

CAIRNGORMS NATIONAL PARK AUTHORITY

DEVELOPMENT PROPOSED:

Part retrospective construction of 634m long ATV track for woodland management at Crathie Lodge Laggan Newtonmore Highland PH20 1AJ

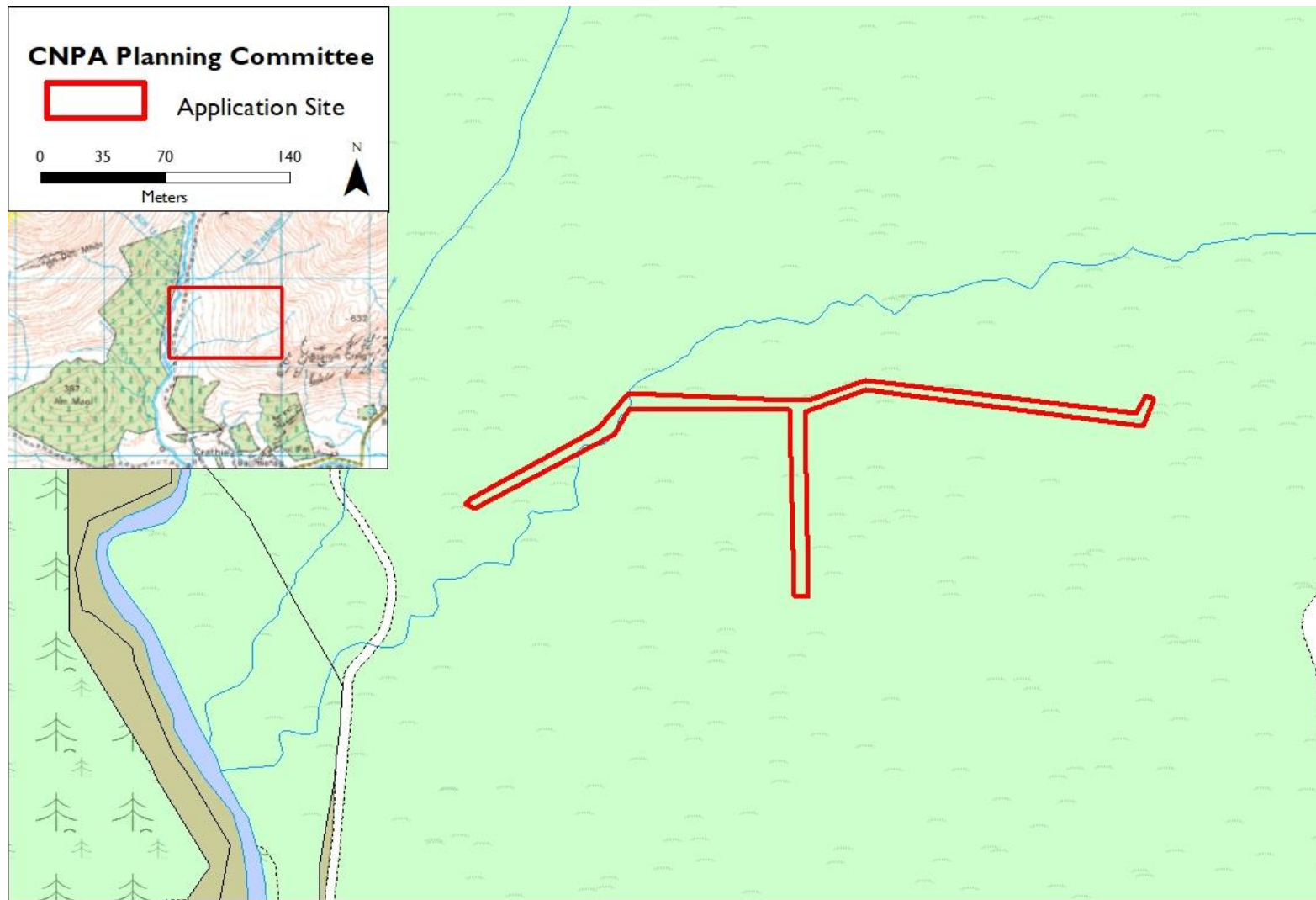
REFERENCE: 2023/0363/DET

APPLICANT: Mr Kevin Fletcher

DATE CALLED-IN: 18 September 2023

RECOMMENDATION: Approve Subject to Conditions

CASE OFFICER: Ed Swales Monitoring and Enforcement Officer



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SITE DESCRIPTION, PROPOSAL AND HISTORY

Site Description

1. The site is approximately 4km northwest of Laggan Village. It is located within an existing woodland enclosure of approximately 50 hectares and accessed via a pre-existing estate track above the historic township of Crathie, Badenoch, at the entrance to Glen Markie.

Proposal

2. 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=S0MI MASIOCP00>

Title	Drawing Number	Date on Plan*	Date Received
Plans			
Plan - ATV Track 1		17/08/23	14/09/23
Plan - ATV Track 1 Proposal		12/07/23	14/09/23
plan - section plan - culvert			14/09/23
plan - section plan - track			14/09/23
Supporting Information			
Other - Forest Track Specification for ATV/Argo track		12/07/23	14/09/23

*Where no specific day of month has been provided on the plan, the system defaults to the 1st of the month.

3. The application is for the construction of a 2m wide ATV track running to approximately 600m in length, although 300m is already constructed and therefore the application is part retrospective. A culvert installation is also proposed over the Allt Tarsuinn Beag. There will be a spur located in the middle of the proposed track running south from the main route. The initial purpose of the proposed track is to manage the woodland enclosure and following that it will be used for estate management purposes.
4. Plans of the proposals are included within **Appendix 1**.

History

5. In August 2023 the Cairngorms National Park Authority approved a Prior Approval for another track, 2km east of the current application site.

HABITATS REGULATIONS APPRAISAL

