
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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DEVELOPMENT PROPOSED: UPGRADE OF ARGOCAT TRACK, LAND 450M SW OF DRUMOCHTER RADIO STATION, DALWHINNIE

REFERENCE: 2012/0085/DET (PART RETROSPECTIVE)

APPLICANT: ALASDAIR FINDLAY, RALIA ENTERPRISES

DATE CALLED-IN: 30 MARCH 2012

RECOMMENDATION: APPROVAL

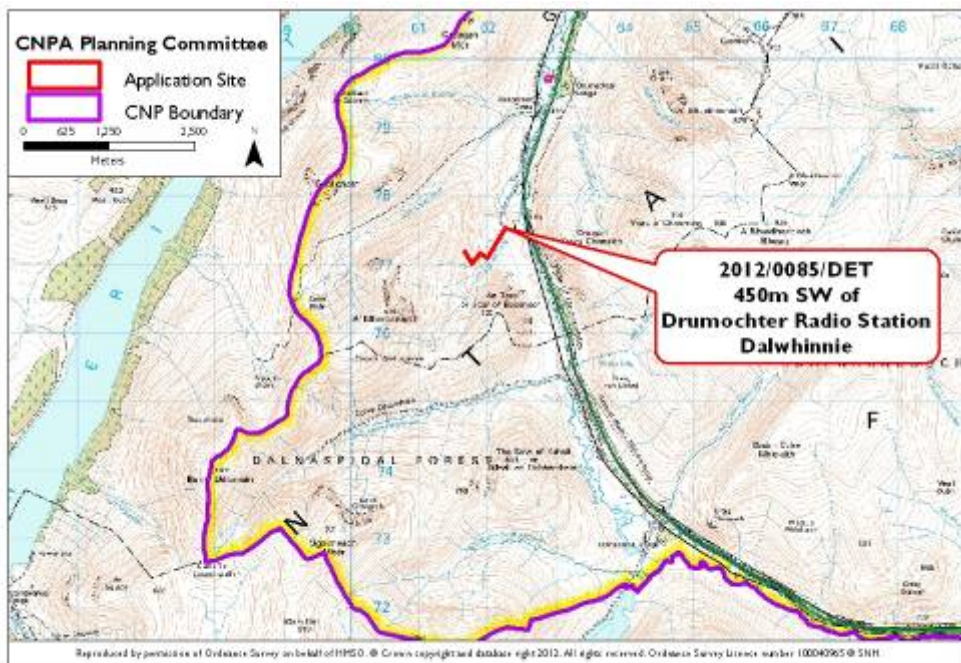


Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. The site is located on open moorland to the SW of a radio station in the Drumochter Pass. The track leaves an existing track from the A9 to the radio station and climbs the lower, east facing slopes of the Munro A' Mharconaich to a line of grouse butts.
2. From visiting the site it is clear that the area leading up to the grouse butts has become eroded from argocat use. Some repairs along the lower part of the track indicated by the line on the application have been carried out with material sourced from a small borrow pit. The works carried out (see fig 3) currently terminate where the grouse butts (see fig. 4) start and an eroded area continues up the hill along the line of the butts. From this point onwards no works have been carried out.



Figure. 2- View of works carried out from track to radio station



Fig. 3- View of works carried out, track in background is existing track to radio mast



Fig. 4- View of upper section (grouse butts) no work carried out

3. The design of the track is set out in the works specification which can be seen at figure 5. The running width of the track is to be 2 metres wide with ditches either side with culvert pipes installed where required. The turfs from the ditch sides re to be re-used to landscape the ditch banks. In wetter sections a geotextile membrane will be used underneath the surface dressing.
4. A supporting letter for the proposal is attached at the back of the report this points out that the track has become heavily eroded and dangerous in sections. The track is used for both deer extraction and gathering of sheep, the area is also used when grouse are in abundance.

