



Committee report

Development proposed:

Repair and upgrade of existing hill track

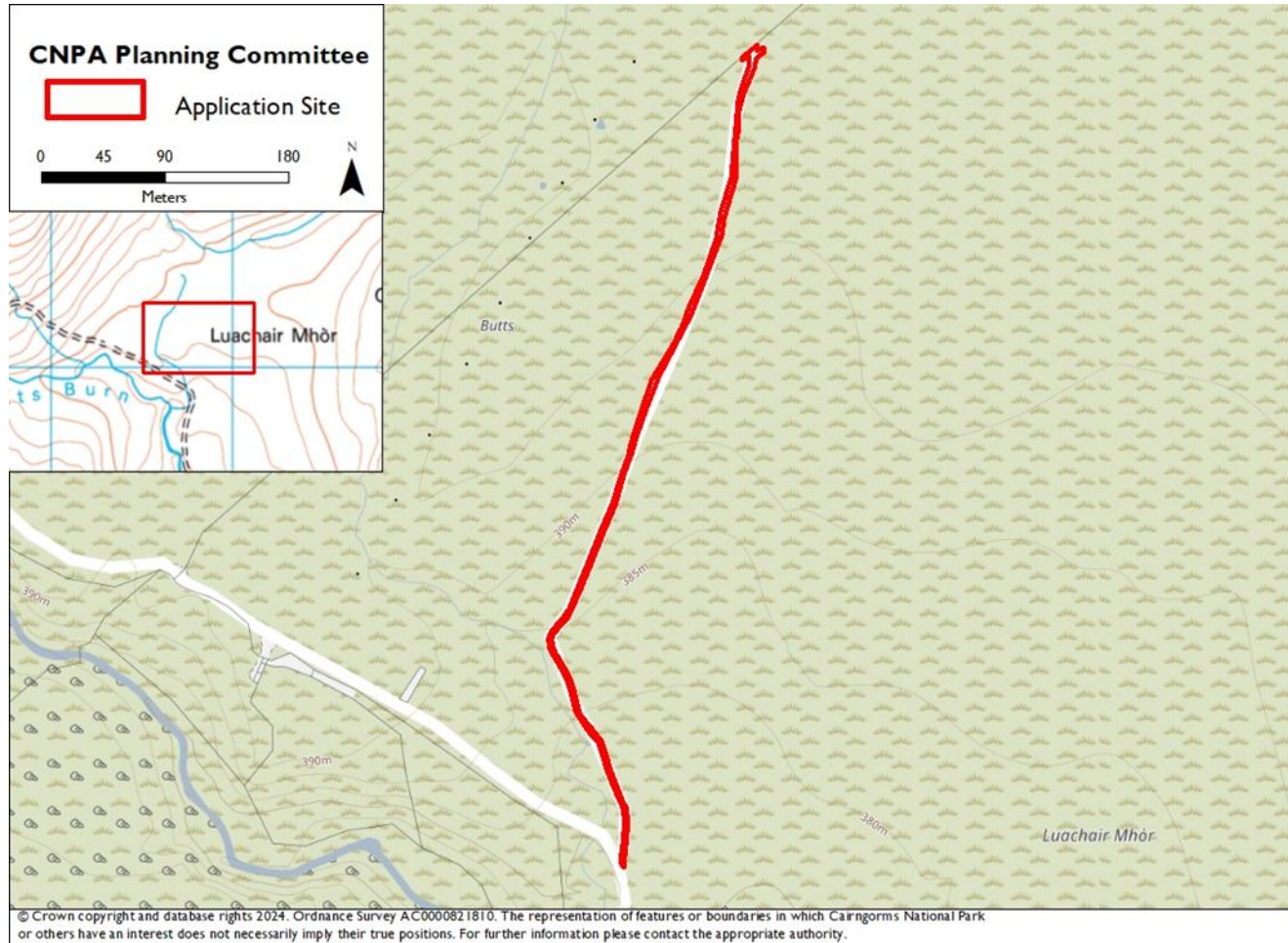
Reference: 2023/0445/DET

Applicant: Balavil Estate

Date called-in: 11 December 2023

Recommendation: Approve subject to conditions

Case officer: Colin Bryans, Senior Planning Officer



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Site description, proposal and history

Site description

1. Balavil Estate is approximately 3km north east of Kingussie. The estate is a long, thin estate stretching from the A9, 13km northwest from there into the Monadhliath Mountains and consists of mixed land uses including forestry, agriculture and sporting. The estate is currently undertaking a woodland restoration and regenerative landscape management programme.
2. The application site is largely a pre-existing rough estate 4x4 access track of approximately 800m in length, running north west from the main spinal estate road and located north of Craeg Bhuidhe woodland and north west of Luachair Mhor. The total site area is approximately 2400sq m.

