative sketch was submitted to show how this route could link into wider networks and the applicants were advised that any proposals for a new track to the west of the woodland (as now proposed) would require planning consent as there was currently no path there. The applicant’s agents were advised of the planning submission requirements and this Service was in ongoing discussion regarding the submission when work commenced on the track. This retrospective application was duly submitted for consideration.

DEVELOPMENT PLAN CONTEXT

National policy

10. **Scottish Planning Policy (SPP)** is the statement of the Scottish Government’s policy on nationally important land use planning matters. It sets out that planning authorities are encouraged to take a positive approach to development, recognising and responding to economic and financial conditions in considering proposals that would contribute to economic growth and has the basic aim “to achieve the right development in the right place.”
11. As a replacement for a variety of previous planning policy documents Scottish Planning Policy includes ‘subject policies’, of which many are applicable to the proposed development, including economic development, rural development, and landscape and natural heritage. These seek to ensure that new development does not have an adverse impact on the environment.

12. National Parks are discussed under the heading of national designations, and the four aims of the Park are outlined, with paragraph 138 advising that in circumstances where conflict between the objectives arise, and cannot be resolved, the 2000 Act requires that the conservation of the natural and cultural heritage should take precedence.

Strategic Policies

Cairngorms National Park Partnership Plan (2012-2017)

13. The Cairngorms National Park Plan sets out the vision and overarching strategy for managing the Park and provides focus and priorities at a time of limited financial resources. The Plan also provides a strategic context for the Local Development Plan and shows how the four aims of the National Park can be achieved together. It sets out the strategic direction and priorities for the Park.

Three long term outcomes for the Park are set out as follows:

- a) A sustainable economy supporting thriving businesses and communities;
- b) A special place for people and nature with natural and cultural heritage enhanced; and
- c) People enjoying the park through outstanding visitor and learning experiences.

These outcomes address the interaction of the three main characteristics of the National Park these being that the Park is an internationally important area for nature conservation; a fragile rural economy, and an internationally known tourism destination. Recognising the relationship of these outcomes is at the heart of the National Park. A series of work programmes to help deliver the outcomes is set out in the Plan.

Local Plan Policy

Cairngorms National Park Local Plan (2010)

14. The Cairngorms National Park Local Plan was formally adopted on 29th October 2010. The full text can be found at :
<http://www.cairngorms.co.uk/parkauthority/publications/results.php?publicationID=265>
15. New development requires to be assessed in relation to all policies contained in the Plan. In this case the key policies are set out below.
16. *Policy 6 – Landscape:* sets out that there will be a presumption against any development that does not complement and enhance the landscape character of the Park. Exceptions will only be made where any significant adverse effects on the landscape are clearly outweighed by social or economic benefits of national importance and all adverse effects have been mitigated

17. Policy 5 – Biodiversity: seeks to ensure no adverse impacts on habitats or species identified in the local biodiversity action plan.
18. Policy 34 – Outdoor Access: encourages development which improves opportunities for responsible outdoor access. Any development which would result in a loss of public access rights or loss of linear access (such as core paths, rights of way etc,) will only be permitted where an appropriate or improved access solution can be secured
19. Policy 16: Design Standards for new development sets out the design standards to be met with new development and is supported by supplementary planning guidance in the form of sustainable design guide

Supplementary Planning Guidance

20. In addition to the adoption of the Cairngorms National Park Local Plan (2010) a number of Supplementary Planning Guidance documents were also adopted. In this case key documents are guidance on Natural Heritage which sets out how the natural heritage of the National Park will be taken into account when considering development proposals. Reference is also made in the document to the need for applicants to provide natural heritage information. If adverse effects are found within the assessment it will then be necessary to provide details of mitigation and compensation measures. The Sustainable Design Guide also sets out how to achieve sustainable development in the Park.

CONSULTATIONS

21. **CNPA Outdoor Access Officer** considers that the development would have a minor impact only on outdoor access. It is noted that persons wishing to access the existing Right of Way from the north side of Loch Gynack would have to walk, cycle or ride an additional 500 metres should the right of way be diverted in future. This is not considered to be unreasonable. They welcome the use of signage for the public.
22. **CNPA Ecology Officer** has no adverse comments.
23. **CNPA Landscape Officer** considers the track alignment to be sensitive to the local landscape and that vegetation has been reused in a sensitive manner on track sides – this should be replicated with all areas. The officer also recommended that further detail regarding ongoing maintenance and monitoring of the restoration be provided to ensure the stability of side slopes and success of vegetation. (*This information was subsequently received as outlined earlier in the report*)
24. **Kingussie Community Council** has no issues with the proposals, and welcome the investment of Pitmain Estates in the community.
25. **Scottish Environment Protection Agency (SEPA)** was not formally consulted due to the small scale of the application. They have advised the

applicants that the development should simply follow their general binding rules as to construction.

26. **Scottish Natural Heritage (SNH)** note that the site application site lies outwith any designated sites and have no further comments to make.