6. A Habitats Regulations Appraisal [HRA] has been undertaken to consider the effects of the proposal upon the conservation objectives of the European Sites as listed within the document - attached at **Appendix 2**. The European sites potentially affected are the River Spey and Monadhliath Special Area of Conservation.
7. The proposed track is approximately 800m south of Monadhliath SAC and approximately 1500m north of River Spey SAC. The track will involve culverting the Allt Tarsuinn Beag, which is a tributary of Markie Burn, which connects to the River Spey SAC downstream of the site. The HRA concludes there is a likely significant effect on the River Spey SAC during construction with a risk that sedimentation enters the Allt Tarsuinn Beag. However, the requirement for the submission of a Pollution Prevention Plan and its implementation will mitigate against this.
8. While construction is around 1 mile away from the boundary of the River Spey SAC it is considered likely that otter will use tributaries of the River Spey, including the Markie Burn and Allt Tarsuinn Beag. As no survey information on otter has been provided it is recommended that a Species Protection Plan is conditioned and implemented prior to further works occurring on site.
9. The HRA concludes that as all the other conservation objectives would be met, the proposed development would not prevent or hinder the condition or conservation status of the qualifying interests of the SAC, and so this conservation objective would be met.

DEVELOPMENT PLAN CONTEXT

Policies

National Policy	National Planning Framework 4 (NPF4) Scotland 2045	
POLICY 1	Tackling the Climate and Nature Crises	

POLICY 2	Climate mitigation and adaptation	
POLICY 3	Biodiversity	
POLICY 4	Natural Places	
POLICY 5	Soils	
POLICY 6	Forestry, Woodland and Trees	
POLICY 14	Design, quality and place	
POLICY 20	Blue and Green Infrastructure	
POLICY 29	Rural Development	

Strategic Policy	Cairngorms National Park Partnership Plan 2022 – 2027	
Local Plan Policy	Cairngorms National Park Local Development Plan (2021) Those policies relevant to the assessment of this application are marked with a cross	
POLICY 1	NEW HOUSING DEVELOPMENT	
POLICY 2	SUPPORTING ECONOMIC GROWTH	X
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. 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.

