

# AGENDA ITEM 5

## APPENDIX 2b

2016/0295/DET

# REPRESENTATIONS OBJECTION

# Comments for Planning Application 2016/0295/DET

## Application Summary

Application Number: 2016/0295/DET

Address: Cairngorm Mountain Glenmore Aviemore Highland PH22 1RB

Proposal: Retrospective planning application to retain a ski area access track created during the construction of a new ski lift in 2015. The reason for the access track construction was to minimise tracking over the surrounding area which in many parts has over a 1 metre depth of peat. This created a safe route which guaranteed that access did not cross the high voltage SSE ring main cable. It provided access to remove boulders from past embankments and the transport of materials and components.

Case Officer: David Allan

## Customer Details

Name: Mr Alistair Shepherd

Address: Lynphail Carrbridge

## Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: It appears to me given the planning application, having seen the area in question and photo evidence taken by other members of the public that Natural Retreats' works in the Lower Slopes of Cairngorm Mountain should be rejected given their obvious carelessness to the planning procedure and the ecology of Cairngorm Mountain.

Their reasoning for the access track seems tenuous at best with more sustainable methods being used in the past and at all other Scottish Ski resorts, within and outwith the National Park.

Despite proposals to use this access track rather than alternatives it will promote more vehicular use on the mountain which is clearly a step in the wrong direction in protecting Cairngorm's environment.

The raising of the Sheiling lift base is correcting Natural Retreat's own mistake in a careless, heavyhanded and poor manner, with the reasoning of creating a more "Natural Contour" to even an inexperienced observer seeming quite far from the truth.

I believe the retrospective planning application for these works should be rejected and an independent survey of the area take place to confirm methods to repair damage to the area, and for requiring Natural Retreats to have more open communication with the National Park Authority to prevent Natural Retreats going about even more damaging works to our protected mountains without prior discussion, impacting our local communities and fragile ecology.

# Comments for Planning Application 2016/0295/DET

## Application Summary

Application Number: 2016/0295/DET

Address: Cairngorm Mountain Glenmore Aviemore Highland PH22 1RB

Proposal: Retrospective planning application to retain a ski area access track

Case Officer: Katherine Donnachie

## Customer Details

Name: Mr Nick Kempe

Address: 23 Queen Square Glasgow

## Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The track is purported to be needed to service the new shieling rope tow but was not included in the plans for that. Natural Retreats failed to keep to the Method Statement CNPA had approved for the construction of the shieling tow, caused considerable damage to the land round about and failed to store vegetation in the manner agreed. It appears because they were so short of vegetation for restoration purposes they decided to create a track and appear to have imported material from outside the area to do so. The track is not needed (other tows at Cairngorm do not have access track and equipment can be transported up and down on the tow), and has increased the speed of water run-off - indeed it has already eroded. Natural Retreats claim that once channels are installed the water will run into the "existing drainage network" - the CNPA should ask what this network is? Water that was once retained by vegetation is now going to be channelled down the hill. The CNPA should require an independent survey of all the damage in the area and options to restore the ground which remove this further scar from Cairngorm.

# Comments for Planning Application 2016/0295/DET

## Application Summary

Application Number: 2016/0295/DET

Address: Cairngorm Mountain Glenmore Aviemore Highland PH22 1RB

Proposal: Retrospective planning application to retain a ski area access track created during the construction of a new ski lift in 2015. The reason for the access track construction was to minimise tracking over the surrounding area which in many parts has over a 1 metre depth of peat. This created a safe route which guaranteed that access did not cross the high voltage SSE ring main cable. It provided access to remove boulders from past embankments and the transport of materials and components.

Case Officer: David Allan

## Customer Details

Name: Mrs Helen Howe

Address: 5 Dol Elidir Llanberis

## Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: A company who flagrantly ignores original planning laws should not be able to apply in retrospect when the damage has already been done. They need to be stopped (not just fined, as a fine is peanuts to a large company and acts as no deterrent to them or any other company/organisation in the future). The only way to stop such environmental damage is to ignore their planning application as being too late, insist that the damage is put right (by very harsh fines or even enforced closure of the company at a time that will hit their purse and profits). Finally this way some of the companies who flout planning laws and the environment will start to listen. If you fail to act, then expect the destruction of the very countryside which draws in money and tourism to the area (kill the golden goose and you will kill the golden eggs it lays for your economy).

**From:** David Gibson  
**Sent:** 23 Aug 2016 10:56:11 +0000  
**To:** Planning  
**Subject:** Application Number 2016/0295/DET CairnGorm Mountain Ltd

Dear Sir

I write on behalf of Mountaineering Scotland (also known as the Mountaineering Council of Scotland) regarding the retrospective planning application to retain a ski area access track created during the construction of a new ski lift in 2015.

Whilst the Park Authority has called-in the application, we have serious doubts concerning its ability to enforce planning law relating to hill tracks (see application 2016/0067/DET relating to hill tracks on the Dinnet Estate). This unfortunate situation is against a background of significant concern expressed by ourselves and other NGOs, including Scottish Environment LINK, concerning the continuing and serious proliferation of hill tracks throughout Scotland.

We also have serious doubts concerning the ability and willingness of Natural Retreats and their contractors to undertake work in compliance with planning law and in ways that ensure long term sustainable enhancement of the much-damaged ski area. Concerns of this nature were expressed by NGOs which attended a meeting at which the Chief Executive of the Park Authority was present on 9 June 2016 concerning the Cairngorm and Glenmore Consultation. The notes from that meeting state:

"20. Concern at the degraded state of the ski area and the lack of commitment to clean up the area or commit to environmental enhancement. Concern was expressed about:

- breach of planning consent
- lack of removal of detritus
- lack of removal of unused buildings
- lack of removal of any little used vehicle tracks and the reinstatement of the ground
- need to undertake further repairs to the verges of existing used tracks"

The Park Authority is fully aware of the public interest in this application and of many stakeholders' concerns at the conduct of Natural Retreats, which demonstrates either a complete lack of understanding of planning law or a corporate unwillingness to comply with it, and an overall deficit of appropriate stewardship of a key site in the National Park.