REPRESENTATIONS

27. No representations have been received.

APPRAISAL

Principle of Development

28. The principle of this development is to continue to improve the working arrangements of this sporting estate by trying to separate out the estate/agricultural/sporting users from the domestic and recreational users, largely in relation of the guest accommodation and to direct recreational users in a manner which can avoid the immediate environs of Pitmain House.
29. At present sporting vehicles and recreational users go past the front of the guest accommodation which sits close to the road which is not an ideal situation in terms of the amenity of residents. The development has the potential to improve the working practises of the estate and as such the principle is generally in accordance with general planning policies to support economic development.
30. However, the key planning issues here are to ensure there are no adverse environmental impacts as a result of this proposal and that the proposals do not impede public access over the existing popular recreational routes in and around Pitmain and Loch Gynack. These matters are now considered in more detail below.

Public Access Issues

31. As outlined earlier there is a network of well used tracks around Pitmain, including a right of way leading north from Kingussie to the Creag Mor and Dhubh hills and beyond. Similarly to the last application for the new bridge and access track, this development *in itself* will not block the right of way, but rather will offer users an alternative route which avoids going past the guest lodges. Directional signs are proposed to highlight this option and to manage visitors
32. There is no proposal contained in this application to install permanent barriers or impediments to the existing right of way and users coming from the Loch Gynack (south west) direction could continue to head north past the guest accommodation under the terms of this current application.

33. The applicants have indicated it is their intention to apply for a right of way diversion order in due course. That would be decided under separate legislation and does not prevent the current application being determined.
34. The development, as proposed, does not impede access and is considered to comply with Policy 34 on Outdoor Access. Finally in respect of access it is noted that the application is retrospective and to date there have been no complaints received by the CNPA regarding access restrictions at Pitmain. The matter of diversion of the right of way and signage restricting the use of this right of way is being investigated by our Access Officers.

Design and Landscape Issues

35. The design and route of the track fits well in the landscape relating well to the woodland to the east and routed to follow the contours well. Final attention to restoration and detailing (as set out in the supporting monitoring and maintenance statement) will ensure this remains the case. It is therefore considered to comply with Policy 16 on Design and Policy 6 on Landscape.

Environmental Issues

36. The main planning issue in this case is any impacts upon the natural environment. National and local planning policies seek to ensure that the natural heritage of the National Park is conserved and enhanced. The track is on moorland with no importation of materials and minimal disturbance to existing conditions, with appropriate construction methods used. The site does not lie within any specifically designated areas and did not involve any loss of trees during construction.
37. Overall it is considered that the application does not have any significant impacts upon ecological interests in this case and there are no adverse impacts upon watercourses due to its location. It is therefore considered to comply with policies.

Conclusion

38. Overall the application is considered to comply with Local Plan policies and will provide improved access arrangements for a working estate. Any minor impacts upon the environment can be protected by appropriate planning conditions, and in the overall circumstances it is considered that this development could proceed without damage to the area. Whilst it is of course regrettable that the development proceeded in advance of planning consent being sought, it must be considered simply in respect of compliance with planning policies and on this basis approval subject to appropriate conditions is recommended. It is also recommended that it be highlighted again to the applicants that if they propose to divert the existing right of way that they must follow appropriate legal procedures.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

39. The layout and design of the track is generally in keeping with the rural character of the area and will not have any detrimental visual or landscape impact. In addition the development can be finished in a manner which will conserve the natural heritage here and these matters can be adequately controlled by appropriate planning conditions.

Promote Sustainable Use of Natural Resources

40. The track has been constructed in a fairly simple manner that minimised cut and fill operations and avoided any importation of materials. As such it has minimised use of natural resources and does not conflict with this aim.

Promote Understanding and Enjoyment of the Area

41. The proposed development continues to have the potential to support access opportunities in the Pitmain area by providing an alternative route around the guest accommodation and does not detract from enjoyment of the area. Additional signage as proposed may also help support this aim.

Promote Sustainable Economic and Social Development of the Area

42. The development may enable the estate to work more efficiently without disturbance to residents of the guest accommodation and the short term construction works may have secured some economic benefit during construction.

RECOMMENDATION

That Members of the Committee support a recommendation to GRANT full planning permission for the Construction of diversionary vehicular access track & parking areas for sporting activities (retrospective) subject to the following planning conditions.

- 1 - During construction and subsequent monitoring of the development hereby approved adjacent rights of way shall be kept free from obstruction at all times

Reason: In order to ensure that public access in the area is maintained and enhanced in accordance with local plan policy.

- 2 – The centre of the track shall be seeded in accordance with the approved “Proposals for Post Restoration Monitoring and Maintenance” in the first planting season following issue of this consent. The development shall thereafter be maintained in accordance with the details and timetable contained in this document.

Reason – To ensure that the development complements the landscape in accordance with Local Plan policies.

Advice notes:

1. In accordance with section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), this permission lapses on the expiration of a period of 3 years beginning with the date on which this permission is granted unless the development to which this permission relates is begun before that expiration.
2. The existing right of way must remain unobstructed at all times and that any proposal to divert the right of way will require separate approval under access legislation – please contact the Cairngorms National Park Access officer for further advice on 01479 870539. The granting of this planning permission does not affect this situation.

Officer Name; Katherine Donnachie

planning@cairngorms.co.uk

Date: 22 April 2014

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.