
CAIRNGORMS NATIONAL PARK AUTHORITY

DEVELOPMENT PROPOSED:

Formation of forest/woodland access track (in retrospect) at Balavil House Kingussie
Highland PH21 ILU

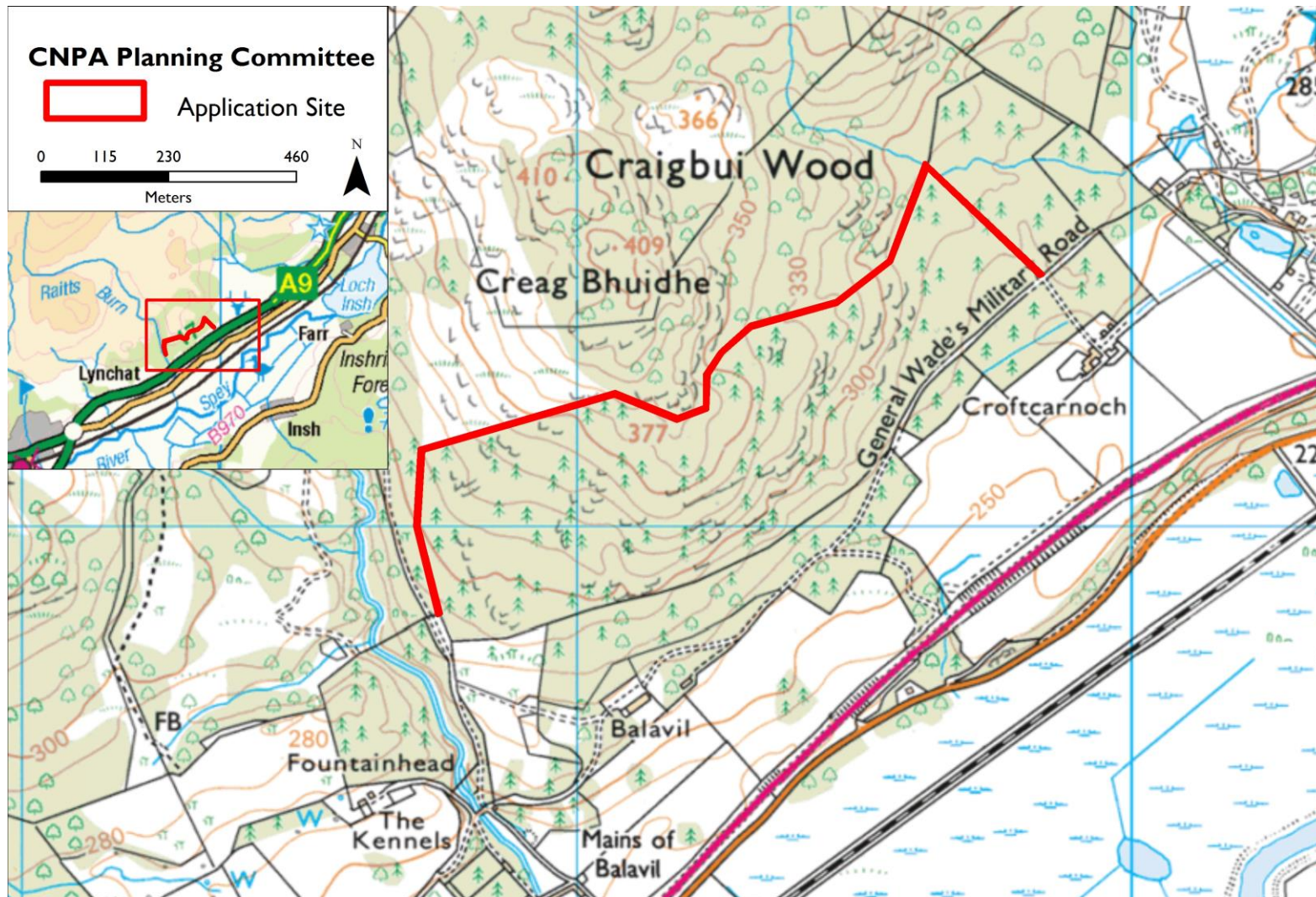
REFERENCE: 2019/0347/DET

APPLICANT: Mr Jack Campbell

DATE CALLED-IN: 4 November 2019

RECOMMENDATION: Approve subject to conditions

CASE OFFICER: Edward Swales Monitoring and Enforcement Officer



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SITE DESCRIPTION, PROPOSAL AND HISTORY