We therefore urge the Planning Committee to enforce action that will ensure the effective and sustainable enhancement of the affected area.

Yours sincerely,

David Gibson  
CEO  
Mountaineering Scotland

# Comments for Planning Application 2016/0295/DET

## Application Summary

Application Number: 2016/0295/DET

Address: Cairngorm Mountain Glenmore Aviemore Highland PH22 1RB

Proposal: Retrospective planning application to retain a ski area access track

Case Officer: Katherine Donnachie

## Customer Details

Name: Mr Terry Smith

Address: 15a Seabank Road Nairn

## Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Dear Sir,

I write as a regular visitor to the National Park. I have serious concerns with the manner in which the ski area is being managed. I have regularly been to site and watched with dismay as the Shielling tow was removed and replaced with an ill advised "modern" replacement.

This operation has from the outset shown a degree of incompetence that I have never witnessed on any other site, in several industries before. I am amazed and appalled that this project has progressed as far as it has without being halted by the CNPA.

The track in question should never have been started as it was not included in any plan or detail. The track has already suffered from erosion (This is before any seasonal wet weather) and will only add to the now considerable drainage problems that the recent tow installation has caused. The operators reasoning for retaining this track is flawed. If tracks like these are now deemed as essential for tow maintenance then can I expect to see further tracks being dug into the Coire? I witness CML employees driving their ATVs extensively around the ski area where no track like this exists. Indeed tyre tracks can be seen running up tow lines (Carpark tow) or between tows (From the DLP to the WWP). I never see this happening at other ski areas who seem to manage just fine using other methods.

I'm increasingly worried about the future of any works carried out by the operator at Cairngorm. Their public statement when they were ushered in by HIE signalled that several projects were promised. Going by the unprofessionalism displayed so far, with every single job I've noticed, I can only fear the worst. The operator at Cairngorm should be held accountable for their vandalism to make sure that nothing like this can happen again. The CNPA cannot be seen to endorse planning breaches on this scale. Coire Cas is the public face of Cairngorm, not an area to be abused with such disregard and disrespect.

# Comments for Planning Application 2016/0295/DET

## Application Summary

Application Number: 2016/0295/DET

Address: Cairngorm Mountain Glenmore Aviemore Highland PH22 1RB

Proposal: Retrospective planning application to retain a ski area access track

Case Officer: Katherine Donnachie

## Customer Details

Name: Mr George Paton

Address: 56 Balnafettack Road INVERNESS

## Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: Sir ...I take issue with two recent Contributor's Points !

Firstly in Sally Mackenzie's comments, she refers to successful re-growth in the area, and goes on to add image 4 which shows predominantly dead heather ! She also does not enclose a photo of the sighted Frog.....maybe it leapt away into obscurity ?

Secondly in Mr Ian Cornfoot's comments, I have an extreme distaste for him referring to other Contributors as "Whacky" !

He has certainly succeeded in lowering the largely Professional content of the Comments by this ! And I would also ask him, to describe to us all, the agendas he also flippantly refers to !

**From:** George Paton  
**Sent:** 31 Aug 2016 20:33:34 +0100  
**To:** Planning  
**Subject:** 2016/0295/DET.....

Retrospective Planning Application to Retain a Ski-Area access Track on Cairngorm Mountain.

This Application **MUST BE REJECTED !!**

For various reasons.

Initially, when Planning Consent was given for the whole Project, despite numerous Objections from interested parties, the works proceeded with next to no adherence to the agreed Method Statement and Risk Assessments !

Before much time had elapsed, Ground-works were being carried out in various areas near to the initial Site.... without Planning Consent !

The CNPA Planning were alerted to this on several instances and choose to do nothing !! This brings into question, the impartiality, of CNPA Planning to make a Professional Decision, on what is seen by many to "be a done deal"

More reasons for rejection.....

- 1/ The reasons that this Track is not needed for accessing adjacent uplift has been elaborated on by other objectors. (Just recently, employees of the Operator were witnessed using a 6-wheel drive machine in a totally virgin area, causing ir-repairable damage, when this Track, or more importantly, one nearby, would have sufficed !
- 2/ From the outset of the alarm being raised, the attitude of the Operator to their responsibilities, and the numerous Lies and Deceit they have manufactured, and continue to create, also in the wording of this Retrospective Application.
- 3/ It is undeniably visually intrusive, especially from the Funicular Railway, on a Mountain where Reclamation and Preservation should be the by-words, instead of Destruction !

I ask that when the Planners are considering this, that they have a Comprehensive visit to the whole Site with the Case Officer.

Finally this Application has to be Rejected to teach the Current Operator and other Agencies respect and Responsibility, and after Rejection the Operator should pay for reinstatement, within the next year, whilst working with an Approved Professional Organisation....rather than the previous "mess-makers" who were aided and abetted by the Operator !



George Paton

**From:** on behalf of BSCG info  
**Sent:** 19 Sep 2016 23:56:40 +0100  
**To:** Katherine Donnachie; Planning  
**Subject:** 2016/0295/DET Comment BSCG

## Badenoch & Strathspey Conservation Group

Fiodhag, Nethybridge, Inverness-shire PH25 3DJ

Scottish Charity No. SC003846

Email [info@bscg.org.uk](mailto:info@bscg.org.uk)

Website [bscg.org.uk/](http://bscg.org.uk/)

Katherine Donnachie

CNPA

19 September 2016

Dear Katherine

2016/0295/DET Retrospective planning application to retain a ski area access track, Cairngorm Mountain.

I am writing on behalf of BSCG to object to the above application. BSCG requests the opportunity to speak to the CNPA Board when the application is determined.

BSCG's reasons for objecting include the following.

Landscape Impacts

The track is a prominent, linear feature that impacts negatively on the landscape. It is visible from many parts of the Hill and the visual intrusion of this track reduces the quality of experience for visitors. The track is particularly close to the funicular and to promoted paths that are popular routes running between the levels of the bottom and middle stations. The paths and funicular are very important elements of the visitor experience on the Hill.