Proposal

3. 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=S2H06USI0CP00>

Title	Drawing number	Date on plan*	Date received
Plan – Site location plan	n/a	01/11/2023	08/12/2023
Plan – Site plan	n/a	01/11/2023	08/12/2023
Plan – Section plan	n/a	n/a	08/12/2023

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

4. The proposed development consists of the upgrade and widening of a pre-existing rough estate 4x4 access track (retrospective), to a width of 2.5/3m and to include a central green strip. The upgraded track will facilitate the woodland restoration and



regenerative landscape management programme currently underway across the estate.

History

5. Balavil Estate submitted a planning application for a new track to the northern part of the estate. This was approved in January 2019, under reference 2018/0400/DET.
6. Balavil Estate submitted a planning application for a new track (retrospective). This was approved in December 2019, under reference 2019/0347/DET.
7. Balivil Estate submitted a planning application for the repair and upgrade of existing estate track (retrospective). This application is currently under consideration, under reference 2023/0455/DET.
8. Balivil submitted a planning application for the formation of a borrow pit (retrospective). This application is currently under consideration, under reference 2022/0290/DET.

Habitat regulations appraisal

9. The proposals are not considered to impact upon any European sites. As such no Habitat Regulations Appraisal is required.

Development plan context

Policies

National policy	National Planning Framework 4 (NPF4) Scotland 2045	
	Guidance that is relevant to this application is marked with a cross (x).	
Policy 1	Tackling the climate and nature crises	X
Policy 2	Climate mitigation and adaptation	X
Policy 3	Biodiversity	X
Policy 4	Natural places	X



Policy 5	Soils	
Policy 6	Forestry, woodland and trees	
Policy 7	Historic assets and places	
Policy 8	Green belts	
Policy 9	Brownfield, vacant and derelict land, and empty buildings	
Policy 11	Energy	
Policy 12	Zero waste	
Policy 13	Sustainable transport	
Policy 14	Design, quality and place	X
Policy 15	Local living and 20 minute neighbourhoods	
Policy 16	Quality homes	
Policy 17	Rural homes	
Policy 18	Infrastructure first	
Policy 19	Heating and cooling	
Policy 20	Blue and green infrastructure	
Policy 21	Play, recreation and sport	
Policy 22	Flood risk and water management	
Policy 23	Health and safety	
Policy 24	Digital infrastructure	
Policy 25	Community wealth building	
Policy 26	Business and industry	
Policy 27	City, town, local and commercial centres	
Policy 28	Retail	
Policy 29	Rural development	X
Policy 30	Tourism	
Policy 31	Culture and creativity	
Policy 32	Aquaculture	
Policy 33	Minerals	



Local plan policy	Cairngorms National Park Local Development Plan (2021) Guidance that is relevant to this application is marked with a cross (x).	
Policy 1	New housing development	
Policy 2	Supporting economic growth	
Policy 3	Design and placemaking	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	Open space, sport and recreation	
Policy 9	Cultural heritage	
Policy 10	Resources	
Policy 11	Developer obligations	

10. All new development proposals require to be assessed in relation to policies contained in the adopted Development Plan which comprises National Planning Framework 4 (NPF4) and the Cairngorms National Park Local Development Plan 2021 (LDP). The full wording of policies can be found at:

<https://www.gov.scot/publications/national-planning-framework-4/documents/>

and at:

<https://cairngorms.co.uk/wp-content/uploads/2021/03/CNPA-LDP-2021-web.pdf>

Planning guidance

11. 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 (x).

