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## CAIRNGORMS NATIONAL PARK AUTHORITY

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### DEVELOPMENT PROPOSED:

Formation, Maintenance and Upgrading of a Vehicular Access Track (Part Retrospective) at Track To The South Of B955, Glen Clova, Kirriemuir, DD8 4QR

**REFERENCE:** 2021/0262/DET

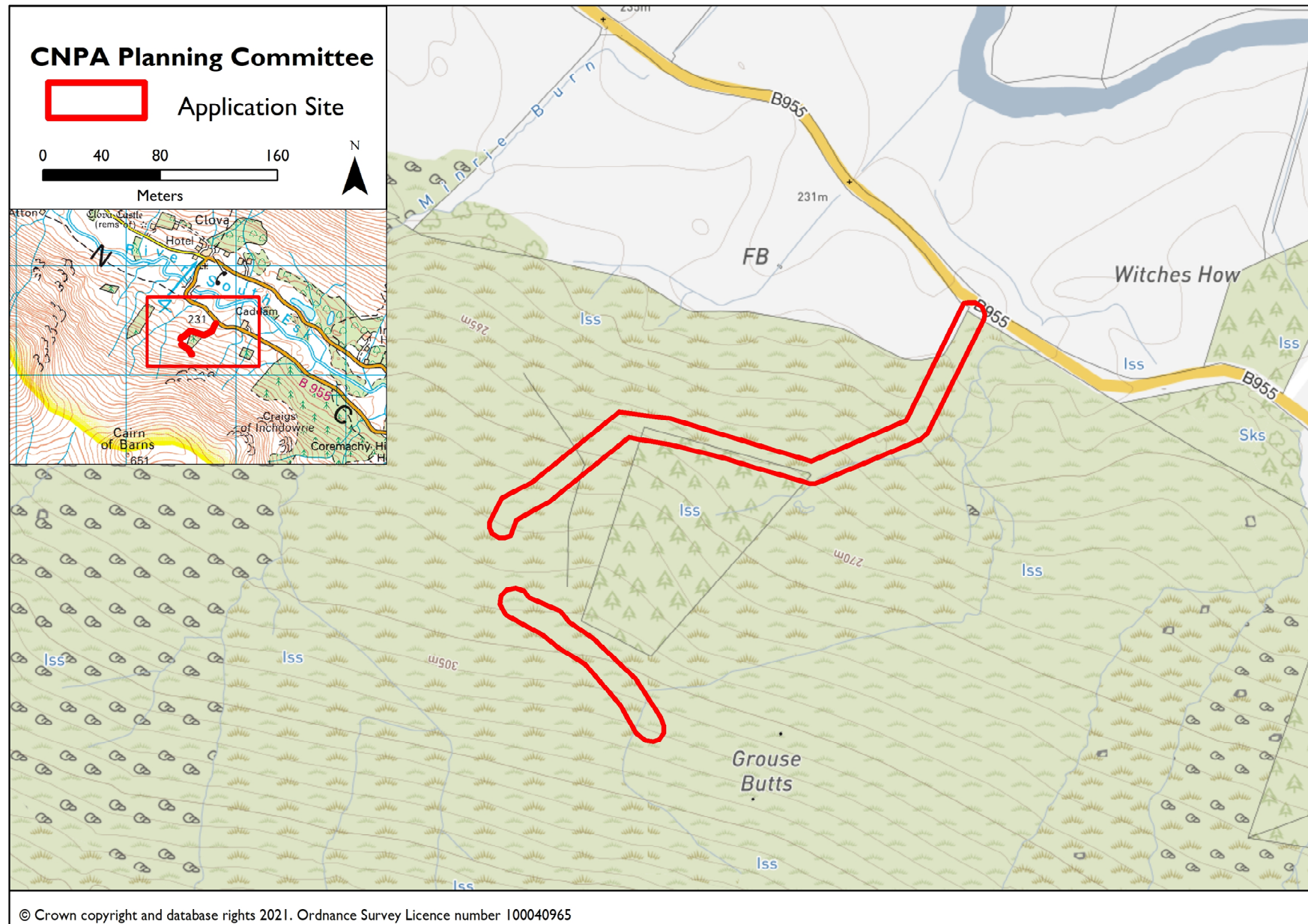
**APPLICANT:** Mr Niven

**DATE CALLED-IN:** 16 August 2021

**RECOMMENDATION:** Approve Subject to Conditions

**CASE OFFICER:** Ed Swales Monitoring and Enforcement Officer

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## **SITE DESCRIPTION, PROPOSAL AND HISTORY**