### Ecological Impacts

The CNPA's surprising claim that the development "raises no issues in relation to ecology" appears to take no account of the important biodiversity and distinctive environment of the site, nor of the damaging nature of the works undertaken by the applicant.

It is important that the CNPA fully recognizes the ecological importance of the ski area and does not erroneously regard it as of low environmental value, perhaps because it is a commercial winter sports area.

As a result of the works associated with the new track, the reprofiling and the replacement shieling rope tow, there have been potentially significant ecological impacts on soils, vegetation, fungi, fauna, hydrology, drainage and ecological processes.

Impacts include the direct effects of heavy machinery; excavation and moving of soils, rocks and vegetation; burying of rocks along with associated lichens and other wildlife; the redistribution of vegetation; alterations to drainage and run-off patterns; changes to the rate of water run-off and patterns of silt and gravel deposition.

**Water Voles:** The CNPA ecology report makes no reference to potential impacts on water voles (on the Scottish Biodiversity List and a UKBAP species). It is well known that water voles use the area (NESBREC records including for 2015, Natural Retreats website and on-site interpretation). SNH has identified Priority Areas where "a viable and probably nationally important water vole metapopulation is present". One of these Priority Areas is the Cairngorms.

SNH explain that colonies are vulnerable to e.g. an extreme flooding event: "It is not uncommon for colonies to go extinct as a result of chance events such as sudden extreme flooding." Such observations demonstrate the importance of attention to drainage regimes in water vole habitat.

SNH also explain the importance of maintaining populations and connectivity between colonies: "Provided there are other colonies close by, recolonisation can take place and life can continue. If not, the species is doomed to extinction in that area, leaving any surviving colonies even more isolated."

The ski area population is likely to be significant for maintaining the long term viability of the Cairngorms metapopulation.

**Invertebrates:** No reference is made in the CNPA ecology report to potential impacts on invertebrates. It is well documented that the Cairngorms has high importance for invertebrate biodiversity. As illustrations of this value, a species new to Britain *Bourletia viridescens* was found (by a BSCG member) not far from the ski area; and two other invertebrate species *Triphleba dentata* and *Okeniella caudata* (found by SNH staff) also new to Britain, have been found in the Cairngorms in recent years.

The reprofiling has resulted in loss of flowering vegetation for invertebrate pollinators; and loss of vegetation cover and underground nesting habitat for a range of invertebrates including bumble bees.

The mountain or blaeberry bee *Bombus monticola* (on the Scottish Biodiversity List) was recorded on undisturbed vegetation around the development area.

The destructive nature of the work undertaken is not consistent with the objectives of the Scottish Government's emerging Pollinator Strategy for Scotland 2016-2026.

**Fungi:** Fungi are another group for which the Cairngorms are of high value and for which the works carried out are likely to be damaging. As an illustration of this, several rare fungi whose ecology is little understood have been recorded in the ski area in the vicinity of the development site associated with *Vaccinium uliginosum* (Stewart Taylor [pers.com](http://pers.com).)

**Clubmosses:** The Clubmosses *Lycopodium annotinum* and *L. clavatum*, both of which have protected status under the Habitats Directive (Annex V), are present in the general area of the development and are likely to have been adversely impacted by the work undertaken.

Climate change

Wildlife is likely to need to be able to relocate to higher altitudes in response to stresses such as climate change. It is important that the habitats within the ski area are sensitively and appropriately managed to allow for such vital movement.

### Erosion

The applicant's assertion that the erosion on the track is solely the result of Storm Desmond lacks any credibility. It is particularly disconcerting that this assertion is echoed in the CNPA ecologist's report. There is ample photographic evidence of erosion episodes at other times, obviously unrelated to Storm Desmond.

The route of the track straight downhill invites ongoing erosion and maintenance issues. The proposed drainage arrangements do not provide a robust or sustainable solution. The CNPA should not be permitting development that is likely to lead to recurrent environmental problems, especially at a fragile, high altitude site.

### Standards

Adam Gough of Natural Retreats does not dispute that standards have fallen short ([pers.com](#) in meeting to BSCG and others, September 2016). There is a need to at least maintain the standards that were established at the time of the funicular. Conspicuous departures from such standards in the work already undertaken include the permanent destruction of soil profiles; failure to appropriately separate, store and reuse vegetation turfs; and the failure to orientate rocks so that lichens can survive.

### Location Plan (showing redline boundary and written size for new track; and coloured area for reprofiled ground)

We are concerned that there are discrepancies between the area of reprofiling on the ground and the coloured area shown on the Location Plan; discrepancies between the written size of the new track on the Location Plan and the track on the ground; and discrepancies between the scale on the Location Plan and the track on the ground.

### Planning process

The background to this retrospective application is unimpressive. The applicant disregarded planning regulations; failed to put in a competent planning application; subsequently continued to work on the site for several weeks, apparently under the

impression that they were going to get permission regardless, before a competent application was provided that could be validated.

The public need to be confident that the CNPA are actively and properly upholding planning regulations, rather than routinely waiving them.

#### Park aims

The retention of the track would run counter to all of the four aims of the Park. Retaining the track threatens natural heritage; does not represent sustainable use of the natural resources of the ski area and undermines the wild land character that this site retains; detracts from understanding and enjoyment of the special qualities of the ski area; and undermines sustainable economic development.

SNH has identified that the challenge ahead for Scotland's mountains and their living landscapes is for land managers, public bodies, Non-Government organisations and those who use the hills for recreation "to work together, with a shared commitment to safeguard and enhance our mountain resource."

SNH concludes that "The planning system has an important role in preventing inappropriate development across all of the Scottish Uplands".

It is reasonable to expect our National Parks to be leading the way in ensuring appropriate standards of development and management.

Regards

Gus Jones

Convener

Letterbea,  
Drumullie Road,  
Boat of Garten,  
Inverness-shire, PH24 3BD

The Planning Officer,  
CNPA,  
The Square,  
Grantown on Spey

Dear Sirs,

2016/0295/DET Retrospective planning application to retain a ski area access track,  
Cairngorm Mountain.

