

CAIRNGORMS NATIONAL PARK AUTHORITY

Title: **REPORT ON CALLED-IN PLANNING APPLICATION**

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DEVELOPMENT PROPOSED: **FORMATION OF ACCESS AND PART RETENTION OF NEW ACCESS ROAD AT SHANVALL, GLENTRUIM, NEWTONMORE, INVERNESS-SHIRE**

REFERENCE: **03/125/CP**

APPLICANT: **Mr G ALDER, 43 MORNINGSIDE PARK, EDINBURGH, EH10 5EZ**

DATE CALLED-IN: **9th January, 2004**



Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. The application is for retrospective planning consent for a new access track from the minor Glentruim to Breakachy road, to the property of Shanvall. The track had already been constructed when Highland Council advised the applicants that planning consent was required for such works. The track was constructed at the time of contractors carrying out works at the property of Shanvall (an extension/renovation to the house which is nearing completion). The original 2 metre wide access onto the public road was at a tight angle, and the track had a steep slope from the edge of the tarmaced road. A new bellmouth was formed onto the public road. Approximately 240metres of the 330/340 metre private track to Shanvall is on a completely new line from the original track. The complete length of track is 3 metres wide and on up made ground; this is indicated on the application plans as a temporary track width. Plans also indicate that the bellmouth is to be redesigned at the end of the building operations contract in May 2004.



Fig 2 View of track from MacPherson monument

2. The applicants wish permanent permission for the access track at 2 metres width and 0.25 metres above surrounding ground level on the line of the 'temporary' 3 metre wide track. The temporary bellmouth will be removed, replaced by an improved access, and topsoiling is proposed to restore the exposed ground. The rest of the track will be lowered relative to the adjacent ground surface, and the track banks will be topsoiled and reseeded. Small groups of trees are proposed for planting alongside the track to interrupt certain sight-lines (4 groups of 8 birch trees).

DEVELOPMENT PLAN CONTEXT

3. **The Highland Structure Plan (March 2001) Policy G2 on Design for Sustainability** considers that the impacts of development should be assessed against landscape and scenery issues as well as a range of other factors. **Policy L4 on Landscape Character** of the same plan considers that the Council will have regard to the desirability of maintaining and enhancing present landscape characteristics.
4. **The Badenoch and Strathspey Local Plan (September 1997) Policy 2.5.4, on Woodlands and Trees**, states that the Council will protect existing trees and established woodland areas including small groups of trees or individual granny pines which are important landscape, wildlife and amenity features of the countryside. These include semi-natural woodland areas, and measures are needed to ensure their continuity and regeneration.
5. **The Cairngorms National Park Authority Draft Interim Planning Policy No. 3: Vehicle Hill-Tracks** is presently going out to public consultation. It can be noted that there is no current policy in the statutory Development Plan on the issue of hill-tracks, and therefore emerging policies and the Park's Aims should be considered as "other material considerations". The draft interim policy is as follows,

Policy VHT1: Vehicle Hill-Tracks

There will be a presumption against new vehicle hill-tracks, or upgrading/extensions to existing tracks, within the Park unless all of the following conditions are met, and section 7.3 above is conformed with:

- a) The proposal can be demonstrated as necessary for the efficient working of the estate/farm, and there are no existing tracks, which can be utilised.
- b) There are no significant adverse environmental impacts on flora, fauna, habitats, drainage and landscapes/landforms, which cannot be satisfactorily mitigated against.
- c) The track does not cross a designated site (SSSI's, Reserves, Natura sites, designated landscapes etc.)
- d) The track is constructed in line with section 7.3 above; a method statement is required for the works, landscaping and maintenance.
- e) It would not adversely affect the amenity of existing public access; new tracks should give consideration to public access in their design (e.g. via stiles, signage).
- f) Tracks which are no longer required are reinstated to an approved natural condition/reduced to footpath width.

- g) Cultural Heritage issues, e.g. relative to historic drove-roads or military roads, should be carefully considered and protected.