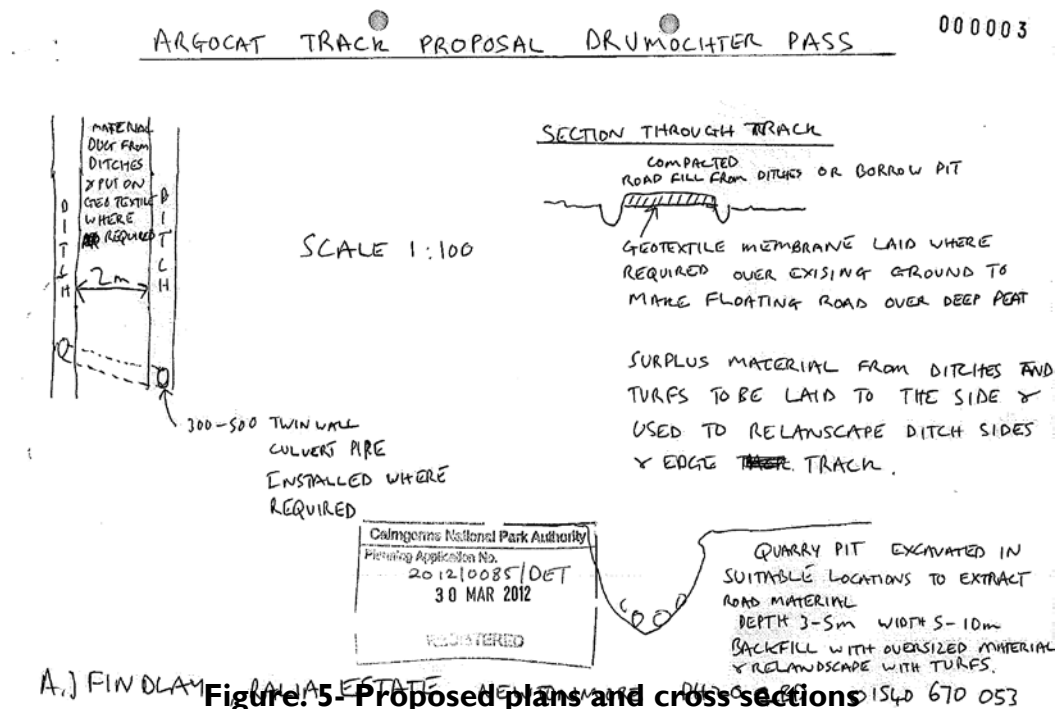


Figure 5- Proposed plans and cross sections

DEVELOPMENT PLAN CONTEXT

National policy

1. **Scottish Planning Policy¹ (SPP)** is the statement of the Scottish Government's policy on nationally important land use planning matters. It supersedes a variety of previous Scottish Planning Policy documents and National Planning Policy Guidance. Core Principles which the Scottish Government believe should underpin the modernised planning system are outlined at the outset of **SPP** and include:
 - The constraints and requirements that planning imposes should be necessary and proportionate;
 - The system shouldallow issues of contention and controversy to be identified and tackled quickly and smoothly; and
 - There should be a clear focus on quality of outcomes, with due attention given to the sustainable use of land, good design and the protection and enhancement of the built and natural environment.
2. **SPP** emphasises the key part that development management plays in the planning system, highlighting that it should “operate in support of the Government's central purpose of increasing sustainable economic growth.” Para. 33 focuses on the topic of Sustainable Economic Growth and advises that increasing sustainable economic growth is the overarching purpose of the Scottish Government. It is advised that “the planning system should proactively support development that will contribute to sustainable economic growth and to high quality sustainable places.” Planning authorities are encouraged to take a positive approach to development, recognising and responding to economic and financial conditions in considering proposals that would contribute to economic growth.
3. Under the general heading of Sustainable Development, it is stated that the fundamental principle is that development integrates economic, social and environmental objectives, and that the “aim is to achieve the right development in the right place.”
4. As a replacement for a variety of previous planning policy documents the new **Scottish Planning Policy** includes ‘subject policies’, of which many are applicable to the proposed development. Topics include rural development, and landscape and natural heritage. The following paragraphs provide a brief summary of the general thrust of each of the subject policies.
5. *Rural development*: Para. 92 of **Scottish Planning Policy** states in relation to rural development that the “aim should be to enable development in all rural areas which supports prosperous and sustainable communities whilst protecting and enhancing environmental quality.” All new development is

¹ February 2010

required to respond to the specific local character of the location, fit in the landscape and seek to achieve high design and environmental standards.