The Cairngorms Campaign has a wide ranging remit in that it values the natural heritage and seeks to secure and enhance the natural environment and also encourages and educates others to enjoy and understand the special values of the wider Cairngorms area. As such we act to safeguard the interests of the informal, non-commercial participants who enjoy their recreation in the area. We are a voluntary membership organisation encompassing the wider Cairngorms Area, in fact the only voluntary conservation and recreational charity to be specifically limited to this area.

We **object** to this retrospective planning application on the following grounds.

1: The original planning application wrt removal and replacement of the Shieling Tow specifically required reinstatement of the surfaces disturbed by the removal of the original tow, and the replacement rope tow. There was no mention of the need for a temporary road.

2: The method statement required terram matting to protect the underlying vegetation, and standard techniques to segregate and safeguard vegetation, and excavated materials such as top soil, subsoil and underlying bed rock. The evidence on site shows that these methods were not employed.

3: The orientation of the track in its current state running directly down the fall line of the hill will be a source of erosion given the well established poor nature of soils overlying granite, the shallow soil depth, the mobile underlying granite stoney subsoils, and the erosive power of runoff from snow melt and frequent rain fall events. The photographs in the recently submitted ecological assessment by the CNPA Ecologist shows clearly unvegetated parallel track marks running downhill. Cross drains and silt traps have had little success in the past, and these old methods have been shown to be inadequate on Cairngorm.

4: The importance of protecting vegetation and soils has been repeatedly demonstrated for over 50 years on Cairngorm. Vegetation below the track edges will be covered by gravelly sediment and consequently lead to further instability in the adjacent slopes. These are well established events on Cairngorm within the leased ski area and are referred to in numerous previous soil surveys and in reports on failed attempts to stabilise slopes to allow revegetation using various stabilising media. The landlord HIE (and its predecessor the HIDB) will have an archive of information to inform Natural

Retreats in suitable and unsuitable restoration techniques. (If needed we can submit a list of references!). We object that the Planning Conditions did not sufficiently protect the surfaces and the enforcement actions did not ensure proper good practice was followed. Poor practice is not a justification for allowing an unstable track to be left; proper planning controls should require competent reinstatement, and as such this application is irrelevant.

5: Given that the **Four Aims of the National Park** give primacy to the protection and enhancement of the Natural Heritage value when there is a potential conflict with any of the other aims, and given the paucity of the ecological assessment, the ecological considerations appear to have been bolted on as an afterthought, ie after the track construction has been completed. We object that this primary aim has not been given due priority. The track should be reinstated and the retrospective planning application refused.

A competent and informed ecological assessment should have been used in the earliest design stages, but there is no evidence that this has been the case; by this we mean at the initial planning application stage. We conclude that this development has not followed planning and Park guidance. Given that a development within the highly prized montane environment of the National Park should be following the highest and most rigorous planning and construction standards possible, we consider that permission should be refused, as the natural heritage and ecological considerations are inadequate and the track is showing it self to be prone to erosion and sediment run off.

6: The shame is that this is within a nationally important area that has the highest levels of protection for its landscapes of any where in the UK and is renowned for the protected habitats and wildlife in the vicinity. The leased Ski Area is wholly within an area designated for its landscape value, a National Scenic Area, with the snow fences, existing road ways and the funicular there are already prominent linear lines running up and down the hill, that are noticeable as far away as the A9 at the Slochd and the adjacent hills. A high quality natural landscape is an important characteristic that underpins the local tourism trade. This track is yet one more geometric feature in the landscape that has been shown to reduce and undermine the important wild land quality.

In conclusion we consider that our planning system within a National Park must be strong enough to protect the wider public interest. Any developments should be hard won and planned to the highest standards, having a proper regard to their proposed location and its special characteristics. We hope and urge that proper regard be given to the evidence that developments which undermine the wild land quality values should be presumed against, and that in all cases planning conditions should be rigorously enforced.

Yours faithfully,

On behalf of the Cairngorms Campaign



# Comments for Planning Application 2016/0295/DET

## Application Summary

Application Number: 2016/0295/DET

Address: Cairngorm Mountain Glenmore Aviemore Highland PH22 1RB

Proposal: Retrospective planning application to retain a ski area access track created during the construction of a new ski lift in 2015. The reason for the access track construction was to minimise tracking over the surrounding area which in many parts has over a 1 metre depth of peat. This created a safe route which guaranteed that access did not cross the high voltage SSE ring main cable. It provided access to remove boulders from past embankments and the transport of materials and components.

Case Officer: David Allan

## Customer Details

Name: Mr George Allan

Address: 7 Bothwell Terrace Pitmedden Ellon

## Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I am writing on behalf of the North East Mountain Trust (NEMT), a voluntary body, based in the Grampian area, which represents the interests of hill-goers and those who enjoy visiting wild land. NEMT membership, comprising twelve hillwalking and climbing clubs along with individual members, totals around 900 people. NEMT maintains an interest on behalf of its members across the whole of Scotland but has a particular focus on the Cairngorms and the wider Grampian area.

NEMT is both very surprised and alarmed that Natural Retreats constructed this track and undertook other work on the mountain without consent. As a company whose contract is with a statutory body and as one operating in an area of great environmental sensitivity, it is extraordinary that it has approached its responsibilities in such a cavalier manner. NEMT met with representatives of the company earlier on in its tenure and was assured by them that they took their environmental obligations very seriously and, to date, this has not been the case. The National Park will be aware that there are other aspects of the work, in addition to the two accepted as planning breaches, which may have been undertaken without approval.

