



Committee report

Development proposed:

Widening and works to access track, formation of hardstanding and borrow pit (retrospective)

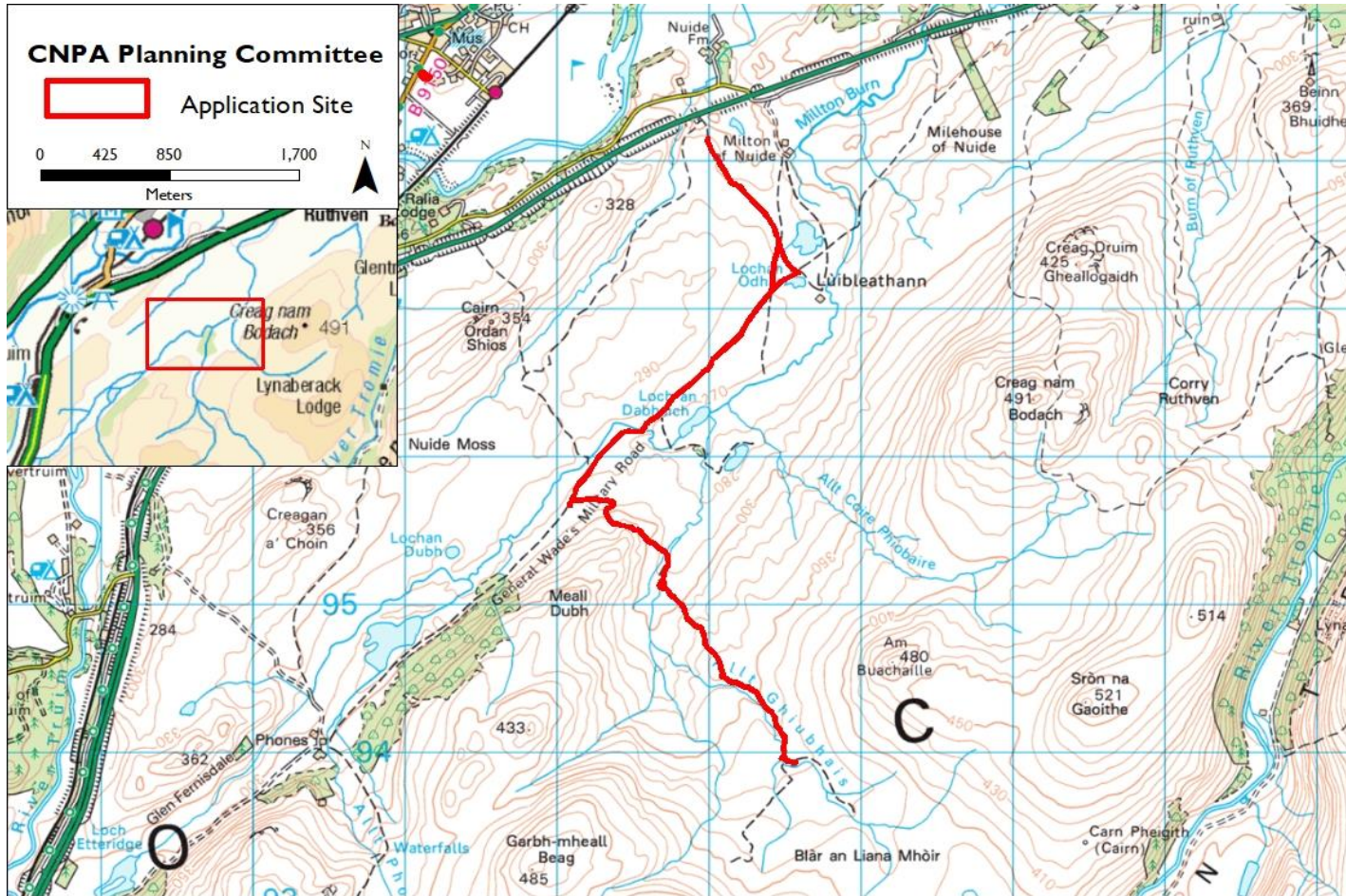
Reference: 2024/0082/DET

Applicant: Standard Life Investments

Date called-in: 18 April 2024

Recommendation: Approval subject to recommended conditions

Case officer: Colin Bryans, Senior Planning Officer



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Site description, proposal and history

Site description

1. The Far Ralia Estate is located to the south east of Newtonmore and historically consists of mixed land uses including forestry, agriculture and sporting. The wider site is subject to a Scottish Forestry approved and grant funded project to increase the native woodland area through a planting scheme of predominantly Caledonian Pine. The creation of 800ha of native woodland, on what was previously a featureless heather moorland grazed by sheep and historically only utilised for grouse shooting, is now underway.
2. The application site is largely a pre-existing rough estate 4x4 access track. The proposed borrow pit is located immediately adjacent to this track.