Site Description

1. The 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.
2. The Croftcarnoch woodland, which is the subject of this application, is in the southeast corner of the estate. It is dense plantation woodland currently being thinned as part of the estates wider plan for more native woodland regeneration and planting throughout the estate.

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=Q04YG4SI0CH00>

Title	Drawing Number	Date on Plan*	Date Received
Plan - Existing Watercourse Culvert			01/11/19
Plan - Road Crossing Culvert			01/11/19
Plan - Typical Construction Layout			01/11/19
Site Plan - Updated Site Plan	1	27/11/19	27/11/19
Specifications - Supporting Statement			01/11/19

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

4. The application is part retrospective to form a forestry track along the northern edge of the woodland. The track is approximately 1km in length and has been formed by stripping the turfs and using crushed rock for the base. The works were carried out in the summer of 2019.
5. During the course of the application it has now been proposed to terminate the track at the point where the works have been undertaken. Following discussion between applicant and CNPA, an alternative route within the plantation was identified as a more suitable route for the new elements of the application. A further application or prior notification for forestry private way would be required to for its development.

History

6. 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.
7. The works to the track that is the subject of this application were reported to the CNPA in September 2019 and work stopped when the CNPA contacted the estate. The estate had submitted a prior notification for the track as a forestry-related track but commenced the works before it was determined, meaning that the permitted development right was lost and a planning application was required to authorise the works.

DEVELOPMENT PLAN CONTEXT

Policies

National Policy	Scottish Planning Policy 2014	
Strategic Policy	Cairngorms National Park Partnership Plan 2017 - 2022	
Local Plan Policy	Cairngorms National Park Local Development Plan (2015) Those policies relevant to the assessment of this application are marked with a cross	
POLICY 1	NEW HOUSING DEVELOPMENT	
POLICY 2	SUPPORTING ECONOMIC GROWTH	
POLICY 3	SUSTAINABLE DESIGN	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	SPORT AND RECREATION	
POLICY 9	CULTURAL HERITAGE	
POLICY 10	RESOURCES	
POLICY 11	DEVELOPER CONTRIBUTIONS	

8. All new development proposals require to be assessed in relation to policies contained in the adopted Local Development Plan. The full wording of policies can be found at:

<http://cairngorms.co.uk/uploads/documents/Park%20Authority/Planning/LDPI5.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.

Policy 1	New Housing Development Non-Statutory Guidance	
Policy 2	Supporting Economic Growth Non-Statutory Guidance	
Policy 3	Sustainable Design Non-Statutory Guidance	X
Policy 4	Natural Heritage Supplementary Guidance	X
Policy 5	Landscape Non-Statutory Guidance	X

Policy 7	Renewable Energy Supplementary Guidance	
Policy 8	Sport and Recreation Non-Statutory Guidance	
Policy 9	Cultural Heritage Non-Statutory Guidance	
Policy 10	Resources Non-Statutory Guidance	
Policy 11	Developer Contributions Supplementary Guidance	