NEMT urges the National Park to reject the application for retrospective consent for the track and to require the full reinstatement of the ground for the following reasons:

- There are no justifiable grounds for a visually intrusive track in that area. In its application, the

reasons given by Natural Retreats for retaining the track are that it would 'allow routine maintenance' and 'minimise future ground disturbance'; an additional reason regarding facilitating the movement of snow cannons is given in the Supporting Statement but not in the application which is surprising. This level of information regarding proposed future use is not adequate. The application should detail how often the track might be used for maintenance and for moving snow cannons. In practice, use of the track for these reasons is likely to be 'occasional only'. Snow cannons are normally moved only when the ground is frozen and so the latter is less subject to potential damage and then are often left in place. The application should also explore why other ways of gaining access for maintenance cannot be used in this particular area. Why is this track needed when many of the tows and lifts on the mountain have been maintained for decades without tracks? Materials can be moved in other ways (e.g. transported on the lifts or tows; via helicopter for major pieces of equipment; putting down temporary matting to prevent vehicles damage to vegetation). The Supporting Statement describes the track as 'an investment' and NEMT wonders if the main driver for requesting retention is a desire by the company to avoid incurring the costs of removal.

- The application states that the track's retention will not increase flood risk. This is not correct as water run-off from any tracks in the ski area increases flood risk further down the glen. A poorly drained track will be subject to rapid erosion, a well-drained track will increase speed of run off and attendant flood risk.

- The state of the whole of the ski area is something of a disgrace, giving a poor impression to visitors. Blame for much of this cannot be laid at the door of Natural Retreats; however the time has come for the National Park, HIE and Natural Retreats to develop a comprehensive plan to remove unused buildings, take away scrap material and fencing, remove any rarely used sections of track, tidy up the whole parking area and explore the potential for natural regeneration and planting of native trees species in the vicinity of the day lodge. Consideration should not be given to visually intrusive and unnecessary developments such as more vehicle tracks.

There is a broader issue which NEMT would ask the National Park to consider in relation to all hill tracks and which is relevant to this application. With the introduction of Prior Notification for tracks deemed to be permitted development, the legal situation is now clear and there is no justification for any developers to create tracks without submitting full applications or Prior Notifications. Poorly constructed and often illegally constructed tracks have blighted the upland landscapes of Scotland for the last forty years. There are almost no examples of planning authorities requiring developers to remove such tracks; all that has tended to happen is that conditions have been attached to retrospective consents requiring remedial work which has not always been carried out. The time has come for all planning authorities to take a much more robust approach to protecting the environment by requiring the complete removal of such tracks except in exceptional circumstances. Without such a clear message, some developers will continue to ignore the law and damage the environment with impunity.

This visually intrusive track on Cairngorm is not one of these exception circumstances as there is no justification for it: work on tows and lifts can be carried out without it as there are other ways of

preventing damage to the ground. It is hoped that the National Park will reject the application and require reinstatement of the ground.

## Comment on Sheiling Track Retrospective Application

As discussed with members of the CNPA planning staff on a site visit on Wednesday 7th September the fact this is a retrospective planning application raises a number of concerns, because the option of rejecting the application requires enforcement action to remove the track, however it is not possible to fully restore the site, due to the following:

- Soil profiles and existing hydrology destroyed
- Inadequate vegetation storage for full restoration
- Potential issue of causing further damage from significant new ground works.



*Image 1: One of numerous montaine scrub Scots Pines that has died post Sheiling Tow works due to combination of waterlogging and/or root damage through destruction of soil profiles and drainage creating an area of artificially boggy ground between new track and the Funicular.*

Thus because full removal of the track may cause yet more damage and make matters worse it is a concern that by flouting planning regulations and then applying retrospectively the Sheiling Track is a fait accompli.

Yet the case for retaining the track is weak and had this been a pre-construction application in accordance with planning regulations, there would have been a robust argument for rejecting the application.

With respect to the applicant's case for retaining the track the following should be noted:

- New Sheiling Tow was installed on the premise that a modern rope tow required less maintenance than the old overhead Tow (which did not require a service track).
- The old Sheiling Tow was maintained for decades without a parallel track and no lasting damage to adjoining vegetation.
- Contrary to the statement in the application that this track will assist in the maintenance of other ski tows (plural) the only other ski tow in the vicinity is the top third of the Carpark T-bar and of that section the top most part is closer to the pre-existing hill road up the Zig Zags. During a summer 2016 overhaul of the Carpark T-bar, vehicles and plant drove up and down the Carpark T-bar line.
- While there is a need for some service tracks within the ski area, the logical conclusion of the argument put forward to retain this track is that every ski lift on the mountain needs a parallel service track. That would neither be necessary nor acceptable.
- Glenshee, Glencoe and Nevis Range all maintain at least significant portions of their uplift network well beyond the reach of any hill tracks or public roads.
- Snowmaking plant is likely to be moved over snow or over bare ground only once ground is frozen and less vulnerable to damage. Snowmaking will not take place on snowless ground until it is well frozen.

With regard to some of the comments that have been submitted in support of retention:

- Comments that track will assist with the winter evacuation of snowsports casualties:
  - If there is snow, casualties will be evacuated by over snow transport (negating the need for a track) and if there is no snow, there will not be skiers or snowboarders on this slope.
- Tow track now has much poorer snow holding - gully storage is the most effective way of protecting snow from thawing effects of mild / wet windy weather. Thus more and/or bigger fencing now required to counter loss of old trench tow track. Improvement in visual appearance is thus highly subjective.

As this retrospective application relates to the new Sheiling Tow which was constructed last autumn, the question arises as to why the original application did not include the track?

Far from assisting with maintenance work, the Sheiling track due to it following the fall-line (that is at right angle to the contours) is in itself going to be a source of constant maintenance work if it is not to cause further damage due to water erosion of the track leading to washout onto other areas.

## Misleading information in Application

Page 3 of the supporting evidence for the application includes the following photo, dated Oct 2015 which claims to show reinstatement works to restore the site. This photo is misleading as it was taken before additional major groundworks were undertaken later in the project (Late Oct into Nov) to further modify the slope profile to fit the very strict requirement of the new tow.



*Image2: Highlighted on the image are the site of the following features which were not yet present on date photograph was taken:*

1. A 3m+ deep borrow pit for materials was dug in the area marked 1 [red], later backfilled with large rocks recovered from October and November's ground works.
2. Bank and snow fencing above 'the Slot' still intact at area marked 2 [yellow]. The fencing was removed to allow this bank to be dug back for additional material for re-profiling the tow uptrack.