### **Site Description**

1. The site forms part of the Glen Clova Estate and is located approximately 15 miles north of Kirriemuir. The track itself sits on the grassy lower slopes Glen Clova on the south side of the B955, half a mile south of the Glen Clova Hotel and gives access to those slopes and a small plantation.

### **Proposal**

2. The drawings and documents associated with this application are listed below and are available on the Cairngorms National Park Authority website unless noted otherwise:

<http://www.eplanningcnpa.co.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QXQ0KYSI0CH00>

<b>Title</b>	<b>Drawing number</b>	<b>Date on plan*</b>	<b>Date received</b>
Planning statement	21/0001	20/08/21	16/08/21
The saddle - track remediation proposals		01/02/21	16/08/21
Location plan		01/04/21	16/08/21
Location plan		11/05/21	16/08/21
Proposed culvert installation diagram		11/03/21	16/08/21
Proposed drain backfilling diagram - after remediation		11/03/21	16/08/21
Proposed drain backfilling diagram - before remediation		11/03/21	16/08/21
Proposed relief culvert installation diagram		11/03/21	16/08/21
Proposed site plan			16/08/21
Proposed site plan			16/08/21
Proposed site plan			16/08/21
Supplementary location plan		01/04/21	16/08/21
Proposed track before drainage repairs diagram		11/03/21	16/08/21
Proposed proposed track after drainage repairs diagram		11/03/21	16/08/21

\*where no specific day of month has been provided on the plan, the system defaults to the 1<sup>st</sup> of the month.

3. The application seeks retrospective planning permission for the upgrading of an existing driven route, which has existed since at least 2008. The track is 400m in length and approximately 4m in width.

## **History**

4. The CNPA approved a part-retrospective application for a track in forestry at its August Planning Committee meeting (2021/0172/DET).
5. An application for holiday lodges close to the Clova Hotel is currently under consideration under application reference: 2021/0168/DET
6. The CNPA planning Committee approved a Prior Approval application for the construction of a forestry track within the Caddam Woods on the south side of Glen Clova on 26 May 2020.
7. A prior approval application for a forestry track higher in Glen Clova was recently approved by Angus Council.
8. The CNPA approved a Hydro Electric Scheme on land north of the Glen Clova Hotel in 2010.

## **DEVELOPMENT PLAN CONTEXT**

### **Policies**

<b>National Policy</b>	Scottish Planning Policy 2014	
<b>Strategic Policy</b>	Cairngorms National Park Partnership Plan 2017 - 2022	
<b>Local Plan Policy</b>	Cairngorms National Park Local Development Plan (2021) Those policies relevant to the assessment of this application are marked with a cross	
POLICY 1	NEW HOUSING DEVELOPMENT	
POLICY 2	SUPPORTING ECONOMIC GROWTH	<b>X</b>
POLICY 3	DESIGN AND PLACEMAKING	
POLICY 4	NATURAL HERITAGE	<b>X</b>
POLICY 5	LANDSCAPE	<b>X</b>
POLICY 6	THE SITING AND DESIGN OF DIGITAL COMMUNICATIONS EQUIPMENT	
POLICY 7	RENEWABLE ENERGY	
POLICY 8	OPEN SPACE, SPORT AND RECREATION	
POLICY 9	CULTURAL HERITAGE	
POLICY 10	RESOURCES	<b>X</b>
POLICY 11	DEVELOPER CONTRIBUTIONS	

9. All new development proposals require to be assessed in relation to policies contained in the adopted Local Development Plan. The full wording of policies can be found at:

<https://cairngorms.co.uk/wp-content/uploads/2020/11/CNPA-LDP-2020-as-Modified-for-web.pdf>

## **Planning Guidance**

10. Supplementary guidance also forms part of the Local Development Plan and provides more details about how to comply with the policies. Guidance that is relevant to this application is marked with a cross.

