



Committee report

Development proposed:

Repair and upgrade of existing estate track (retrospective in part)

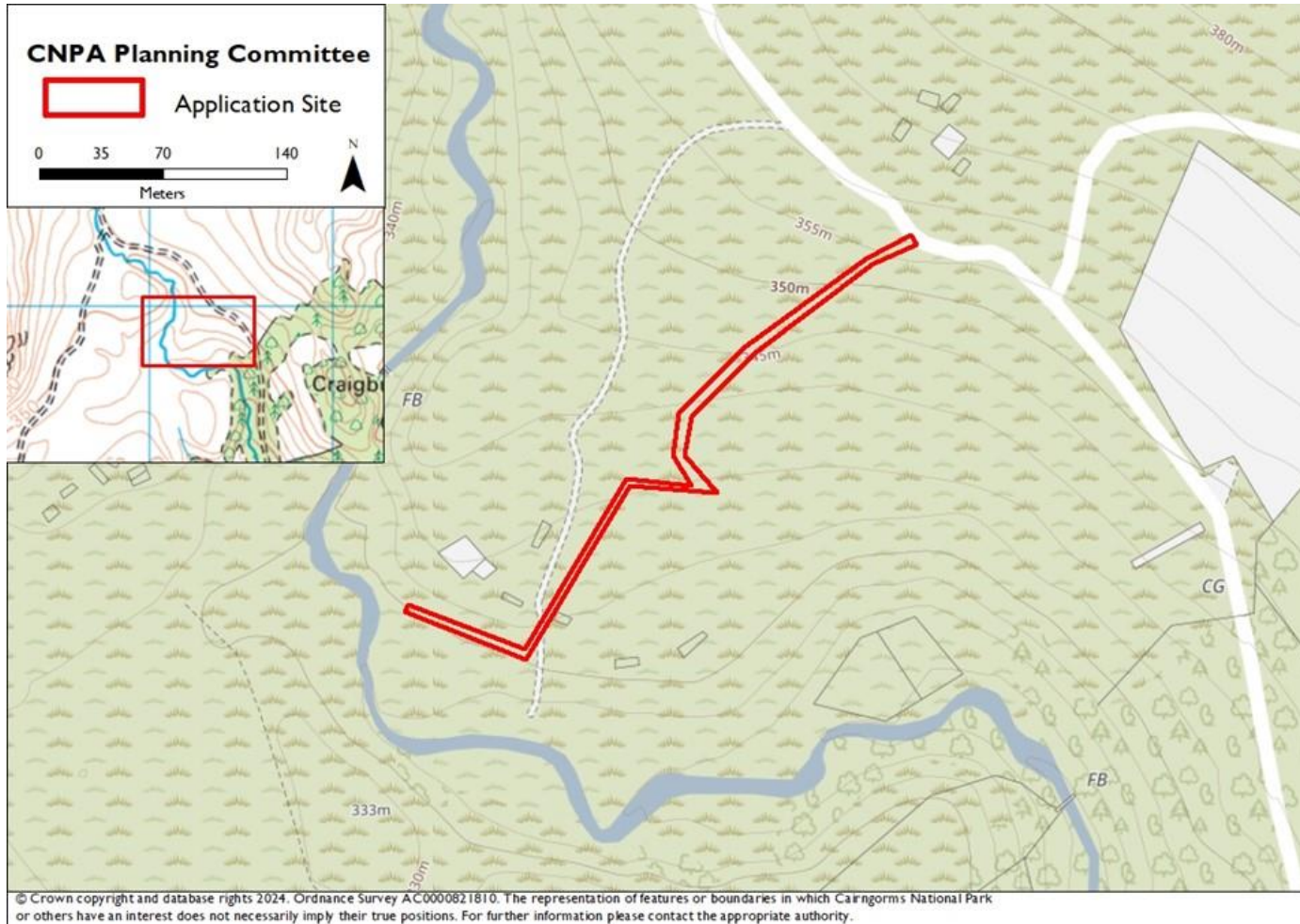
Reference: 2023/0455/DET

Applicant: Balavil Estate

Date called-in: 22 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. 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. 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 450m in length, running from the main spinal estate road downhill to the Rattis Burn. The total site area is 1,125sq 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/onlineapplications/applicationDetails.do?activeTab=summary&keyVal=S2H06USI0CP00>

Title	Drawing number	Date on plan*	Date received
Plan – Site location plan	n/a	01/11/2023	26/09/2024
Plan – Site plan	n/a	01/11/2023	26/09/2024
Plan – Section plan	n/a	n/a	19/12/2023
Other – Supporting statement	n/a	n/a	19/12/2023

*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 in part), 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. Balavil Estate submitted a planning application for the repair and upgrade of existing estate track (retrospective). This was approved August 2024, under reference 2023/0445/DET.
8. Balavil submitted a planning application for the formation of a borrow pit (retrospective). This was approved August 2024, under reference 2022/0290/DET.

Habitats regulations appraisal

9. It is not considered that the proposed development is likely to have a significant effect upon a designated European site. As such a Habitats Regulation Appraisal is not required in this case.