The area between the two machines in image 2 which purports to show reinstatement works in progress in October 2015, was heavily disturbed and further modified in the attempt to get the required profile for the lift line.

These photos taken by Alan Bratley on 25th November 2015 show an excavator ripping out material and them being transported to the side of the Sheiling Tow uptrack in a tracked dumper which is sinking into the heavily disturbed peat.



*Image 3: Ground works between the Funicular and Sheiling Tow on 25th November 2015. At least a month after the photo included in the application's supporting statement showing reinstatement works in progress in October 2015.*

It should be noted that the area between the Sheiling Tow and Funicular is an area of ground to which very considerable efforts were extended to prevent ground damage during the Funicular construction. Yet during the construction of the new rope tow and associated service track, this entire area was bulldozed to in places a width exceeding 60m (the original planning application was for a site limit of 30m across).

## Background and history of the Sheiling Tow

Though proposed as a replacement beginner tow, the slope is unsuitable for complete beginners and the original tow was never intended to serve as a beginner tow. The original Sheiling Tow served as part of surface lift access to mid-station level prior to an extension of Carpark T-bar extension in 1970s.

The Slope is too steep for first time skiers and boarders and it is not practical to get beginners to the foot of this tow. For novices advancing from nursery slopes used for complete beginners, a proper overhead ski tow that allows people to learn to use uplift similar to those on the rest of the mountain would be of more benefit. A significant mess has been created for no benefit to the snowsports area or winter customers.

## Gradient & construction of the Sheiling Track

Scottish Natural Heritage (SNH) issued their 2nd edition of "Constructed tracks in the Scottish Uplands" in 2013 and updated it in September 2015. This document provides a best practice guide to the construction of 'private ways' in upland areas.

- The maximum recommended gradient in the SNH guide for light all terrain vehicle tracks is 8°:
  - The Sheiling Track exceeds this gradient, with the track averaging 12° on top half and reaching 15° (near top of rope tow and link onto pre-existing hill track).
  - Contrary to good practice the bulk of the track runs in a straight alignment at right angles to the contours of the land.
  - Lack of adequate drainage or camber to prevent water channeling and resulting erosion from track.
  - Central verge may help funnel run off down the exposed grit.
  - Steel box drains elsewhere on mountain quickly fill with washout and add to visual impact.



**Image 4: Top half of the Sheiling Track averages a gradient of 12° exceeding that recommended as the limit in the SNH good practice guide "Constructed tracks in the Scottish Uplands" by 50%.**



The track is already undergoing renewed runoff erosion despite having been worked on over the summer months and seedaide mulch applied to attempt stabilization. Washout from the previous winter/spring was already repaired earlier in the summer.



*Images 5 & 6 (on page 7): Runoff runnels indicating new water erosion of the recently worked on track. Photos were taken in dry conditions on Wednesday 14th September. Despite a dry day track was noticeably soft and boggy in places.*

Clearly due to the fall-line nature of the track and gradient, runoff erosion will be a constant problem and even if steel cross drains were installed, washout would continue in between and repairs to the track and clearing of the cross drains would be constantly needed.





In order to connect to the pre-existing hill track the new track drops firstly downhill, then turns very sharply back uphill. This corner has such a tight turning radius that even small all terrain vehicles are likely to constantly be churning up the track/ground at this location.

As this corner occurs at the bottom end of a steep straight down slope section, it is likely that water will funnel down here and wash out churned material onto the vegetated ground below.



*Image 7: Very small radius turn back up slope approaching top of the new Shelling Track.*

## CNPA Ecological Response

The CNPA Ecological Response 'Impacts' section - bullet point 4 notes the following:

***“Re-grading has taken place at the bottom end of the track which has reduced the steepness of the slope, reducing erosion in this area. This slope is re-vegetating well. (Image 4). “***

Contrary to this claim (originating with the applicant?) as can be seen from the following photo, there was no erosion taking place on this bank prior to construction of the new tow and associated track. The bank had a healthy and full vegetation cover.



***Image 8: Looking up to the Sheiling Tow works on 9th August 2015. At this stage the bank and snow fencing above the Cas Loop Trail footpath remained intact.***

## Weather Conditions during construction

The following comment has been made as part of a response in support of the application:

*"Last summers weather was horrendous and condition extremely difficult to landscape in. I think that the objectors should be mindful of this issue as many do not understand the difficulties of landscaping in such conditions."*

The following should be noted in response to such comments:

- Method Statement for the project precluded working at times of very wet weather or unsuitably wet ground conditions.
- Met Office north of Scotland climate area data shows August having just under average rainfall (98% – but drier towards North and East of Scotland). By mid August only ground works along the line of the old tow track had been carried out (see image 8).
- Met Office north of Scotland climate area data shows September and October as being unusually dry months.
  - September having only 37% of the long term average rainfall.
  - October only 47% of the long term average rainfall.

## Conclusion

The track as currently existing ought to be refused planning permission, but as noted at the start of these comments full restoration of the track site to it's previous condition is not possible.

Thus irrespective of the decision to reject or approve, I am of the view that either resulting enforcement action or conditions attached to approval must ensure the site is restored as far as practically possible and to the highest standards, ensuring the site can recover and not lead to further damage through run off erosion etc.

- Destruction of soil profile and hydrology has left area much wetter and more boggy than pre construction of new tow & track. A number of montaine scrub trees have died either by root disturbance or water logging. Several other trees were destroyed by bulldozing.
  - CNPA Ecological Response Notes:

"It should also include management proposals for the sedimentation ponds, which may require cleaning after a storm event. To further enhance and ensure success of the vegetation restoration in this area there is a good opportunity to plant Dwarf Willow, Birch and Scots Pine on the re-graded bank. A planting proposal and aftercare plan should be provided for this, detailing the number of each species to be planted. "
  - The above should be extended to adequate drainage (including silt trapping) to reduce the artificial bogginess of the ground between the new track and funicular railway, followed by additional native tree planting of above noted species.
- Given the track follows the fall-line for the entire length of the tow and exceeds the maximum recommended gradient in the SNH handbook, measures are required to prevent water channeling and run off damage to the track and subsequent damage to surrounding ground.
  - The use of ground reinforcement grids (similar to those used at the funicular mid-station platform and winter entrance/exit from the Top Station), filled with suitable soil and seeded on top of the exposed grit would provide both a robust driving surface that would blend in almost entirely while stabilizing the ground thus preventing water run off erosion.

