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## CAIRNGORMS NATIONAL PARK AUTHORITY

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### DEVELOPMENT PROPOSED:

Upgrade to existing hill access for vehicles, including sections of new track construction, and repair and improvements to existing track, between Allt Ruighe na Riog and River Dulnain at Balavil House Kingussie Highland PH21 ILU

**REFERENCE:** 2018/0400/DET

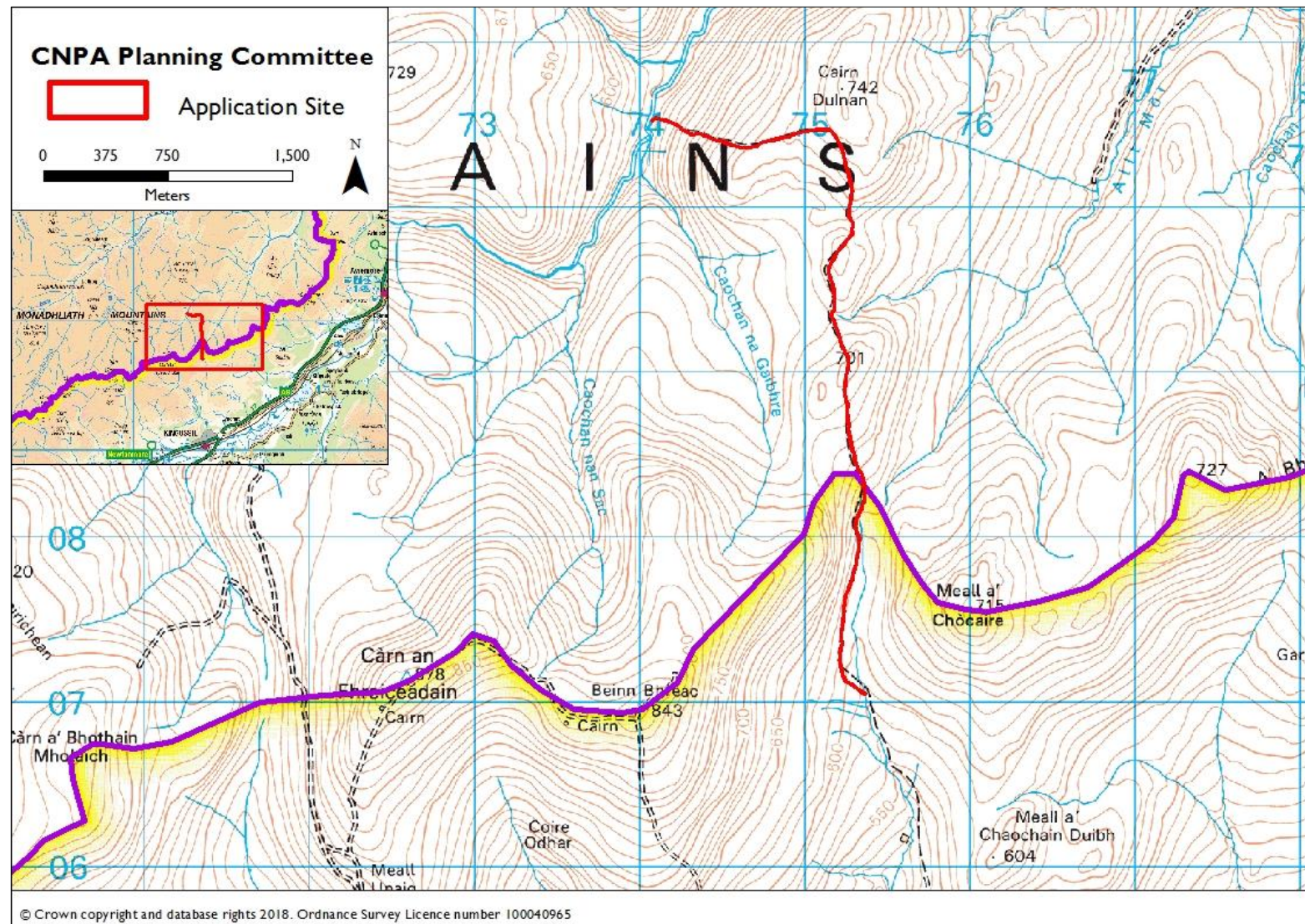
**APPLICANT:** Balavil Estate

**DATE CALLED-IN:** 17 October 2018

**RECOMMENDATION:** Approve Subject to Conditions

**CASE OFFICER:** Gavin Miles, Head of Planning and Communities

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## SITE DESCRIPTION, PROPOSAL AND HISTORY