CONSULTATIONS

Summary of the main issues raised by consultees

10. **Highland Council Development and infrastructure** offered no objection to the proposal.
11. **CNPA Ecology** states that an ecological survey has been undertaken and no evidence of protected species was recorded within the track footprint or buffer area. There are no statutory designated areas in the site.
12. The track construction has resulted in the loss of around 15 juniper bushes. Juniper is abundant on the estate and the commitment to large areas of rewilding/natural regeneration work will result in an overall increase of Juniper throughout.
13. The track is very steep in parts, to prevent erosion and downslope run off of sediment, no further fine dressing sediment should be used. The current track surface is sufficient for the proposed level of use.
14. The termination of the track at its current extent and routing of any further extension to it through the woodland will enable the woodland edge to be retained and achieve a softer transition between woodland and the natural regeneration area.
15. **CNPA Landscape** states that the majority of the track passes through a strongly undulating landscape, between an existing conifer plantation to the south (currently being thinned) and patchy, mixed native trees and open ground to the north. Most of the area is spatially contained, visually discreet and visited by few people apart from estate staff and visitors.
16. The track contrasts to the local landscape character by introducing a linear feature that differs to the surrounding land cover, although relating to the edge of the existing plantation to the south. Some sections of the track are extremely steep and cross the landform, not following the SNH hill track guidance. There are also some cutting and embankment faces alongside the track which are prominent, although the exposure of some sections has been reduced with turf relocation.
17. At present, the track's prominence and contrast with its surroundings is limited by the aggregate mainly comprising hard core. A surface dressing would change this, depending on its colour and grade, with lighter colours and a finer aggregate tending to result in greater contrast with the surroundings and being more prominent.
18. It is predicted that the far western section of the track (unconstructed) would be clearly visible from open areas to the west, including from Creag Bhalg, and would appear to take a straight route that would appear incongruous in relation to the

landform. Although there is currently some rationale for this route by following the edge of the existing woodland plantation, it is hoped that this edge will be less pronounced in the future following planned woodland planting and regeneration, and thus the track route as currently proposed would appear increasingly incongruous in the future.

19. The officer suggests the following mitigation;
 - a. Do not apply a surface dressing to the steep sections of track so it remains rough. It is understood this would be sufficient for the planned occasional ATV and forestry vehicle use whilst facilitating drainage and potentially reducing erosion.
 - b. Replace turf upon cut and embankment slopes alongside the track where these are unlikely to naturally regenerate and/or would be subject to erosion by surface water.
 - c. Re-route the unconstructed far western section of the track through the existing plantation to the south to reduce visibility from the open area to the west, avoid reinforcing the existing plantation edge which will change in the future, and take a more sensitive route in relation to the landform.
20. It is also recommended that there is on-going monitoring and maintenance of the track and its surface given some of the route will be exposed to greater surface water erosion than other tracks.

21. **Community Council** made no comments on this application.

REPRESENTATIONS

22. The representations focus on the spurs of the track and their necessity for feeding alien species as well as the steepness of the track in places.
23. The concerns regarding pheasants stems from impacts on biodiversity as well as impacts on Capercaillie and limiting potential good habitat for them.

APPRAISAL

24. The track has been constructed for mixed use purposes, but its primary use is that of forestry to enable the thinning of the adjacent plantation. The development will facilitate the wider aims of the estate to introduce more native woodland planting across the estate allowing better conservation management throughout.
25. While the works were commenced without any form of permission, the principle of its construction is acceptable subject to compliance with the suggested planning conditions and as such will ensure the proposal complies with the relevant policies within the Cairngorms Local Development Plan 2015.

Environmental Impacts

26. **Policy 5:** Landscape of the Cairngorms National Park Local Development Plan 2015 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 developments. The track is relatively hidden between the plantation and the hillside meaning its landscape impact is limited to some distant views of it in an area where this type of development is not unexpected.
27. The track results in some adverse landscape and visual effects as it forms a linear feature that differs to its immediate surroundings, this would be increased by further construction of the far western section, currently unconstructed, with visibility of this section being more open and distant.
28. It has been agreed with the estate that a condition will be applied to the current application to prevent further development beyond its western end. An alternative route within the current plantation would require to be subject of a separate application or notification. This is supported by the landscape advisors comments and as such will ensure the proposal complies with Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015
29. **Policy 4:** Natural Heritage of the Cairngorms National Park Local Development Plan 2015 states that development that would adversely affect the Cairngorms National Park will only be permitted where it will not adversely affect the integrity of the area. The track has resulted in a loss of juniper, however it is abundant in the area and the estate has a commitment to re-wild and naturalise this area within its boundary therefore the loss of juniper is not considered to have a significant effect.
30. The steep sections of track will result in erosion should any further development be carried out therefore it is proposed to condition that no further works are carried out on the steeper parts of the track, with surface dressing only being applied where appropriate to other flatter parts of the track. The steep sections are shown in blue on Plan Ref I. The other mitigation required involves replacing turfs of the embankment along the route where the track has been cut into this embankment and is unlikely to naturally revegetate. These will be conditioned to ensure the proposed mitigation and proposal complies with Policy 4: Natural Heritage of the Cairngorms National Park Local Development Plan 2015.
31. **Policy 3:** Sustainable Design of the Cairngorms National Park Local Development Plan 2015 requires that all development proposals should be designed to minimise the effect of the development on the landscape. A condition will also be added to ensure monitoring of the track is undertaken annually, for a period of 5 years with any maintenance carried out with the agreement of the planning authority to ensure the development complies with Policy 3: Sustainable Design of the Cairngorms National Park Local Development Plan 2015.