The track design and construction is of a poor standard and is far from meeting considered best practice. CNPA must ensure restoration / mitigation works are carried out to the highest standards to repair this area as far as possible while avoiding any further damage to surrounding areas.



**Campaigning for the  
Conservation of Wild Land in Scotland**

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29<sup>th</sup> August 2016

Dear Sir

**Re Planning application 16/02878/FUL [2016/2095/DET]**

Retrospective planning application to retain a ski access track, created during the construction of a new ski lift in 2015.

I am writing on behalf of the members of the Scottish Wild Land Group which is a registered Scottish charity, [www.swlg.org.uk](http://www.swlg.org.uk). We strongly object to this retrospective planning application for the reasons given in this communication.

I have studied the current and original applications and associated documents, including the Method Statements, in detail.

The original application did not include the need for a track to facilitate construction, specifically uplift of materials. Why was this need not foreseen by the company's designers, engineers or contractors at the original design stage? It is obvious that Natural Retreats did not ensure that its contractors adhered to the original Method Statement, and thereby did not comply with the planning agreement at that time. At no other ski uplift facility in Scotland, Scandinavia or Europe as far as I have seen are access tracks built to carry materials uphill. This is done using existing uplift systems or helicopters.

There is no adequate justification for either the construction or the retention of this track, especially since it did not form part of the original application. It beggars belief that, presumably as a result of inadequate monitoring, and a lack of adequate contractor management, this track was built and the destroyed bank below the lift "reformed". The site is in a National Park, one of only two in Scotland, and is also in a National Scenic Area. This is thus recognised as a special place of national significance and yet an incomplete planning application was put to the planning authority, which has resulted in a retrospective application after malpractice was observed and reported. This is totally unacceptable. We strongly consider that were retention to be allowed it would set an unacceptable precedent for future developments. Other developers could similarly employ bad practice, which may even be disingenuous, in order to further proposals which were not originally made explicit,

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presumably because they would be refused planning permission. The Planning Authority will be well aware that there is significant public interest in this case and its outcome.

Management of the National Park should contribute to National Outcomes, specifically "the enhancement of the natural environment for future generations". From our observations the involvement of Natural Retreats in Coire Cas has led not to enhancement but to considerable decline in the ecology and landscape of the area. This is well documented by onsite observations and in photographs of the area taken by concerned and well-informed people. The National Park authorities will be aware that the devastation caused on Coire Cas, including discarded equipment and construction materials being left in unsightly heaps season after season, as well as the degradation of the site, has been a cause of concern among environmentalists for several years.

We have many concerns over the bad practice we and others have observed in this case. These include the following comments. The creation of this track has led to erosion scarring, poor drainage further contributing to the bogginess of the ground at the bottom of the Shielling, and damage to ecological integrity. The visual information supplied with the retrospective application does not show the onsite overflowing, unmaintained and poorly constructed silt traps. The reprofiled bank looks very artificially constructed and its form is not in keeping with the features of the surrounding area. The track is a visual scar and with its stark surface it stands out. The reinstatement and reseeded of 2016 has not been successful; the stored turf was badly stacked, and not appropriately maintained so that it could be kept in good condition, so that it may be unlikely that it could be reused to effect permanent vegetation cover. A stated aim is to reinstate the verges of the access track. However, disturbed soil has not been sorted into topsoil, subsoil etcetera and stored separately but has been indiscriminately mixed, so that the original soil profile cannot be restored, so re-establishment of vegetation will probably not succeed, even possibly allowing colonisation by alien species. There is over reliance on grass species almost as a sole component of revegetating.

There is no evidence that the developer has referred to and applied the excellent guidance given in SNH's "Constructed tracks in the Scottish Uplands" [2013]. While this guidance is not mandatory it should, we suggest, be adhered to and planning authorities could encourage this. Even a cursory scan of this guidance would show that had its contents been applied in consideration of this track alongside the uplift facility, going straight up the hillside, at right angles to the contour lines, that its construction would inevitably result in poor drainage and erosion, and associated undesirable and readily visible consequences.

We object on the grounds of the lack of credible justification of need for the track and the unsuitability of its design in this location alongside the lift. In addition, the failure of Natural Retreats to demonstrate that they are capable of a high standard of ecological management and appropriate landscaping of the area does not give us the confidence we need to make us feel that they will deliver the retrospective works to the required standards in the National Park. We ask the planning authority to refuse the retrospective planning application, and that they ask the developer that an EIA be submitted accompanied by a fresh application to restore, and Natural Retreats be required to reinstate the damage caused. Advice should be sought from a known expert source in order to achieve this and the works should be independently monitored. Only by following these suggestions can the public have confidence in the processes involved in managing the park to maintain its environmental health, biodiversity and scenic qualities.

Should you have any queries about the content of this letter please do not hesitate to contact me.

Yours faithfully

Beryl Leatherland



**From:** Marlyn Bratley  
**Sent:** 22 Aug 2016 10:15:47 +0000  
**To:** planning.badenoch@highland.gov.uk; Planning  
**Subject:** Reference: 2016/0295/DET  
**Attachments:** Transporting Vegetation.jpg, Packing down Ripped out Vegetation.jpg, Ripping out vegetation (2).jpg, No Protection Measures3 (2).jpg, 20160621\_095113.jpg, 20160619\_155243 (3).jpg

Dear Sir,

I would like to comment on the Retrospective planning application that has been made in respect of the track at the Sheiling Rope Tow on Cairn Gorm Mountain and the regrading of the embankment at the same location. I hope that you will accept my email comments as the comments section on the planning website does not allow sufficient text space or provision for adding photographs.