### Site Description

1. The proposed track is accessed via Balavil Farm approximately 2 miles east of the village of Kingussie. An existing estate track leads from Balavil Mains Farm, up the Raitts Burn to a laydown/turning circle around 400m north of the Ruighe na Roig Bothy. The line of the development takes a rising traverse north up the small valley of the Allt Ruighe na Roig between the hills of Beinn Bhreac to the west and Meall á Chòcaire to the east for about 1.4km to a watershed between the Spey and Dulnain catchments that is also the National Park boundary. From there, the route meanders north for about 2km, outside the National Park, along a vague ridge with peat bog, moorland and thinner summit habitats towards the hill of Cairn Dulnain. From the southwest end of the top of Cairn Dulnain, the route travels generally west and downhill across a mosaic of moorland, bog and acid grassland for slightly more than 1km down to the river Dulnain.
2. The application is entirely within Highland Council area, with only the southern 1.4 km of the 5km route within the Cairngorms National Park. The site is entirely within the Monadhliath Wild Land Area.
3. The route of the proposal is marked on current Ordnance Survey maps as a footpath and has been the established route for estate vehicles to access the north of the estate over a long period of time. The repeated use of this line by vehicles over many years has created a route that appears in places as a heavily rutted line, often braided where the ground conditions are very soft; in other places much as a constructed vehicle track would appear, where a stone running surface has been exposed on higher ground with thinner soils, and in areas of deeper peat hags, as a route cut into the peat. Some sections have been repaired or maintained in the past to stabilise the route. It is clearly a long-established route for estate vehicles with sections of route that would be hard to distinguish from some other constructed tracks in the National Park.

### Proposal

4. 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=PGR2UASI0CH00>

Title	Drawing Number	Date on Plan*	Date Received
Wild Land Area Impact Assessment		18/06/18	22/10/18

Assessment of the potential engineering and construction impact on the water environment for the proposed track upgrade		18/06/18	22/10/18
Supporting Statement			22/10/18
Peat depth survey along the proposed route of the track upgrade		18/06/18	22/10/18
Operational Need Assessment		01/06/18	22/10/18
Method Statement			22/10/18
Phase 1 Habitat Survey		18/06/18	22/10/18
Environmental Statement		18/06/18	22/10/18
Wild Land Area Assessment Map 2 Photograph Locations		18/06/18	22/10/18
Typical Borrow Pit Detail			22/10/18
Typical Construction Layout For Repairing Tracks Inc. Shallow Borrow Pits			22/10/18
Re-alignment Of Peat Erosion			22/10/18
Existing Watercourse Culvert			22/10/18
Road Crossing Culvert From Parallel Borrow Pit/Drainage Channel			22/10/18
Site Plan		01/07/18	22/10/18
Location Plan/Site Plan		01/12/17	22/10/18

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

5. The proposal is to construct a track along the line of the existing access route, with varying scales of work required to create a stable running surface suitable for four wheel drive vehicles. Mitigation works are also proposed to repair ground damaged by vehicle use. The track is intended for a variety of estate uses, including the main sporting use of the estate and an associated sheep grazing regime.

## History

4. The applicant sought pre-application advice via Highland Council for this proposal. The CNPA provided advice that the applicant has responded to in their application.

## DEVELOPMENT PLAN CONTEXT

### Cairngorms National Park LDP 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 (2015) Those policies relevant to the assessment of this application are marked with a cross	
POLICY 1	NEW HOUSING DEVELOPMENT	
POLICY 2	SUPPORTING ECONOMIC GROWTH	
POLICY 3	SUSTAINABLE DESIGN	<b>X</b>
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	SPORT AND RECREATION	
POLICY 9	CULTURAL HERITAGE	<b>X</b>
POLICY 10	RESOURCES	<b>X</b>
POLICY 11	DEVELOPER CONTRIBUTIONS	

5. 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:

<http://cairngorms.co.uk/uploads/documents/Park%20Authority/Planning/LDP15.pdf>

### Highland Wide Local Development Plan Policies

POLICY 55	PEAT AND SOILS	<b>X</b>
POLICY 57	NATURAL, BUILT AND CULTURAL HERITAGE	<b>X</b>
POLICY 58	PROTECTED SPECIES	<b>X</b>
POLICY 59	OTHER IMPORTANT SPECIES	<b>X</b>
POLICY 60	OTHER IMPORTANT HABITATS AND ARTICLE 10 FEATURES	<b>X</b>
POLICY 61	LANDSCAPE	<b>X</b>
POLICY 63	WATER ENVIRONMENT	<b>X</b>
POLICY 64	FLOOD RISK	<b>X</b>

6. As part of the track falls outside the Cairngorms National Park boundary, that section requires to be considered against the policies within the Highland-wide Local Development Plan 2012. The full wording of those policies can be found at:

[https://www.highland.gov.uk/info/178/local\\_and\\_statutory\\_development\\_plans/199/highland-wide\\_local\\_development\\_plan](https://www.highland.gov.uk/info/178/local_and_statutory_development_plans/199/highland-wide_local_development_plan)



## Planning Guidance

7. 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. None of the supplementary guidance linked with the Highland Wide Local Development Plan is relevant to this application.