Policy 1	Housing Supplementary Guidance	
Policy 2	Supporting Economic Growth Non-Statutory Guidance	X
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

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

12. **Forest and Land Scotland** states the track will benefit the woodland managed by FLS and the Deer Management Group.
13. The **Highland Council Access Officer** suggests the proposal is close to a public right of way which is likely to be used to access the proposal too. A condition is therefore required to ensure any damage to the right of way from construction traffic is repaired following the completion of construction works.
14. **CNPA Ecology Advisor** states there is potential for effects on the Monadhliath and River Spey SSSI, due to sediment release and habitat loss, however the ecology advisor recommends a site-specific pollution prevention plan/construction method statement should be provided for working alongside the All Tarsuinn Beag. A Phase 1 Habitat survey is also required and site-specific assessment of the peatland to assess the impacts of the development on priority habitats. These should be conditioned and assessed prior to any further works being undertaken on the site.
15. **CNPA Landscape advisor** states that there is insufficient information to properly assess predicted landscape and visual effects. Information

on its need and use, how the track relates to existing and other tracks and its routing and how the design relate to the landscape is required. Further information on the location, scale and restoration of borrow pits is also required and the submission of a Construction Method Statement which further describes the proposals for soil and vegetation extraction, storage and restoration in detail.

16. **Laggan Community Council** has not made a comment relating to this application.

REPRESENTATIONS

17. There have been no representations received in relation to this proposal.

APPRAISAL

18. The main considerations are considered to be, the principle of the development, environmental and landscape impacts, access and design.

Principal

19. The principle of the proposed track is considered against **Policy 6: Forestry, woodland and trees** of National Planning Framework 4 (NPF4) Scotland 2045 (NPF4) which supports development that will enhance, expand and improve woodland and tree cover. **Policy 29: Rural Development** of NPF4 states development proposals in rural areas should be suitably scaled, sited and designed to be in keeping with the character of the area. Furthermore, **Policy 2: Supporting Economic Growth** of the Cairngorms National Park Local Development Plan 2021 (LDP) states proposals which support or extend the economy, or which enhance the range and quality of economic opportunities or facilities, will be considered favourably where they have no adverse environmental or amenity impacts on the site or neighbouring areas.
20. The proposal will provide access to a newly planted woodland and will allow for its long-term management including tree replacement, deer control and fencing repairs. In turn the provision of this woodland scheme in this location will contribute to supporting the local rural economy and therefore, subject to compliance with other development plan policies, the track is considered to be acceptable in principle.

Landscape Issues

21. **Policy 4: Natural Places** of NPF4 states development proposals which by virtue of type, location or scale will have an unacceptable impact on the natural environment, will not be supported. **Policy 5: Landscape** of the LDP presumes against development that does not conserve or enhance the landscape character and special qualities of the National Park. Paragraph **5.2: Hill tracks** within **Policy 5: Landscape** states there will be a presumption against new private roads and ways in open moorland areas.
22. The Landscape advisor has requested further information on how the track will fit within the context of the wider landscape and is seeking the submission of a Construction Method Statement.
23. The purpose of the track, which is partly constructed, is to allow the management of a new woodland creation scheme. The woodland is planted on former moorland and the track is located within the woodland enclosure with further planting planned. It is accepted that there will be some limited landscape and visual impacts, however, these are likely to be in the short term and limited in extent. The track will be well screened in time as the trees mature, integrating with the surrounding landscape. Subject to the submission of an appropriate Construction Method Statement detailing amongst other things, proposals for soil and vegetation extraction, storage and restoration details, the proposal will not be detrimental to the landscape character, in compliance with Policy 4 of NPF4 and Policy 5 of the LDP.