CONSULTATIONS

6. **The Highland Council Area Roads and Community Works Manager** recommended the following conditions for the bellmouth –access shall connect to the public road at an angle close to 90 degrees and the bellmouth with edge radii of at least 5 metres and throat width of at least 3 metres; construction for at least 6 metres from the nearside edge of the public road with a minimum of 40mm thick close graded wearing course on 60mm dense basecourse on a minimum thickness of 350mm Type 1 sub base; visibility splays provided and maintained on each side of the access, 3m along the centreline of the access road and 90m in either direction along the main road; no obstructions within the visibility splays; any gates set back 6 metres from the road edge, and opening into the property; no water discharge onto the public road; any works within 2m of public road edge requiring Roads Authority permission.
7. **Highland Council Area Planning** point out that the track is easily visible from Glentruim Road and in particular the MacPherson monument from where clear and uninterrupted views of the track available. The prominence of the new track and access bellmouth is considered to be unacceptable, as both have been insensitively formed. Even with the track reduced to its final 2-metre width at 0.25 of a metre above ground level the track would still be considered as having an unwelcome and uncharacteristic intrusion into the landscape. The response further considers that it should be possible to satisfactorily and sensitively improve the original track in such a way as to allow larger vehicles to use it. The response recommends that the unauthorised track be allowed to be used for one year from the date of the planning consent for the purposes of completing the house extension, but thereafter the applicant be instructed to remove all evidence of the track and restore the land to its former condition.
8. **SEPA** have indicated that they operate standards that are against unnecessary culverting of watercourses and would prefer to see traditional bridge crossings wherever possible. Also controlled waste, namely peat, soils, rock, and other materials produced as a result of construction works or excavations or other operations on site, should only be disposed of at a licensed facility or re-used strictly in accordance with an activity exempt from waste management licensing controls.
9. **SNH** have noted the proximity of the proposal to the River Spey Site of Special Scientific Interest (SSSI) and candidate Special Area of Conservation (cSAC) but consider that it is unlikely that the designated sites would be significantly affected either directly or indirectly.

REPRESENTATIONS

10. No representations received.

APPRAISAL

11. The applicants created the new length of track in order to provide an easier service track for the house at Shanvall whilst it was having works carried out on it. The applicant argues that “the original track traversed a steep hillside and contained a number of tight bends”. The applicants claim that there would have had to be excavations to create an adequate width to the original track, and there would have had to be some felling of trees for the required road widening works. It was felt that “the consequent environmental damage was not justified, and that it would be easier to restore the ground beside the new route.” It is also argued that the original track would not allow access for larger vehicles to empty the septic tank or deliver fuel for the renovated property. The new 3 metre wide track is also argued to cross a shorter stretch of wetter ground (40m) than the original track does (60m, total over 3 separate areas).
12. It is most unfortunate not to be considering the proposal for a new access track prior to its implementation, and so there is the issue of creating even more disturbance to the landscape and to the ground in this area to remove an unauthorised development should that be necessary. What is critical to consider in this case, is whether the required needs in terms of access to Shanvall could have been provided through improvements to the existing access, what the scale of the improvements would have to be, and whether the works could be landscaped to minimise visual intrusion and to minimise disturbance to existing vegetation and habitats.
13. In terms of the Interim Planning Policy there is a presumption of refusal for this proposal. In terms of each of the sub-sections to the interim policy, (a) to (g), the following comments can be made.
 - (a) A track exists already to the property, and this must firstly be examined to assess whether improvements can be made to satisfy the temporary needs of the applicant. There is not an economic need for a farm or estate that has been presented for the proposed new track.
 - (b) This is difficult to evaluate, as the development has already been carried out and construction work for a 3 metre wide track and banks has been completed.
 - (c) No designations on the site.
 - (d) This has not been complied with (due to it being a retrospective application) and the works initially appear to be to a far higher standard to facilitate a very temporary need to do with the works to the property at Shanvall, and there is a proposal to remove some materials, regrade banks, topsoil and seed banks, and plant trees.
 - (e) Not relevant to this proposal.
 - (f) There are no proposals to indicate what is to be done to the original, existing track.
 - (g) Not relevant to this proposal.
14. The works are required to facilitate a personal need in renovating a property – for a temporary period - and the standard of engineering is beyond the needs of normal domestic traffic. Very occasionally larger traffic may require access, for example for septic tank emptying once a year. The existing track to the site is capable of improvement to its surfacing, drainage and at its junction with the

public road, and these works could be carried out without significant impact on the local landscape. Much of the original track is through a treed area, and some trees may have to be removed or trimmed to improve the width for larger vehicles. The remaining trees will continue to shelter the track and screen any works required to improve the surfacing and the drainage arrangements. New tree planting could be carried out, to replace elsewhere in the locality those that may have to be removed.

