



Campaigning for the Conservation of Wild Land in Scotland

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Planning Authority
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Our Ref: CNP02DET

Dear Sir

Planning Reference: 2020/0068/DET Retrospective planning permission for the upgrading of an existing track, including widening, the use of imported material and the installation of drainage. Land at Clova Estate, Glen Clova.

I am writing on behalf of the Scottish Wild Land Group to **OBJECT** to this application. We are a registered Scottish charity, SC004014. We have several aims and objectives, among which are the promotion and encouragement of good planning policies and to campaign to safeguard against inappropriate developments.

We consider that several aspects of this track and the retrospective planning application represent an inappropriate development in the National Park and that it does not comply with the requirements or the spirit of the National Park [Scotland] Act 2000 or the good planning policies of the Park Authority and the Park's Partnership Plan.

The application is inadequate as precise information is lacking in several essential areas, particularly construction details and the omission of environmental protection measures. In addition, the Applicant's agent makes assurances that are not backed up by evidence in their "Planning Statement". This gives a lack of confidence as to whether the construction and necessary improvements would be/have been carried out well, whether the track is needed and clarity and precision regarding its purpose, whether drainage and environmental protection would be in place and implemented effectively, to mention only a few obvious flaws.

SPECIFIC POINTS

1. **Ecology/EIA.** In our deliberations, we have considered the setting of the proposal and its location in the National Park, particularly local natural heritage designations. The site is in the Cairngorms Massif Special Protection Area [SPA] which qualifies under Article 4.1 of the European Birds Directive [transposed into the Habitats Regulations (Scotland) Amended 2012]. The SPA supports a breeding population of European importance of the Annex 1 species Golden Eagle, *Aquila chrysaetos*. Indeed



Glen Clova is active eagle territory and the writer has observed these birds of prey in the glen and surrounding hills.

The site ultimately drains into the very nearby River South Esk. This river and its tributaries have a Special Area of Conservation [SAC] recognition, and its qualifying interests are Atlantic Salmon and Fresh Water Pearl Mussel. In the case of the former species, the range of ecological conditions in the river, due to the strong nutrient gradient along its length, allows it to support the full range of life history types with sub-populations of spring salmon, summer salmon and grilse all being present. In the case of the Pearl Mussel, this particular river is of immense value in the conservation of this species; for this reason it was an important location during the Pearls in Peril project. The South Esk is particularly notable for juvenile abundance which indicates successful recruitment in a currently healthy population, rare in Scotland. The site is at the south eastern range of the species which depends for its survival on a healthy salmon host population, clear water free of suspended solids, an undisturbed gravel bed and of course a lack of poaching. Such habitats although they are aquatic, are dependent for their health on sensitive and good land management practices. We note that SNH have been contacted, and we consider that an EIA opinion re an Appropriate Assessment/Habitats Regulations Appraisal is essential. We are aware that SNH employees will be observing the current shutdown and ask that adequate time is given for their consideration of the application and receipt of their response.

In the Planning Statement, the Applicant's agent states at 2.13 [which should maybe be 2.23] that "There are not considered to be significant ecological impacts associated with the development, as the proposal relates to the upgrade of an existing track"; and later that there is "no known impact on nature conservation interests". We disagree; no ecological impacts have been assessed – there is no accompanying Ecology Report which would identify the habitats, flora and fauna present, potential impacts on them due to the proposal, their significance to qualifying species and suggestions for feasible mitigation. The fact that there is a track there already is totally irrelevant; improvement work must be carried out on site and hence due assessment must be done. Presumably when the track was first upgraded from the original the potential for ecological disturbance was not considered at that stage as there was no application submitted? We are not in a position to judge this as we do not know the details of when the track was made. We would however point out that as this could be considered to be a moorland habitat that timing of the improvement works to avoid avian breeding seasons could be essential if there are ground nesting birds in the area, and a suitable condition of planning could be set.

2. Purpose of the track. This is very unclear, the application mentions livestock [sheep] management thereby giving an agricultural purpose, there is mention of forestry needs but these are not specified, shooting/hunting access requirements [for which a full application is always required] and recreation [again, for which a full application is required]. It is claimed that the Applicant did not realise that a full application was required to build this track. We are aware, from frequent visits to the area over decades that this is primarily a shooting access track. Our view is that the Applicant must be more specific over the primary purpose of the track and we accept that to some extent many such tracks are multi-use, but this can be quantified.

3. Construction details. The application as presented is very inadequate and lacks essential detail.

3.1. Design: the track goes straight up a slope, only slightly diagonally from the diagrams provided, and in order to avoid erosion of the proposed loose surface appropriate track design should be/have been employed. No site-specific details have been given other than a hand drawn sketch, which does not reflect the level of care and design required. There is no evidence that either the excellent SNH guidance document has been referred to and acted on or, should the primary purpose be claimed forestry use, that used by the forestry industry.

3.2. Robustness: the track will be carrying vehicles, some of them heavy. There are no construction details specifying how the track will be/has been built for its sustainable use over a long period of

time. If its foundations, drainage and siting are not designed appropriately for the site then it will suffer damage and need future maintenance as well as continuing to be an eyesore.