Policy 1	New Housing Development Non-Statutory Guidance	
Policy 2	Supporting Economic Growth Non-Statutory Guidance	<b>X</b>
Policy 3	Sustainable Design Non-Statutory Guidance	
Policy 4	Natural Heritage Supplementary Guidance	<b>X</b>
Policy 5	Landscape Non-Statutory Guidance	<b>X</b>
Policy 7	Renewable Energy Supplementary Guidance	
Policy 8	Sport and Recreation Non-Statutory Guidance	
Policy 9	Cultural Heritage Non-Statutory Guidance	
Policy 10	Resources Non-Statutory Guidance	<b>X</b>
Policy 11	Developer Contributions Supplementary Guidance	

## **CONSULTATIONS**

### **Summary of the main issues raised by consultees**

11. **Aberdeenshire Council Archaeology Service** offer no comments
12. **Angus Council Roads department** offer no objection to the application.
13. **CNPA Ecology Officer** has referred to the guidance given by NatureScot on construction of tracks in the Scottish uplands.
14. **CNPA Landscape Officer** states the existing track which is subject to the retrospective planning application results in some local adverse landscape and visual effects. This is primarily due to introducing prominent built lines upon the glen side slope which contrast to the simplicity of the surrounding open land cover. As well as bare erosion and deposition scars following ground disturbance and a lack of care which results in negative landscape and visual effects. The track route contrasts to the landscape character, particularly the landform and the landscape pattern. These effects would be reduced by the proposed restoration works which form part of the retrospective planning application, including re-profiling, installing culverts and restoring vegetation cover.

### **Habitats Regulations Appraisal**

15. A Habitats Regulations Appraisal [HRA] has been undertaken to consider the effects of the proposal upon the conservation objections of the European Sites of: the Cairngorms Massif Special Protection Area [SPA] and the River South Esk Special Area of Conservation [SAC]. A copy of the full appraisal can be viewed at **Appendix 2**.
16. Regarding the River South Esk SAC, it is concluded that the proposal would have a likely significant effect due to potential for sediment release affecting

water quality and smothering habitat relied on by the qualifying interests during construction and operation of track. However, a condition requiring details of how drainage will be formed, including pollution prevention and control measures to prevent sediment release reaching watercourses connected to the River South Esk SAC will ensure the conservation objectives are met and there will not be an adverse effect on site integrity.

17. Regarding the Cairngorm Massif SPA, the appraisal concludes that the conservation objectives will be met and there will not be an adverse effect on site integrity.

## REPRESENTATIONS

18. There have been no representations submitted for this application.

## APPRAISAL

19. The main planning considerations are considered to be the principle of development, the impact upon landscape and the environmental impacts.

### Principle of Development

20. The planning statement for the application makes the case that the track supports the farming and forestry activities of the estate and is characteristic of similar tracks on the lower slopes of the Glen. **Policy 2: Supporting Economic Growth** of the Cairngorms National Park Local Development Plan 2021 provides general policy support for proposals that support the economy, where they are compatible with existing business activity and support the viability of the local economy, subject to having no adverse environmental or amenity impacts.
21. The track provides access to the Saddle plantation and to the slopes around the plantation and can be described as supporting the estate's business activities in a general sense. Subject to compliance with other relevant local development plan policies, the principle of the proposed works is considered acceptable and to comply with Policy 2: Supporting Economic Growth of the Cairngorms National Park Local Development Plan 2021.