15. The construction of the new track has resulted in a significant impact on the local landscape, quite contrary to the aims of the National Park and it is considered that reducing its width to 2 metres as proposed with a reduced height above ground level would have little effect in relation to mitigating landscape impact. The replacement (or duplication) of an existing access to a rural property with a substantially engineered roadway does not conserve or enhance the natural and cultural heritage of the area. For modernisation and renovation of rural properties it is accepted that it will be necessary from time to time to improve access for these properties for the works contractors. Such alterations to the existing accesses require to be carried out in a sensitive manner and be proportionate to the situation. The new roadway is quite out of scale to the rural situation, and the constructed bellmouth at the altered site access is extensive in terms of up-made and barren ground.
16. The recommendation is in three parts – firstly there is a recommendation to refuse the application, secondly there is a recommendation to serve an Enforcement Notice at the same time, to ensure that the unauthorised length of track is removed timeously, with allowance for the completion of works to the house and that other lengths of track are sensitively restored to re-form the minor access track to Shanvall, and thirdly it is recommended that the applicants be advised to apply for planning permission for any works at the access bellmouth and along the original, existing access track that may be needed to bring the existing track up to a standard required for the property's future servicing needs. Some of the removed material from the unauthorised track could be used to improve the surfacing of the existing track as part of the planning application, and the reinstated ground of the unauthorised track should be appropriately reseeded and planted.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

17. The unauthorised construction of a new access track has not conserved and enhanced the local natural and cultural heritage. The works have been carried out for the convenience of the applicants and the contractors with no apparent consideration to other factors. The visual impact of the new access works is significant, both in the line of the access track and in terms of the level of up-making of the ground and the amount of construction material used. Over time, the latter may mellow as vegetation becomes established and / or soil is brought in to cover the banks of the track, but this would require even more material to be brought on to the site.

Promote Sustainable Use of Natural Resources

18. Some of the construction materials for the new track will have been sourced locally, but as part of the works to make the track permanent, it is proposed to remove some of the construction material from the track, and to find a source of topsoil to restore the damaged / disturbed ground. All these operations cannot be viewed as sustainable.

Promote Understanding and Enjoyment of the Area

19. The replacement of established access tracks to older rural properties with wide heavily engineered/constructed roadways will significantly change the character of the countryside, have a significant impact on the local landscape and reduce enjoyment of the Area. This is particularly relevant in terms of the public enjoyment of views from the nearby monument.

Promote Sustainable Economic and Social Development of the Area

20. The renovation of older rural properties is beneficial to the rural economy, and will require safe and reasonable access to these sites. It is more sustainable normally to build upon the existing routes and materials on these sites than have to duplicate access routes, and import and export construction materials.

RECOMMENDATION

21. That Members of the Committee support a recommendation to:

A: Refuse full planning permission for the formation of the access and the new access track, at Shanvall, Glentruim, Newtonmore, for the following reasons,

- 1. The new track and access bellmouth has not been designed or located to conserve or enhance the character of the local landscape, and has failed to use and improve in a sensitive manner, the existing access track to the property. The proposed new track is prominent and has a significant landscape impact in this part of the National Park, contrary to the aims of the National Park and contrary to policies G2 (Design for Sustainability) and L4 (Landscape Character) of the Highland Structure Plan 2001 and Cairngorm National Park Interim Policy No 3 (Consultation Draft) on Vehicle Hill Tracks. If approved this would be likely to provide a precedent for other insensitive duplications of property accesses in this locality and within the Park.**

B: The Head of Planning is instructed to serve an Enforcement Notice on the applicants, and any other owners/interested parties in the land, to require the removal of the new length of access track, with the reinstatement of the ground cleared thereafter, with the retained existing track length re-engineered to an acceptable 2 metre wide access track with a 12 month period for compliance from the date of the notice being served.

C: The applicants are advised to submit a new planning application to cover the access junction with the public road forming a safe access point; and to cover any improvements to the existing access track to Shanvall for expected servicing needs.

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