The operator claims that the track was created to allow vehicle access during the construction process and that it prevented multiple vehicular access to the adjacent area which has peat that is up to 1 metre deep. I've attached pictures that show tracked vehicles operating in the area between the illegal track and the Funicular railway. It is quite clear that no attempt was made to minimise tracking within the area in question and their ground protection reasoning for creating the track can therefore be discounted. With the ground being so soft here and with a depth of peat of around 1m then it is abundantly clear that helicopter lifts should have been used to transport materials into the site and to lift rocks out.

The operator claims that the track should be retained because it will help with maintenance to other nearby tows. In fact, there is only one other tow that is close to the new track. The top 300m of the Carpark T-Bar is relatively close to the illegal track but the operator did not use this track for access to the Carpark T-Bar this summer. The tow track was dug up and new cabling installed in one job and metal frameworks were added to the tow towers in another. In neither case was the Sheiling rope tow track used for access. The rope tow itself has the control unit and tower at the bottom and a tower at the top. There is nothing in between and maintenance will be an easy job that does not require vehicular access. The maintenance reason for retaining it can therefore also be discounted.

The operator claims that the track will assist with moving snowmaking cannons into the area by keeping the Kassbohrer tracks or vehicle wheels off the vegetation. The operator did not do this last season and they make snow only sparingly due to the cost of electrical power. It is highly unlikely that they will wish to spend money making snow here in the area of the rope tow piste as this piste is seldom used. Their reason for retaining the track as it will assist with snowmaking can also be discounted.

The operator claims that the track lies within the 300m by 30m area of the planning permission. In actual fact, the area of operation extends to 60m in width, over the full

300m length of the track. In effect, due to their being no delineation of the site, the contractor operated and dug up an area that is twice the number of square metres being 18,000sq m than the 9,000sq m that was permitted. By any measure that is very considerably outwith the planning permission. What makes it even worse is the fact that the ground has been destroyed over the full 18,000 sq m....

During the construction of the rope tow, the operator chose to ignore the method statement. There was no delineation of the area of work and no ground protection measures were ever taken. The external contractor was permitted to rip up the ground in several sites as they obtained materials to build up the rope tow profile. It was evident that the rocks that were removed from the old tow uptrack were subsequently buried in a deep hole that was excavated outside the area of planning consent. This material could and should have been used to reprofile the rope tow uptrack. However, when it was discovered that the profile was wrong, it was too late to use this material and considerable ground destruction then followed. The area between the rope tow track and the Funicular railway was bulldozed as evidenced by the pictures. Considerable ground materials were removed from here and packed into the tow uptrack. The damage to this area has not in any way whatsoever been repaired and the picture that the operator submitted that showed the replacement of turf can be discounted. While turf may have been put in here, it was very clearly subsequently removed by tracked diggers and the resultant mess is quite obvious today.

The embankment below the rope tow control hut that had approximately 20t of material removed has never been repaired in any meaningful way. Some grass and stabilisation pellets were added but that does not compensate for the damage done. The contractor used the materials from here to help to build up the rope tow profile. However, no flora was removed beforehand so that it could be returned to site. The contractor simply used a machine to rip out large chunks of turf from the other side of the Cas Loop Trail Track and pack that material along the foot of the embankment as well as into the slope. Their attempt to make the banking look as if it had turf replaced, only resulted in further destruction at another site. The holes that were left by this malpractice are very much still in evidence today.

You will also see pictures of the Funicular construction. Considerable ground protection measures were necessary then but the same area has now been destroyed by bulldozers.

The operator has made a mockery of the planning process by ignoring the constraints of the planning permission and simply doing as they liked. They then endeavoured to justify their actions by admitting that they had breached the planning permission but that they thought it was needed.

The retrospective planning application should be refused and the track removed from the mountain. Furthermore, the operator should be ordered to pay for an independent

ecological study to unbiasedly determine the level of damage that they have caused to the mountain and the measures that should be taken to effect reparation.

There are considerable reputational issues here for the planning authorities and I hope that they will take the proper actions.

Yours sincerely

Marlyn Bratley













# Comments for Planning Application 2016/0295/DET

## Application Summary

Application Number: 2016/0295/DET

Address: Cairngorm Mountain Glenmore Aviemore Highland PH22 1RB

Proposal: Retrospective planning application to retain a ski area access track created during the construction of a new ski lift in 2015. The reason for the access track construction was to minimise tracking over the surrounding area which in many parts has over a 1 metre depth of peat. This created a safe route which guaranteed that access did not cross the high voltage SSE ring main cable. It provided access to remove boulders from past embankments and the transport of materials and components.

Case Officer: David Allan

## Customer Details

Name: Mr Alan Bratley

Address: 5 Paterson Road Aviemore

## Comment Details

Commenter Type: Member of Public

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: This application should be rejected on the following bases: If a track had been needed to move materials and equipment during the construction of the rope tow then that should have been part of the original application. The track isn't required for future maintenance of a tow that has a control unit/tower at the bottom and a tower at the top. There are many other surface lifts on the mountain that are less accessible and much longer which are maintained without any access track. This track will not be of any use in maintaining other nearby lifts [plural]. In fact, the carpark T-Bar tow is the only nearby lift [singular] and only the top 300m is anywhere near the rope tow track. Furthermore, the rope tow track was not used to access the carpark T-Bar during 2 separate maintenance jobs that were done on this tow, over the summer. It is clear that claiming that the track would be of help in maintaining other nearby lifts is a spurious reason put forward for its retention. In addition, claiming that the track would be of use in moving snow cannons to this area is also a spurious reason. This was not done during the 2015/16 season and the operator is unlikely to waste money making snow in an area that is seldom used. The claim that stored vegetation was restored to the area between the track and the Funicular does not stand up to scrutiny. This area was subjected to destruction during the construction process as the ground was ripped up and the turf/heather was used to build up the rope tow profile. Looking at it today, it bears no resemblance to the picture that the operator has included as part of their application.....the picture that shows stored turf as having been returned to the area. No turf was returned to here as evidenced by the state of the area now....no blooming heather here only some bright greenery from overseeding. The drainage was also destroyed during the construction



process and has not been fixed