Policy 1	Housing supplementary guidance	
Policy 2	Supporting economic growth non-statutory guidance	
Policy 3	Design and placemaking non-statutory guidance	X
Policy 4	Natural heritage non-statutory guidance	X



Policy 5	Landscape non-statutory guidance	X
Policy 7	Renewable energy non-statutory guidance	
Policy 8	Open space, sport and recreation non-statutory guidance	
Policy 9	Cultural heritage non-statutory guidance	
Policy 10	Resources non-statutory guidance	
Policy 11	Developer obligations supplementary guidance	

Consultations

12. **Cairngorms National Park Authority Landscape Adviser** raised no objections to the proposal, noting that is not highly prominent within the wider area as it crosses a gently sloping landform shelf, so local visibility is affected by foreground screening and visual foreshortening and that the track will mainly be viewed by estate workers and those undertaking recreation along the access track between Balavil and Meall a' Chòcaire and within the context a new woodland planting scheme and associated perimeter deer fencing.

13. **Cairngorms National Park Authority Ecology Officer** raised no objections to the proposal but highlighted that the submission this retrospective application makes it difficult to determine the significance of impacts on protected species and birds. The significance of effects on habitats is considered slight and following the submission of the peat survey the significance of effects on peatland is also considered slight.

14. **Kincraig Community Council** offered no consultation response.

Representations

15. No representations have been received.

Appraisal

Principle

16. Notwithstanding the fact that the works were commenced without the requisite grant of planning permission, the proposal is to upgrade a section of pre-existing



track followed by a route frequently used by estate vehicles to access remoter parts of the estate. All the works will be seen within the context of a large native woodland planting scheme and, subject to detailed consideration of design and proposed mitigation measures, the principle of a track is considered acceptable.

Design

17. NPF4 Policy 14: Design, quality and place, seeks to support development proposals that improve the quality of an area regardless of scale and that are consistent with the six qualities of successful places, that is:

- a) Healthy
- b) Pleasant
- c) Connected
- d) Distinctive
- e) Sustainable
- f) Adaptable

18. LDP Policy 3: Design and placemaking seeks to ensure that development meets the six qualities of successful places.

19. The proposed track upgrades and widening are of a functional design and the materials used reflect this, being sourced at an estate borrow pit. The inclusion of a central green strip to the new track profile helps further ensure that the proposal will not appear incongruous within its setting.

20. The design of the proposal is of a scale and nature that is appropriate to its setting and the materials proposed appropriate and locally sourced. This, in combination with the fact that it will facilitate a regenerative native woodland planting project, ensures that in terms of design the proposal complies with the above policies.

Environment

21. NPF4 Policy 3: Biodiversity seeks to ensure that development proposals protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks. Development proposals must include appropriate



measures to conserve, restore and enhance biodiversity, in accordance with national and local guidance.

22. NPF4 Policy 4: Natural places seeks to ensure that development proposals protect, restore and enhance natural assets making best use of nature-based solutions. Development that has significant adverse impacts on designated sites, after mitigation, will not be supported.

23. LDP Policy 4: Natural heritage seeks to ensure that there are no adverse effects on European Protected Species and other biodiversity interests.

24. The Cairngorms National Park Authority Ecology Officer raised no objections to the proposal, with the effects of the proposal considered slight. The environmental impacts of the proposal are of a scale and nature that is considered acceptable and in compliance with the above development plan policies.

25. The proposal does not include any specific measures concerning biodiversity net gain. However, given that the proposed development constitutes part of a wider project to plant and regenerate native woodland, it is evident that the project will facilitate the delivery of wider biodiversity enhancements.

Landscape

26. LDP Policy 5: 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.

27. The proposed upgraded track will inevitably have a more significant visual impact than the previously driven route. However, given that the track is associated with and will be seen in the context of an enclosed woodland planting scheme, and is not prominent in the landscape the visual impacts it will have will reduce over time. In addition, the green central strip installed further softens the visual appearance of the track and reduces its impact.



28. The proposal is acceptable in terms of its impacts on landscape and accords with LDP Policy 5.

Conclusion

29. The proposed development is considered to comply with the policies of National Planning Framework 4 and the Cairngorms National Park Local Development Plan 2021 and approval is recommended.

Recommendation

That members of the committee support a recommendation to approve the proposed repair and upgrade of an existing estate track (retrospective).

Informatives

1. The person undertaking the development is required to give the Planning Authority prior written notification of the date 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.
2. Following completion of the development, a notification of 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.