Development plan context

Policies

National policy	National Planning Framework 4 (NPF4) Scotland 2045 (Policies relevant to the assessment of this application are marked with a cross (x))	
	Policy 1	Tackling the climate and nature crises
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	

Strategic policy	Cairngorms National Park Partnership Plan 2022 – 2027	
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	X
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	X
Policy 10	Resources non-statutory guidance	
Policy 11	Developer obligations supplementary guidance	



Consultations

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

13. **Cairngorms National Park Authority Landscape Adviser** raised no objections to the proposal, however did highlight that the lower section of the track would be more prominent than the upper sections. It was also highlighted that the track passes close to / through features associated with the Achadh a' Chatha township and farmstead affecting their contribution to the local landscape character, Special Landscape Qualities and sense of place.

14. **Cairngorms National Park Authority Ecology Officer** raised no objections to the proposal but highlighted that the submission of 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.

15. **The Highland Council Historic Environment Team (Archaeology)** advised that the application will impact on upstanding historic remains and that a survey should be made of the access route (as constructed) so that record can be made of any historic remains that have been impacted. The Officer raised no objections to the proposal subject to the application of a suitably worded condition securing remedial work and recording a new baseline.

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

Representations

17. The application was advertised. No representations were received.

Appraisal

18. Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the Development Plan. This 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 impacts, landscape impacts and cultural heritage impacts. These are considered in detail below.

Principle

20. Notwithstanding the fact that the works commenced without the requisite grant of planning permission, the proposal is largely to upgrade a section of pre-existing track / route frequently used by estate vehicles. All the works will be seen within the context of the large native woodland planting scheme and, subject to detailed consideration of design and mitigation measures, the principle of the track is acceptable.

Design

21. **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

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

23. The proposed track upgrades and widening are of a functional and modest design and the materials used reflect this, being sourced from an estate borrow pit. The inclusion of a central green strip to the new track profile further ensures that the proposal will not appear incongruous within its setting. The applicant has also agreed to amend a section of the track to provide a gradient which is less steep, addressing concerns relating to track erosion. An amended layout has been provided.



24. 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 NPF4 Policy 14: Design, quality and place and LDP Policy 3: Design and placemaking.

Environmental impacts

25. **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.

26. **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.

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

28. The Cairngorms National Park 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. 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. The proposal therefore complies with NPF4 Policy 3: Biodiversity, NPF4 Policy 4: Natural places and LDP Policy 4 Natural heritage.



Landscape impacts

29. **LDP Policy 5:** Landscape presumes against development which does not conserve and enhance the landscape character and special qualities of the National Park, and particularly the setting of the proposed development.
30. **LDP Policy 5.2: Private roads and ways** presumes against private roads and ways in open moorland unless it can be demonstrated that they are essential for land management purposes and they are designed to minimise landscape and environmental impacts, conserving and enhancing special qualities.
31. The proposed upgraded track will inevitably have a more significant visual impact than the previous 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. The proposal is acceptable in terms of its impacts on landscape and accords with LDP Policy 5.

Cultural heritage

32. **NPF4 Policy 7:** Historic assets and places seeks to protect non-designated historic environment assets, stating that such assets and their settings should be preserved in situ wherever feasible.
33. **LDP Policy 9: Cultural heritage** states that where possible developments should conserve and enhance sites of archaeological or historical significance in situ, or take reasonable measures to avoid, minimise and mitigate any adverse effects.
34. The development site interacts with an historic settlement site. The Highland Council Historic Environment Team (Archaeology) have advised that a survey should be made of the route (as constructed) so that a record can be made of any historic remains that have been impacted. A detailed record (by photograph and survey) should be made where impacts are noted. The Officer raised no objections to the proposal subject to the application of a suitably worded condition requiring the submission, approval and implementation of a written scheme of investigation.



35. Avoidance of impacts is not possible in this case as the proposal is largely retrospective. Through the application of the recommended condition the impacts on cultural heritage are acceptable and in compliance with NPF4 Policy 7: Historic assets and LDP Policy 9: Cultural Heritage.

Conclusion

36. The proposed development consisting of widening the pre-existing access track has been mostly undertaken and as such this application is largely retrospective. Notwithstanding this, the proposal is of a modest and functional design, the impacts of which are considered acceptable subject to the recommended conditions.

37. The proposed development complies with the relevant policies of National Planning Framework 4 and the Cairngorms National Park Local Development Plan 2021, and there are no material considerations which outweigh this conclusion.

Recommendation

38. That members of the committee support a recommendation to approve the proposed repair and upgrade of an existing estate track (retrospective), subject to the following conditions:

Conditions

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

1. Within three months of the date of this permission, an archaeological Written Scheme of Investigation (WSI) must be submitted to and approved in writing by the planning authority.

Upon approval a programme of archaeological works shall be carried out in accordance with the approved WSI. The WSI shall include details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the written scheme of



investigation will be provided throughout the implementation of the programme of archaeological works. Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be occupied or brought into use unless a Post-Excavation Research Design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the planning authority. The PERD shall be carried out in complete accordance with the approved details.

Reason: To safeguard and record the archaeological potential of the area in accordance with National Planning Framework 4 Policy 7: Historic assets and places and Policy 9: Cultural heritage of the Cairngorms National Park Local Development Plan 2021.

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.

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.