

Cairngorms Planning Advice Note

Planning Permission and Permitted Development Rights for Agricultural and Forestry Tracks

Published: April 2015

The planning system and private roads, tracks and paths

Private roads, tracks and paths are an essential part of the infrastructure of the National Park. They help land managers to do their work and the public use them for recreation and enjoyment.

All private roads, tracks and paths that are not on agricultural or forestry land and are not for agricultural and forestry purposes need planning permission to be formed or altered.

Tracks that are for agriculture or forestry are classed as 'permitted development' in planning law and don't normally need planning permission to be formed or altered. However, the planning authority must be told about the proposed tracks on agricultural or forestry land before they are created or changed and can decide that it needs to approve the proposed track before any work can take place.

Ask your planning authority

The rules about planning permission, permitted development and tracks are complicated so you should always speak to your local authority about what you'd like to do before you act. Your local authority planning team can explain whether your proposal is likely to need planning permission or other consents.

If you undertake work without the correct approval or consent, the planning authority may take enforcement action. This could cost you significantly more time and money than if you had followed the correct process.

Prior notification

It is a legal requirement¹ for anyone who intends to form or alter an agricultural or forestry track to make a 'prior notification' application to the local planning authority. A prior notification application must include a description of the proposed development including details of:

- the design;
- manner of construction;
- materials to be used; and
- a plan indicating the route of the track.

The planning authority will use that information to decide whether 'prior approval' is needed. You can continue with your development if you don't need prior approval and you:

1. get written notice from the planning authority confirming that prior approval is not needed; or
2. have not had any response from the planning authority within 28 days of the date they received your application.

Although the 'maintenance' of tracks does not require prior notification, many relatively small alterations to a track, including widening, re-routing and changes to drainage may require it so you should get advice from your planning authority before undertaking maintenance to an agricultural or forestry track.

Prior approval

If the planning authority decides you need prior approval, they will tell you within 28 days of receiving your prior notification application and

¹ under the Town and Country Planning (General Permitted Development) (Scotland) Amendment (No. 2) Order 2014

may ask you for more information. They may also consult other organisations about your proposal. They will decide your application and will send you either:

1. a notice granting prior approval for your proposal, with or without conditions; or
2. a notice refusing prior approval for your proposal with reasons for it. If your proposal is refused you have a right of appeal.

If you receive prior approval from the planning authority you can go ahead with your development as long as you comply with any conditions attached by the planning authority.

The role of the CNPA

The CNPA 'calls-in' planning applications that are particularly sensitive or important to the National Park². The CNPA has an agreement with local authorities that means it can also 'call-in' prior approval decisions for agricultural or forestry tracks that are 'significant' for the National Park.

The CNPA sees all prior notification applications that are submitted to a local authority within the National Park and will advise the local authority planning team if it thinks a proposal is significant and requires prior approval. The CNPA may call in and determine prior approval applications that are significant to the National Park.

Other things that will be considered in all cases

Environmental Impact Assessment (EIA)

All agricultural or forestry tracks in the Cairngorms National Park have to be screened to see whether an EIA is needed. You must ask your planning authority for a scoping opinion before or at the time of making a prior notification application.

If your proposal is for an agricultural track and needs an EIA you will have to apply for planning permission. If your proposal is for a forestry track and an EIA is needed under Forestry EIA regulations, it won't need a planning application

but will need prior notification and possibly prior approval.

European Designated Sites

If an agricultural or forestry track is likely to have a significant effect on a European designated site (Special Area of Conservation (SAC) or Special Protection Area (SPA)), permitted development rights are removed until the planning authority gives written approval. This written approval is likely to come through a planning permission, a prior approval, or simply a letter from the planning authority. No development can start till that written approval has been given.

Almost half of the area of the National Park is covered by European designated sites. All the water courses including tributary rivers, streams and even ditches that are connected to the Rivers Spey, Dee, Tay and South Esk are SAC sites. This means that any development near to these water courses could have a significant effect on them. The planning authority can only give approval where it is certain that the proposal will not affect the integrity of the site.