6. *Landscape and natural heritage*: The **Scottish Planning Policy** document recognises the value and importance of Scotland's landscape and natural heritage. It is accepted that landscape is constantly changing and the aim is to facilitate positive change whilst maintaining and enhancing distinctive character. As different landscapes have different capacities to accommodate new development, the siting and design of development should be informed by landscape character. There is also an acknowledgement that the protection of the landscape and natural heritage may sometimes impose constraints on development, but the potential for conflict can be minimised and the potential for enhancement maximised through careful siting and design.
7. **Scottish Planning Policy** concludes with a section entitled 'Outcomes' in which it is stated that the "planning system should be outcome focused, supporting the creation of high quality, accessible and sustainable places through new development, regeneration and the protection and enhancement of natural heritage and historic environmental assets." Planning authorities are required to be clear about the standard of development that is required. Quality of place not only refers to buildings, but also how the buildings work together as well as the relationships between buildings and spaces. Design is highlighted as an important consideration and planning permission may be refused solely on design grounds.² Finally it is stated that the planning system should be "judged by the extent to which it maintains and creates places where people want to live, work and spend time."
8. **Cairngorms National Park Partnership Plan (2012-2017)**
The Cairngorms National Park Plan sets out the vision and overarching strategy for managing the Park and provides focus and priorities at a time of limited financial resources. The Plan also provides a strategic context for the Local Development Plan and shows how the four aims of the National Park can be achieved together. Three long term outcomes address the interaction of three characteristics of the National Park recognising that: the Park is an internationally important area for nature conservation; the CNP is a fragile rural economy, and; the CNP is an internationally known tourism destination.
9. Looking forward the heading- 'Success in being a sustainable economy supporting thriving business and communities means that' the special qualities of the Park will have stimulated growth and diversification in the economy. The heading 'Success in being a special place for people and nature with natural and cultural heritage enhanced means that' the distinct character of the Park's landscape and its diverse mix of mountains, straths, glens, forest and farmland will continue to be conserved and enhanced. The sense of wildness, particularly in the high mountain areas, will be enhanced and renowned as a particular special quality that continues to be enjoyed by many. The Park will also continue to have a rich and enhanced biodiversity

² Para. 256.

which will be better connected and able to adapt to changing climate. The heading 'Success in people enjoying the Park through outstanding visitor and learning experiences means that': The CNP will be renowned in Scotland and internationally as a protected area as well as being a world class sustainable tourism destination, there will also continue to be an excellent and integrated network of routes to enjoy outdoor access.

Local Plan Policy

Cairngorms National Park Local Plan (2010)

10. The Cairngorms National Park Local Plan was formally adopted on 29th October 2010. The full text can be found at :
<http://www.cairngorms.co.uk/planning/localplan/pdf/19-Aug-10-Local-Plan-with-PIMs-included-for-web-23-Aug.pdf>
11. The Local Plan contains a range of policies dealing with particular interests or types of development. These provide detailed guidance on the best places for development and the best ways to develop. The policies follow the three key themes of the Park Plan to provide a detailed policy framework for planning decisions:
 - Chapter 3 - Conserving and Enhancing the Park;
 - Chapter 4 - Living and Working in the Park;
 - Chapter 5 - Enjoying and Understanding the Park.
12. Policies are not cross referenced and applicants are expected to ensure that proposals comply with all policies that are relevant. The site-specific proposals of the Local Plan are provided on a settlement by settlement basis in Chapter 6. These proposals, when combined with other policies, are intended to meet the sustainable development needs of the Park for the Local Plan's lifetime. The following paragraphs list a range of policies that are appropriate to consider in the assessment of the current development proposal.
13. Policy 1 Natura 2000 Sites: development likely to have a significant effect on a Natura 2000 site would be subject to an appropriate assessment. Where an assessment is unable to ascertain that a development will not adversely affect the integrity of the site, the development will only be permitted where,
 - (a) There are no alternative solutions; and
 - (b) There are imperative reasons of overriding public interest including those of a social or economic nature.
14. Policy 2- National Natural Heritage Designations: development that would adversely affect the Cairngorms National Park, a Site of Special Scientific Interest, National Nature Reserve or National Scenic Area will only be permitted where it has been demonstrated that: a) the objectives of designation and overall integrity of the designated area would not be compromised; or b) any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social or economic

benefits of national importance and mitigated by the provision of features of commensurate or greater importance to those that are lost.