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 – Location Plan	Drysdale2_000	01/04/2023	03/04/2024
Plan – Overlay of track	n/a	n/a	03/04/2024
Plan – Map 1 of 2 Existing track widening	n/a	n/a	03/04/2024
Plan – Map 2 of 2 Existing track widening	n/a	n/a	03/04/2024
Plan – Access track sections	n/a	27/06/2024	27/06/2024

*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) and the creation, and restoration, of a single 80sqm borrow pit. The newly upgraded track is approximately 2.8m in width, is constructed of rock and sandy gravel sourced from the new borrow pit and pre-existing borrow pits. The track will include a central green strip of sown grass 30cm in width.
5. The improved track is intended to allow it to be used by larger vehicles and more frequent vehicle use as part of a native woodland planting project.

History

6. A Prior Notification application for the upgrade of the track was initially made to Highland Council and then called in by the CNPA, only to be withdrawn immediately after Highland Council concluded that what was proposed in the Prior Notification application fell entirely within permitted development rights related to the improvement of a private road or way. As works on the track progressed, it became apparent that the works undertaken on the ground exceeded those permitted development rights or those described in the original prior notification application, with sections of track being substantially widened and borrow pits being opened. Officers sought a planning application to regularise the works.

Habitats regulations appraisal

7. A Habitats Regulations Appraisal (HRA) has been undertaken to consider the potential effects of the development upon the conservation objectives of the Natura site listed within the HRA document which is attached as Appendix 2. The Natura site in this case is the River Spey Special Area of Conservation (SAC) which is designated for its otter, Atlantic salmon, sea lamprey and freshwater pearl mussel interests. The HRA concludes that there will not be an adverse effect on site integrity as long as the information provided, particularly the method statement 'Water Protection/Best Practice Guideline Far Ralia River Ford Crossing' is implemented in full during construction to protect the water environment and the River Spey SAC downstream of the construction. This conclusion is supported by NatureScot.



Development plan context

Policies

National policy	National Planning Framework 4 (NPF4) Scotland 2045	
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	X

Local plan policy	Cairngorms National Park Local Development Plan (2021) (Policies relevant to the assessment of this application are 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	

8. 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

9. 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

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

11. NatureScot raised no objections to the proposal and agreed with the conclusions of the HRA, that while the proposal has potential to have significant effects on atlantic salmon, sea lamprey and freshwater pearl mussel qualifying features River Spey SAC due to the potential pollution and negative changes to water quality as a result of the works, subject to standard pollution prevention measures being put in place during construction activities, the development should not result in adverse effects to the site integrity for its qualifying features.

12. Transport Scotland raised no objections to the proposal.

13. The Highland Council Historic Environment Team raised no objections to the proposal.

14. Cairngorms National Park Authority Access Officer raised no objections to the proposal.

15. Cairngorms National Park Authority Ecology Officer raised no objections to the proposal following the submission of additional supplementary information



concerning protected species, habitats and construction, and subject to the application of the recommended condition.

16. Newtonmore Community Council made no representation.

Representations

17. No representations were received within the statutory period for representations. One representation was received after the period for written representations and will be reported during the planning officer's presentation to the committee.

Appraisal

18. Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the Development Plan. This now comprises the Cairngorms National Park Local Development Plan 2021 and the National Planning Framework 4 (NPF4). Where there is conflict between policies, NPF4 policies will be used.

19. The main planning considerations in this case are the principle of development, design, environmental and landscaping impacts. These are considered in detail below.

Principle

20. Notwithstanding the fact that the works were commenced without the requisite grant of planning permission, the proposal is to upgrade a pre-existing track and as such the principle of the track at this location is established and acceptable in principle, subject to detailed consideration of design and proposed mitigation measures.

21. **NPF4 Policy 33: Minerals** states that borrow pits will only be supported where the proposal is tied to a specific project, is time-limited/temporary, complies with the mineral extraction criteria and where the appropriate restoration proposal is enforceable.



22. The proposed borrow pit is tied to a specific project providing locally won materials for a programme of estate track upgrades. Subject to the recommended conditions reflecting the temporary nature of the development, relating to the cessation of activities and the submission, approval and implementation of a detailed restoration plan, the proposed development is supported in principle.