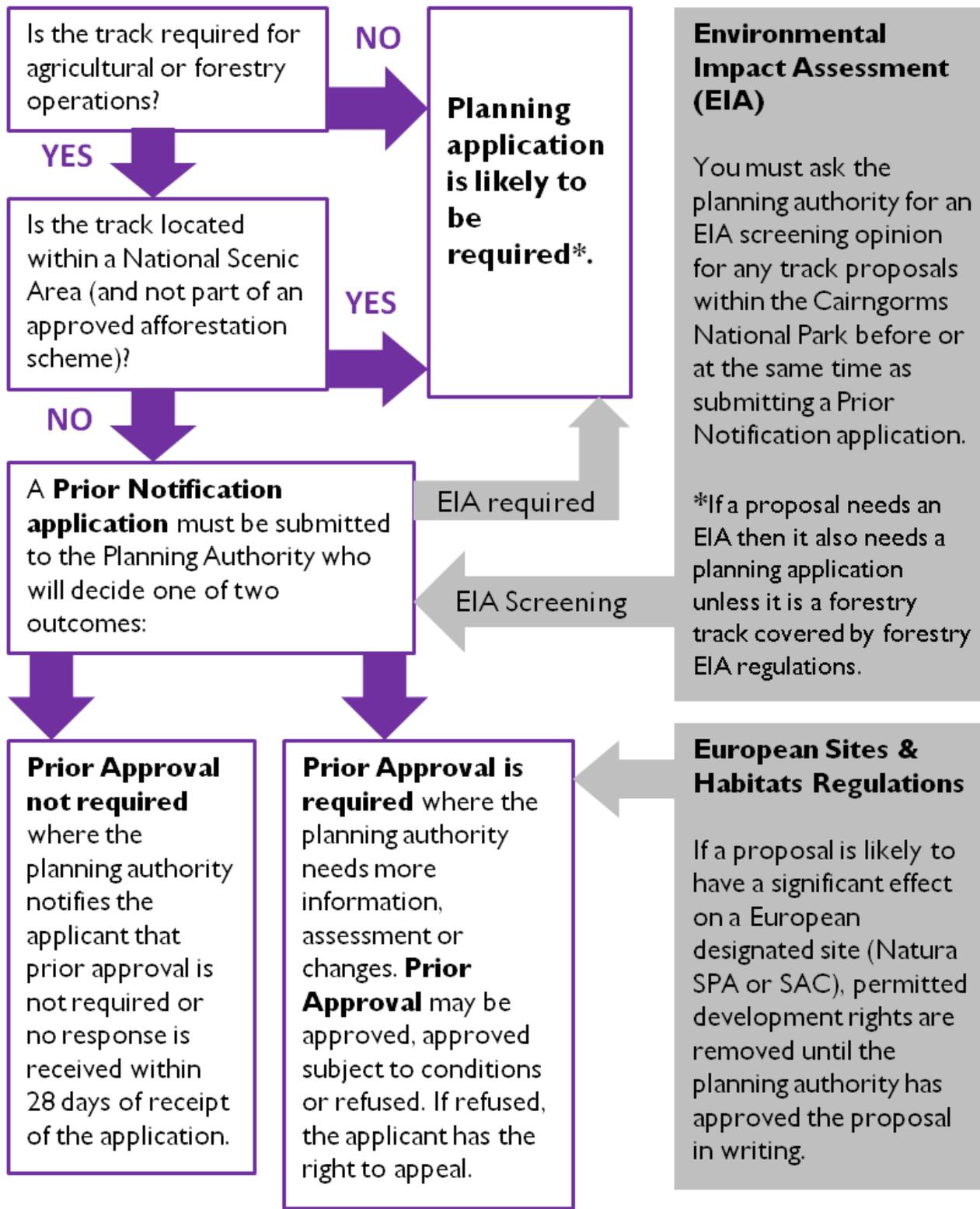
National Scenic Areas

All tracks (that are not part of an approved forestry scheme) in National Scenic Areas (NSAs) need planning permission. There are three National Scenic Areas with the National Park:

1. The Cairngorm Mountains NSA, that covers a large part of the central Cairngorms and the Inshriach, Rothiemurchus and Glenmore areas north to the railway line on the northeast side of the river Spey;
2. Deeside and Lochnagar NSA, that includes Deeside from the Linn of Dee in the west to close to Ballater in the east; and
3. Loch Tummel NSA that covers a small part of the National Park at Killiecrankie.

² See Cairngorms Planning Advice Note: *Applying for Planning Permission in the Cairngorms National Park*.

New or altered Private Roads, Tracks or Footpaths and the Planning System:



CAIRNGORMS NATIONAL PARK AUTHORITY

14 The Square, Granttown on Spey, PH26 3HG.

t: 01479873535 f: 01479873527 e: enquiries@cairngorms.co.uk w: cairngorms.co.uk

Further advice

If you need a new track, to alter an existing track or to repair of an existing track, Scottish Natural Heritage's advice: *Constructed Tracks in the Scottish Uplands*, SNH, 2013

(http://www.snh.org.uk/pdfs/publications/heritage_management/constructedtracks.pdf) will help you design in a way that is most likely to be given planning permission or prior approval.

The Cairngorms Planning Advice Note '*Applying for Planning Permission in the Cairngorms National Park*' explains more about planning permission in the Park.

The Scottish Government will be publishing guidance on permitted development and agricultural or forest private ways at <http://www.gov.scot/Topics/Built-Environment/planning>

You can contact the CNPA planning team for advice at planning@cairngorms.co.uk or

Tel: 01479 873535

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