15. Policy 4 Protected Species: development which would have an adverse effect on any European Protected Species will not be permitted unless there are imperative reasons of overriding interest, including public health or public safety; there is no satisfactory alternative solution; and 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. The policy is intended to ensure that the effects of development proposals on protected species are fully considered by the planning authority. Developers will be required to undertake any necessary surveys for species at their own cost and to the satisfaction of Scottish Natural Heritage and the planning authority.
16. Policy 5 – Biodiversity : development that would have an adverse effect on habitats and species identified in the Cairngorms Biodiversity Action Plan, UK Biodiversity Action Plan, or by Scottish Ministers through the Scottish Biodiversity List, will only be permitted where
 - (a) The developer can demonstrate that the need and justification for the development outweighs the local, national and international contribution of the area of habitat or population of species; and
 - (b) Significant harm or disturbance to the ecological functions, continuity and integrity of the habitats or species populations is avoided, or minimised where harm is unavoidable, and appropriate compensatory and / or management measures are provided and new habitats of commensurate or greater nature conservation value are created as appropriate to the site.
17. Policy 6 – Landscape: there will be a presumption against any development that does not complement and enhance the landscape character of the Park, and in particular the setting of the proposed development. Exceptions will only be made where any significant adverse effects on the landscape are clearly outweighed by social or economic benefits of national importance and all of the adverse effects on the setting of the proposed development have been minimised and mitigated through appropriate siting, layout, scale, design and construction.
18. Policy 34 – Outdoor Access: the policy encourages development which improves opportunities for responsible outdoor access and adheres to the Cairngorms Outdoor Access Strategy. Development proposals which would result in a reduction of public access rights, or loss of linear access (such as core paths, rights of way, or other paths and informal recreation areas) will only be permitted where an appropriate or improved alternative access solution can be secured.
19. The CNP Local Plan is the subject of an appeal under section 238 of the Town and Country Planning (Scotland) Act 1997 against the decision of the CNPA to adopt the CNP Local Plan 2010. The Appeal will be decided by the Court of Session and is a material consideration. Therefore, account has been

taken of the Appeal in the determination and recommendation made in respect of this application.

CONSULTATIONS

20. **Scottish Natural Heritage (SNH)** has commented that the natural heritage interests affected relate to the designations at the site which are: Drumochter Hills SSSI, Special Area of Conservation (SAC) and Drumochter Special Protection Area (SPA). The site is also close to the Allt an Tuirc which flows into the River Spey SAC at Glentruim. SNH have carried out an appraisal of the proposed works for both the Drumochter Hills and River Spey SAC,s and identify that there would be a significant impact on the SAC's. Consequently CNPA are required to carry out an appropriate assessment in view of the sites conservation objectives for its qualifying interests which include blanket bog, species and rich grassland with regard to the Drumochter SAC and Freshwater Pearl Mussel, sea Lamprey, Atlantic Salmon and Otter with regard to the Spey SAC. Despite this SNH is of the view that the track works could go ahead providing they do not cause sedimentation in the water courses. This could be achieved using SEPA's Pollution Prevention Guideline (PPG5) "Works and maintenance in or near water" and PPG 6 "Working at construction and demolition sites". Particular care should be taken to avoid sedimentation from bulldozed ground and run-off from track to avoid drainage directly into the Allt an Tuirc or its tributaries.
21. SNH also advise that their guide to 'Constructed Tracks in the Scottish Uplands' is used to ensure good practice design and construction techniques, so that track construction does not lead to increased erosion.
22. **CNPA Landscape Officer** has considered the proposal noting that the lower parts of the track are routed around glacial moraines. The upper (as yet unconstructed part of the track) risks being visually prominent and having a significant adverse effect upon the landscape character of its immediate setting. With very careful construction these impacts can be reduced.
23. In order to minimise impacts and ensure that the proposals meet Policy 6 Landscape of the CNP Local Plan it is important that all works (construction and reinstatement) are undertaken in accordance with best practice as set out in SNH advice 'Constructed tracks in the Scottish Uplands' and with careful attention to detail of the site. For the steepest and most prominent section it is strongly advised that the applicants look to applying dimensions and techniques used for hill footpath construction rather than a machine built option. This is essential if the proposed works are to complement the landscape character of the glen, to reduce adverse effects on the quality of the experience for the travelling public and those recreating in the area, and also to avoid further adding to cumulative impacts from the number of tracks in the area.
24. **CNPA Ecologist** comments that having undertaken an appropriate assessment as required there would be no adverse effect on the integrity of

the site. The proportion of vegetation affected would be limited and much of the route is already damaged and actively eroding. A well designed and constructed track would actively prevent future damage to the habitat from widening of the eroded area from continued argocat use. There are also some benefits in that the track would aid deer management which could benefit the condition of Natura habitats higher in the corrie.

REPRESENTATIONS

25. No representations have been received.

APPRAISAL

26. The track works on the estate raises no principal policy issues, tracks being part of the infrastructure of grouse shooting and deer stalking operations on estates throughout Scotland. Consequently, the key issues resolve around the potential environmental impacts of the particular works proposed in this instance on ecology and landscape.