Environmental Issues

24. **Policy 3: Biodiversity** of NPF4 states any potential adverse impacts, including cumulative impacts, of development proposals on biodiversity, nature networks and the natural environment will be minimised through careful planning and design while **Policy 4: Natural Places** seeks to protect and enhance natural heritage.
25. **Policy 4: Natural Heritage** of the LDP states that development that would have a significant adverse effect on any European Protected Species will not be permitted unless the development will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.
26. An HRA has been produced suggesting there will not be an adverse effect on site integrity for the River Spey SAC providing a site-specific Pollution Prevention Plan is produced and approved prior to any further

works being undertaken. A pre-construction otter survey and other relevant species protection plans should also be undertaken and submitted to the CNPA for approval. Subject to a condition requiring a suitable Construction Environmental Management Plan is submitted and approved, the proposal will comply with Policies 3 and 4 of NPF4 and Policy 4 of the Cairngorms National Park Local Development Plan 2021.

Access Issues

27. **Policy 20: Blue and green infrastructure** of NPF4 states LDPs should safeguard access rights and core paths, including active travel routes, and encourage new and enhanced opportunities for access linked to wider networks. **Policy 3: Design and Placemaking** of the Cairngorms National Park Local Development Plan 2021 states all development proposals must be designed to maintain and maximise all opportunities for responsible outdoor access, including links into the existing path network. The Highland Council Access Officer has suggested that repairs to the public right of way adjacent to the proposed development should be undertaken, should any damage be caused by construction vehicles during the development of the track. Applying the suggested condition will ensure the proposal complies with Policy 20 of NPF4 and Policy 3 of Cairngorms National Park Local Development Plan 2021.

CONCLUSION

28. The track is within an area of newly created native woodland, which in time will screen the track from any landscape impacts. While its use is initially for the management of the woodland once these works have been finished the track will facilitate other aspects of estate management. With this the principle of the track is acceptable and subject to the application of conditions for a Construction Method Statement, a Pollution Prevention Plan and a Pre-construction otter survey and any required Species Protection Plan prior to any further works on site the proposal will comply with the relevant NPF4 and Local Development Plan policies.

RECOMMENDATION

That Members of the Committee support a recommendation to approve the Construction of a 634m long ATV track for woodland management at Crathie Lodge, Laggan, Newtonmore, Highland, PH20 1AJ, subject to the following conditions:

Those conditions listed below in bold text are suspensive conditions, which require to be discharged prior to implementation of the development.

Conditions

1. **No development shall commence until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority. The CMS shall include but not be limited to:**
 - a) **A pollution prevention plan demonstrating that there will be no pollution or sedimentation of water courses during construction;**
 - b) **Details of pre-construction surveys for protected species (otter) and any associated Species Protection Plan with standard mitigation measures to prevent harm to protected species that might enter the site during construction;**
 - c) **The approach to site preparation, soils management, restoration and reinstatement.**

Thereafter the development shall be implemented in accordance with the approved CEMP.

Reason: To ensure that there is no effect on the integrity of the River Spey SAC and to protected species in accordance with Policy 3: Biodiversity and Policy 4: Natural Places of NPF4 and Policy 3: Design and Placemaking, Policy 4: Natural Heritage and Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2021.

2. Any disturbance or damage to the Glen Markie public right of way (HB31) must be repaired to as good or better a standard than pre development within 14 days of the disturbance occurring, or such longer period as agreed with the local authority.

Reason: To comply with the Cairngorms National Park Authorities statutory duty to uphold access rights and in compliance with Policy 20: Blue and green Infrastructure of NPF4 and Policy 3: Design and Placemaking of the Cairngorms National Park Local Development Plan 2021.

Informatives

1. The development hereby approved must commence within 3 years of the date of this decision notice. If development has not commenced within this period then this planning permission will lapse.
2. 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.
3. 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.

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.