Representations

32. The representations have focused on the steepness of the track in parts, a spur off the track, and its purpose and necessity as well as the secondary reason for the track being that of rearing pheasants for sporting purposes.

33. The spur does not form part of this application. The estate have explained that it was created for the removal of fencing in the upper parts of this estate and that it will be removed when works to comply with any permission on the current application are undertaken. The CNPA will continue to monitor this spur and if required take enforcement action to resolve any issues.
34. The breed of pheasants for sporting purposes in this part of the estate has been undertaken for many years prior to this track being constructed and while an incidental use for the track is not a material consideration for this application.

CONCLUSION

35. The main development of the track has been undertaken therefore this application is retrospective. The impacts of the track are not considered significant and limiting the track's extent at its western end through condition will reduce more significant potential landscape and visual impacts.
36. The suggested mitigation will ensure the proposal accords with the relevant policies within the Cairngorms Local Development Plan 2015.

RECOMMENDATION

That Members of the Committee support a recommendation to approve the Formation of forest/woodland access track (in retrospect) at Balavil Estate Kingussie Highland PH21 ILU 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. Notwithstanding the approved plans for the development hereby permitted, there shall be no further works between point A and point B, coloured in yellow, on Plan Ref I, dated 27th November 2019. Any works between point A and point B, highlighted green on this plan, will be the subject of a separate planning application.

Reason: To minimise any further landscape, visual and ecological impacts of the development in accordance with Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015.

2. No further works will be carried out on the sections marked in blue on Plan Ref I, dated 27th November 2019 unless otherwise agreed in writing by the Cairngorms National Park Authority acting as Planning Authority.

Reason: To minimise damage to habitats adjacent to the development in accordance with Policies 3, 4 and 5 of the Cairngorms National Park Local Development Plan 2015;

3. Within 6 months of the date of this decision a detailed mitigation method statement shall be submitted to and approved in writing by the Cairngorms National Park Authority acting as planning authority. This statement shall include details of how the track will be limited to 3 metres in width, details of appropriate seeding of track surfaces and how the turf robbing along the embankments will be undertaken. These details will include a plan showing where this mitigation will take place. Thereafter and within 12 months of the date of this decision, the works will be undertaken and completed in their entirety in accordance with the approved plans.

Reason: To minimise the landscape and visual impacts of the development and minimise damage to habitats adjacent to the development in accordance with Policies 3, 4 and 5 of the Cairngorms National Park Local Development Plan 2015.

4. A monitoring report for the full length of the approved track will be submitted to the Cairngorms National Park Authority acting as planning authority on an annual basis commencing 31st January 2021 for the next 5 years, to be submitted on or before the 31st January each year thereafter. This report will include the condition of the track, with photographs demonstrating any areas where erosion has occurred as well as any suggested mitigation. Any mitigation suggested within these reports will only be carried out once approved in writing by the Cairngorms National Park Authority acting as Planning Authority.

Reason: To ensure the mitigation works are carried out to a competent standard and in accordance with Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015.

Informatives

1. The person undertaking the development is required to give the Planning Authority prior written notification of the date on 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 the 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;
3. The person undertaking the development is reminded that pre-construction survey work to check for nesting birds should take place between April and August inclusive.

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.