Natural Heritage- Ecology

27. The key ecology issues with this application revolve around the potential impacts from the construction upon the Drumochter Hills SSSI, Special Area of Conservation (SAC) and Drumochter Special Protection Area (SPA).
28. SNH has provided advice on the proposal concluding that it could be progressed providing it does not result in sedimentation to water courses. This could be achieved using conditions to ensure that SEPA's guidelines on pollution prevention are followed. In following these guidelines particular care should be taken to avoid sedimentation from bulldozed ground and to avoid runoff from the track draining directly into the Allt an Tuirc or its tributaries. SNH conclude that the proposal would not have an adverse impact upon the integrity of the site but point out that the CNPA are required to carry out an appropriate assessment and that unless conditions are applied to the way in which works are carried out their response should be considered as an objection.
29. As required the CNPA Ecologist has carried out an appropriate assessment which accords with the advice given by SNH. Ultimately, only a small area of habitat would be affected by the proposals and much of the existing route that has been used by argocats is damaged and actively eroding. In this regard a well designed track would actively prevent the widening area of erosion and associated water erosion. In addition, the track would assist with deer management higher in the corrie potentially aiding the condition of Natura habitats higher on the hillside.

Natural Heritage- Landscape

30. The CNPA Landscape Officer expresses particular concern about the upper section of the track that as yet has not been constructed. This is the steeper section of track that reaches out to a line of grouse butts as seen at figure 4 in this report. There is already an eroded area alongside the line of butts and the intention is that the track would zig- zag to a point mid way up the line of grouse butts. This steepest section is where there is most potential for visual impact, the lower section of the track being much less visible. The Landscape Officer strongly recommends that the construction of this section of track is approached using hill path techniques rather than the methods that would be used for a standard bulldozed track.
31. Given that the track is intended for argocat rather than landrover use the required width is limited to 2.2 metres though the working corridor for drainage would need to be wider. Because of this limited width it should be practicable to approach the construction of the upper part of the track using hill path techniques and a construction method statement is required by planning condition for this purpose.
32. Concern is raised about the cumulative impact from a proliferation of tracks in the area. While this is certainly an issue at Drumochter the length of track being applied for is limited and it has to be recognised that without the track erosion on the hillside from the use of argocats would continue. This would in itself foster further water erosion and erosion of local habitats. Consequently, any cumulative landscape impacts are not considered to outweigh the ecological advantages of the track and it must be emphasised that if the track is appropriately constructed this will minimise the effect on the cumulative visual impact.

Conclusion

33. Overall the proposal raises no fundamental issues and if well constructed will reduce erosion in the area and help to protect the local habitat. A number of planning conditions are recommended to ensure that the actual construction achieves this.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

34. There are some potential landscape and visual impacts but if the track is well constructed these can be mitigated. In addition, the track will prevent and increasing area of erosion from worsening to the detriment of local habitat.

Promote Sustainable Use of Natural Resources

35. Materials for the works are all to be sourced at the site

Promote Understanding and Enjoyment of the Area

36. While there are a number of popular Munro and Corbett hills in the area the proposal is not located on any known or promoted routes to the hilltops.

Promote Sustainable Economic and Social Development of the Area

37. The proposal would assist in the estates land management activities in the area including deer stalking and grouse shooting.

RECOMMENDATION

38. That Members of the Committee support a recommendation to **GRANT** Planning Permission for the upgrade of argocat track, Land 450 m SW of Drumochter Radio Station, Dalwhinnie subject to the following conditions:

1. The development to which this permission relates must be begun within three years from the date of this permission.

Reason: To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.

2. Prior to the commencement of the development a construction method statement setting out how upper track section (from level with the first grouse butt onwards) would be constructed and, in particular how the water environment would be protected shall be submitted to and approved by the CNPA acting as Planning Authority. The method statement shall also illustrate restoration techniques for the lower section of the track and shall include the following:

- illustrate how sedimentation and run-off will be avoided;
- refer to how the proposals meet good practice in the form of SEPA's Pollution Prevention Guideline (PPG) 5 "Works and maintenance in or near water" and PPG 6 "Working at construction and demolition sites";
- Illustrate how hill path techniques will be used to construct the track over the upper section of the proposed track;
- Provide details for restoration of ditches and track surface for lower sections of the track that have already been constructed and upper sections of track to be constructed, and;
- Illustrate how any culvert pipes will be faced.

Works shall be carried out in accordance with the approved method statement.

Reason: In the interests of preventing pollution and to mitigate against landscape and visual impact in line with the requirement of Policy 6 Landscape of the CNP Local Plan.

ADVICE NOTE

You are advised that the SNH publication 'Constructed Tracks in the Scottish Uplands' <http://www.snh.gov.uk/docs/A308736.pdf> should be used to ensure good practice design and construction techniques, so that track construction does not lead to increased erosion

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12 July 2012

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.