Policy 1	New Housing Development Non-Statutory Guidance	
Policy 2	Supporting Economic Growth Non-Statutory Guidance	
Policy 3	Sustainable Design Non-Statutory Guidance	<b>X</b>
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	<b>X</b>
Policy 10	Resources Non-Statutory Guidance	<b>X</b>
Policy 11	Developer Contributions Supplementary Guidance	

## Other relevant Policy and Guidance

8. **Scottish Planning Policy (SPP)** and the **National Planning Framework** recognise Wild Land Areas as nationally important assets “which are very sensitive to any form of intrusive human activity and have little or no capacity to accept new development”. SPP also explains that in Wild Land Areas “development may be appropriate in some circumstances. Further consideration will be required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation”. Wild land Areas are not a designation.
9. Scottish Natural Heritage (SNH) consulted on a draft document ‘**Assessing impacts on Wild Land Areas - technical guidance**’ in early 2017 and this draft guidance is used by SNH and the CNPA to inform planning casework.
10. The **Cairngorms National Park Partnership Plan 2017 (NPPP)** includes a policy (1.3e) “applying a presumption against new constructed tracks in open moorland”. This is not planning policy but is a material consideration for the section of track within the National Park in this planning application. The **Proposed Cairngorms National Park Local Development for 2020 (Proposed LDP)**, that will be consulted on from 25 January 2019, includes a new policy statement on Private Roads and Ways, articulating the NPPP policy statement in planning policy and supporting text. The policy and text are relevant material considerations to this application, but given the early stage of this plan, only limited weight can be given it in decisions at this time.

## CONSULTATIONS

A summary of the main issues raised by consultees now follows:

11. **SEPA** have no objection to the proposal subject to conditions requiring the applicant to submit further detail for approval that demonstrate that watercourse crossing and culverts can convey the 1 in 200 year flow of water, and that detailed construction methods are designed to prevent damage to deep peat, blanket bog and Groundwater Dependent Terrestrial Ecosystems.
12. **SNH** have concluded that the proposed track will not impact on the River Spey SAC. They also agree that the track could be constructed in a way that would avoid unacceptable impacts on the qualities of the Wild Land Area, acknowledging that the existing ATV route already creates a visual scar along the line of the proposal that is likely to become larger and more permanent through continued use. SNH also require a condition for a detailed construction method statement to demonstrate how impacts will be minimised and avoided.
13. **CNPA Ecology** notes that construction of the proposed formal track, 3m wide with drainage and associated borrow pits has potential to have a significant adverse impact on deep peat habitats through direct loss of habitat and damage to peat soils and associated hydrology.
14. However, given the existing damage they conclude that if the track is built to a high standard, narrowed to 2.5m wide, with the restoration of previously damaged ground alongside the track, then the track will have minimal impact on the surrounding habitats. In addition, the development can provide wider compensation for the construction of the permanent track through the approval of details for:
  - a) Drain blocking on Meall á Chòcaire
  - b) Creation/restoration of juniper woodland where the track descends to the river Dulnain.
15. **CNPA Landscape** states that there will be a locally significant landscape and visual impacts in the short to medium term (where the track crosses deep peat and ascends steeper slopes) along its full length. There will also be some adverse effects on the wild land experience and special landscape qualities within the National Park, as well as greater impacts on the Wild Land qualities beyond the National Park (within a remoter part of the Wild Land Area) in the short to medium term. However, it is concluded that in the longer term these impacts will not be significant if the track is constructed using best practice. The advisor agrees with the conclusion of the applicant's Wild Land Assessment, that the effect of the proposed track on the Wild Land study area will be 'not significant' and unlikely to have an impact on the wider Monadhliath Wild Land Area. The advisor identifies a number of detailed suspensive conditions that are required to achieve that outcome.
16. **CNPA Peatland Officer** supports the comments provided by the CNPA Landscape Advisor and Ecologist on the need for detailed construction methods to be approved prior to any construction and also that detailed restoration proposals are submitted

for approval for the peatland previously damaged by ATV use parallel to the main track line.