### Landscape Impacts

22. **Policy 5: Landscape** of the Cairngorms National Park Local Development Plan 2021 presumes against development which does not conserve and enhance the landscape character and special qualities of the National Park and in particular, the setting of the proposed development. It also has a presumption against new private roads and ways in open moorland areas unless they are essential for land management purposes and are either designed to minimise impacts, or, are part of a programme of removal of other tracks.
23. In this case, the proposed formation of the track follows an existing driven route from the valley bottom over the lower slopes of the Glen, giving access

to a small plantation and the mid slopes above it. Vehicle access to the area is a legitimate requirement for the estate and has been undertaken over a period of years. There are many other short (though less prominent) tracks giving access to similar parts of the slopes throughout the Glen, and signs of older tracks and paths.

24. Although the track route contrasts to the landscape character, it is still within the grassy lower slopes of the Glen where there are other small woodland plantations and signs of agriculture and estate management that contrast to the steeper middle and upper slopes that are rockier and craggier, and more dominated by heather. The visual impacts of the track would be reduced by the proposed restoration works which form part of the retrospective planning application, including re-profiling, installing culverts and restoring vegetation cover. Those works will generally reduce the visual footprint of the track in the landscape. With restoration works proposed as part of the applications mean that the proposal is considered to comply Policy 5: Landscape of the Cairngorms National Park Local Development 2021.

## Environmental Impacts

25. **Policy 4:** Natural Heritage of the Cairngorms National Park Development Plan 2021 seeks to restrict development that would have an adverse impact on protected sites, species and habitats and where this cannot be avoided that appropriate mitigation measures are provided. **Policy 10:** Resources of the Cairngorms National Park Development Plan 2021 seeks to maintain water quality and avoid impacts on the water environment.
26. The proposed restoration works will ensure that the track reduces water run-off and potential for erosion of the track and surrounding ground in future. Further precautionary measures during construction of the track can be conditioned through a construction method statement incorporating standard pollution prevention measures to prevent harm to the water environment during construction.
27. A Habitats Regulations Appraisal has been undertaken (**Appendix 2**) regarding the proposal's impacts on the designated sites of the Cairngorms Massif SPA and the River South Esk SAC which concludes that with appropriate mitigation, the conservation objectives of the sites will be met and there will not be an adverse effect on the integrity of the European Sites.
28. With the mitigation measures proposed in the planning application and a detailed construction method statement incorporating further pollution prevention measures secured through condition, the proposal is considered to comply with Policy 4: Natural Heritage and Policy 10: Resources of the Cairngorms National Park Local Development 2021

## CONCLUSION

29. Subject to a condition requiring pollution prevention measures The development proposed is acceptable in principle as a forestry related track surrounding existing plantation woodland and the details of mitigation measures included with the application will minimise the impacts of the track on the landscape and environment. The proposed development is considered to comply with the policies contained within the adopted Local Development Plan and approval is therefore recommended.

## RECOMMENDATION

**That Members of the Committee support a recommendation to approve the Formation, Maintenance and Upgrading of a Vehicular Access Track (Part Retrospective) at Track To The South Of B955, Glen Clova, Kirriemuir, DD8 4QR, subject to the following conditions:**

*Those conditions listed below in bold text are suspensive conditions, which require to be discharged prior to implementation of the development.*

### Conditions

1. **No works shall commence on site until a Construction Method Statement (CMS) setting out the detail of how works will be carried out, how drainage will be formed and how pollution prevention and control measures will be applied to prevent sediment release reaching watercourses connected to the River South Esk SAC, has been submitted to and approved in writing by Cairngorms National Park Authority acting as Planning Authority.**

**Thereafter, the approved CMS shall be implemented in full.**

**Reason:** To prevent sediment release causing pollution and having an adverse effect on the River South Esk SAC.

## INFORMATIVES

1. Following completion of the development, a notification of the completion shall, as soon as practicable, be given to the Planning Authority. Attached to this decision notice is a Notice of Completion of Development for completion and submission. Submission of this form will assist the Cairngorms National Park Authority Monitoring and Enforcement Officer in making a final inspection and checking compliance with the approved drawings and conditions. If the development hereby approved is to be carried out in phases, then a notice of completion should be submitted at the completion of each phase.

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.