3.3 Drainage. High levels of precipitation are typical of the Glen and there tends to be rapid run off, so erosion of surfaces and effective drainage are major considerations. There is no discussion of how the track and its surroundings will be/have been protected from erosion, In particular there is no submission of how, during construction, the systems and techniques used will avoid the silting of the nearby tributary of the South Esk. If there is inadequate drainage provided by cross drains and effectively sited culverts then there will be overspill. Silting of the tributary will lead to pollution by suspended solids of the SAC, which would be an offence. It may be decided after consideration that the size of this development does not justify a full CAR licence, but specific advice should be sought from SEPA, particularly on silt trapping techniques and their maintenance and on post construction/improvement management. We have read the initial SEPA response and are familiar with their documentation on these aspects and the relevant regulatory regime. From a site visit by a colleague it is noted that there is only one very crude culvert at present and that there are no cross drains/water bars. In addition the existing drainage ditch along the west side of the track is poorly constructed and is in a terrible state in some sections, with the left bank being very unsightly with no vegetation management and the right bank eroding badly. There is a need for restoration and improvement.

3.4. Materials to be used: There is no mention of the type [local?], its appearance, source [the application heading mentions imported material], the requirement if any for borrow pits and their siting and proposed restoration post construction.

3.5. Peat: there is no mention of whether peatland is on site and if so how any disturbance can be avoided [or local restoration could be carried out]. This aspect should be considered to ensure compliance with CNP policy and the Park's Partnership Plan.

3.6. Waste Storage and Collection; these aspects are not mentioned at all, especially waste from construction traffic and materials used.

3.7. The track width is excessive. There is a lack of clarity on what the eventual track width is proposed to be but given a working 10 metre width, this can anticipated to be far too great.

4. Visual Impact: The track currently is quite dominant in views on the approach to the upper narrower Glen Clova for some distance when approaching northwards on the B955. It detracts from the view into the classical deep, steep sided entrance to this glaciated landscape and is visually intrusive. It is conspicuous and detracts from its setting in the landscape. The insensitive line the track takes, its width, and the particular surface material used contribute to this; there has been no attempt at mitigation and from the current application there is no mitigation proposed. The photo provided [Fig 2 at 2.9] is wide angled, and is taken under low light conditions, as are the other photos of track sections. Photos from viewpoints that typically visual receptors would use should be provided instead. In 2.18 of the Planning Statement it states that the track upgrade is visually negligible, we disagree.

5. Other Features to Consider: There is a spur track at a new/temporary looking bridge at NG 327 736. Beyond the bridge the track continues to forest as a churned up route, not as a constructed track. Do i] the bridge and ii] the track to the forest have consent, for example by Prior Notification? Similarly does the large turning area at the bottom of the track have or need permission? These features are not mentioned in the current application. In the case of the bridge, this is merely a flat wooden planked structure located over a water course; there are no robust foundations or any bank protection measures to avoid collapse under the weight of vehicles etc and hence pollution by soil and silting of the water course, which drains into the nearby South Esk eventually. This requires some careful improvement and mitigation techniques used to prevent pollution at source.

6. Planning Statement submitted as Supporting Information: we are in disagreement with the content, much of which we respectfully suggest is irrelevant. Several assertions are made that are

inaccurate and/or not supported by evidence to justify them, such as claims regarding compliance. For instance, in 3.2 it is stated that the application complies with the Tayplan. This is unevidenced and we would argue that in this very rural context and sense of place that for example, the Cairngorms National Park Partnership Plan is far more relevant, yet that isn't considered at all. It is worth mentioning that the presumption against new upland tracks in the latter [maybe at a higher level than this one] indicates the level of concern the Park authorities have regarding the proliferation of tracks in the NP. The agent further at 2.19 states that the current track is native to the construction of rural tracks in this lower part of the glen; we would point out that this illustrates that several local tracks built maybe before the 2014 Order were indeed constructed to unsatisfactory standards.

In 2.16, 2.20, 3.4 to mention just a few examples, assertions are made with no evidence base to support them. In 2.17 "drainage upgrades" are mentioned but there is no detail of them and why they can be regarded as upgrades. A point is made that the track will support tourism and recreation but there is no discussion of how this track might contribute to that; similarly access would be unsuitable for many people.

For the reasons outlined in this correspondence we strongly object to his retrospective application. In summary, the track as it stands is in conflict with the aims of the National Park, specifically "a] to conserve and enhance the natural and cultural heritage of the area". We have additional concerns regarding natural heritage, visual impacts, poor drainage, insensitive construction and vegetation restoration, and the purpose and need for the track. If a track can be justified in this location and with a defined purpose, then we suggest that the existing track is restored to one that is more in keeping with an access track of reasonable width, sensitively constructed to SNH guidelines and bearing in mind the requirements of the local qualifying species of the SAC and SPA, with its appearance mitigated to sit less intrusively in the landscape. Surveys and assessments would be required and the planning authority of the National Park would need to set appropriate conditions to help ensure a satisfactory outcome.

Should you have any queries at all about the contents of this letter, please contact me

Yours sincerely

Beryl Leatherland

Convenor