Design

23. **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

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

25. The track upgrades and widening are of a functional design and use locally won materials from borrow pits close to the track route. The inclusion of a central green strip to the new track as part of the application will help to reduce the visual impact of the upgraded track. Subject to restoration of the borrow pit that remains open, the proposal is considered to be acceptable in principle.

Environment

26. **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.



27. **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. **LDP Policy 4: Natural heritage** seeks to ensure that there are no adverse effects on European Protected Species and other biodiversity interests.
28. Cairngorms National Park Authority Ecology Officer raised no objections to the proposal following the submission of additional supplementary information.
29. Concerning protected species, including birds and reptiles, the applicant submitted an Extended Phase 1 Habitat Survey & Breeding Bird Report. The Ecology Officer advised that satisfactory mitigation for preventing disturbance to the species identified was detailed within the report. The mitigation applied would reduce any significance of effects to slight. Satisfactory mitigation for preventing disturbance on breeding bird species was also detailed therein, similarly reducing the significance of effects to moderate/slight, with temporary loss of habitats.
30. Concerning the impacts of the borrow pit on heathland habitat the submitted Method Statement provides information on the measures for excavating and restoring borrow pits, including information on monitoring. The Ecology Officer observed that the restoration of the borrow pit is likely to take place over medium to long term and that the significance of effects is considered slight. Subject to the application of the suggested condition relating to restoration this is deemed acceptable.
31. With regards to the water environment, the proposal site is located within relatively close proximity to the River Spey Special Area of Conservation, with the potential to impact upon it. The applicant submitted Water Protection/Best Practice Guideline and a Drainage Management Plan. The Ecology Officer concluded that with the implementation of measures and mitigations detailed within the submitted Water Protection/Best Practice Guideline and the Drainage Management Plan, the significance of effects on the water environment are slight. These points were considered in the Habitats Regulations Appraisal for the application that concluded that there would not be an effect on the site integrity of the River Spey SAC and was agreed with NatureScot.



32. The environmental impacts of the proposal, when considered in combination with the supporting information outlined above, are of a scale and nature that is acceptable and in compliance with the above development plan policies.
33. The proposal does not include any specific measures concerning biodiversity net gain. However, given that the proposed development is associated with part of a wider native woodland planting project, it is concluded that the project will facilitate the delivery of biodiversity enhancement.

Landscape

34. **LDP Policy 5: Landscape** presumes against development which does not conserve and enhance the landscape character and special qualities of the National Park.
35. The proposed upgraded track will inevitably have a more significant visual impact than the historic track for a period of time. However, given that the track's primary purpose is to facilitate a woodland restoration and regenerative landscape management programme, which is already underway, the visual and landscape impacts will reduce over time as the woodland grows and as the seeding of the track central strip grows.
36. The borrow pit will have minimal impact at a landscape scale due to its modest size and this will diminish with time post restoration.
37. The proposal is acceptable in terms of its impacts on landscape and accords with LDP Policy 5.

Conclusion

38. The proposed development consisting of widening and upgrade of the pre-existing access track and the formation of a borrow pit has been undertaken and as such this application is retrospective. Notwithstanding this, the proposal is of a modest and functional design, the impacts of which are considered acceptable subject to the recommended conditions. The proposed development is in compliance with the



policies of National Planning Framework 4 and the Cairngorms National Park Local Development Plan 2021.

Recommendation

That members of the committee support a recommendation to approve the proposed widening and ancillary works to an existing access track, formation of hardstanding and borrow pit (all retrospective), subject to the following conditions:

Conditions

1. With regards to the borrow pits only, the planning permission is hereby granted for a temporary period only and shall cease to have effect within two years of the date of this permission (the 'cessation date'). Prior to the cessation date, the application site shall be cleared of all works and development approved under the terms of this permission) and reinstated in accordance with the agreed restoration scheme.

Reason: To enable the impact of the temporary development on the amenity of the surrounding area to be reviewed and to ensure the appropriate restoration of the site.

2. Within three months of the date of this decision a fully detailed restoration scheme for all borrow pits and sowing of the track central grass strip must be submitted to and approved in writing by the Cairngorms National Park Authority acting as planning authority. The restoration of the site shall be carried out in complete accordance with the approved restoration scheme. For the avoidance of doubt the aforementioned restoration scheme must include:
 - a) Details of proposed replanting/seeding to include scope/extent and species, and any other measures proposed.
 - b) Timescale associated with implementation and completion of identified measures.
 - c) Monitoring schedule and details of actions to be taken if measures fail.

Reason: To ensure the timeous and appropriate restoration of the site following the expiry of this temporary permission in the interests of visual amenity, landscape protection and biodiversity enhancement.



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