17. **Highland Council Flood Risk Management Team** have no objection to the proposal but request that water crossings are completed using SEPA's standards.
18. **Kincraig Community Council** discussed the planning application at their November 2018 meeting and agreed not to object, though did not inform the CNPA of the decision. Since the application was re-advertised, the Community Council are reconsidering the application and any change in response will be reported to the Planning Committee.

## Representations

19. Following advertisement of an amended proposal description a number of representations have been received, all objecting to the general principle of the development.

The representations are attached as **Appendix 2**.

Key points raised by parties objecting are as follows:

- a) The proposal is contrary to the NPPP presumption against the creation of new tracks in open moorland;
- b) There are number of tracks on neighbouring estates that could be used instead of driving on that line;
- c) That the CNPA should encourage/force estates to share their tracks with each other;
- d) That the landscape and visual impacts will be greater than predicted.
- e) That the track will damage habitats including peatland and the application has underestimated those impacts, including the number and size of borrow pits required;
- f) That the route is at too high an altitude;
- g) That the track will not conserve and enhance the landscape character and special qualities of the National Park and that there are not social or economic benefits of national importance that would outweigh its impacts.
- h) The proposal is within a Wild Land Area and will damage the Wild Land Area, both in the immediate vicinity and throughout the entire area, including through cumulative effects of a further constructed track within it;
- i) Disagreement with the conclusions of the Wild Land assessment and other information supporting the application;
- j) That a new track will not be appreciated by recreational users in a Wild Land area;
- k) That the new constructed track will not reduce damage by ATV use or that it will increase ATV damage elsewhere;



- l) That there is no need for a constructed track when ATV vehicles can already access the estate land;
- m) That ATV use on hills should be controlled through Byelaws, a code of conduct or other mechanism and no new tracks should be permitted;
- n) That if approved, it will establish a precedent that any ATV line anywhere can be turned into a constructed track, either through planning applications or prior notification processes;
- o) That there could be further applications for other tracks in future;
- p) That Scotland's tourist industry will be damaged by tracks;
- q) That the area was once grazed by cattle and is part of a main drove route between Sutherland and Falkirk that could become a long distance walking route without the proposed track

## APPRAISAL

### Principle of a new track in the proposed location

- 20. The proposed development is for a constructed track to replace a long-established and heavily eroded ATV vehicle route between the Spey catchment in Badenoch and the river Dulnain.
- 21. **Policy 3:** Sustainable Design of the Cairngorms National Park Local Development Plan 2015 states that new development in this context should minimise the effect of the development on climate change in terms of siting and construction, use material and landscaping that complement the setting of development and create opportunities to further biodiversity and promote ecological interest. In the context of this application, the proposal is intended to prevent further erosion and damage to peatland habitats, reducing the release of carbon stored within it and to stop current and prevent further damage to surrounding habitats. Subject to the approval of detailed construction methods that can be secured through condition, the proposal complies with **Policy 3:** Sustainable Design of the Cairngorms National Park Local Development
- 22. The Cairngorms National Park Partnership Plan 2017 has a management policy of “a presumption against new constructed tracks in open moorland” that is a relevant material consideration, though is not planning policy. The policy is an overarching one that sets the general approach within the National Park, to limit the potential landscape and visual impacts of tracks on open moorland. It is not in itself a ban on the construction of any new tracks on open moorland. It is the starting point in planning and decision making.
- 23. The **Proposed LDP Policy 5.2** is intended to turn the NPPP policy into an effective planning policy. It does provide for the possibility of new constructed hill tracks where they are clearly required for management, are well-designed, and incorporate the removal of other tracks. In this case, the proposal is to replace a long-standing vehicle route with little formal construction with a constructed track that is intended to have fewer landscape, visual and environmental impacts. The proposal incorporates measures for restoration of land damaged by vehicles around the main track line. The

proposed route follows the long-established estate route across their ground to the river Dulnain. The estate has no other reasonable alternative route within their control. Subject to appropriate conditions ensuring minimisation of impacts, the proposal would be considered to comply with **Policy 5.2** of the Proposed LDP if it were applied.

24. **Policy 6 I:** Landscape of the Highland-wide Local Development Plan 2012 states new developments should be designed to reflect the landscape characteristics and special qualities identified in the Landscape Character Assessment of the area in which they are proposed and **Policy 57:** Natural, Built and Cultural Heritage provides a cross reference to SNH's interim guidance on Wild Land impacts assessment. Neither policy has any statement that rule out the principle of this development.
25. Finally, CNPA specialists and SNH staff have considered the impacts of the current vehicle use along this line against the potential impacts of a new constructed track as proposed by the applicant and with conditions applied to further minimise and compensate for impacts. Officers' view is that in the long term, given the lack of a practical alternative access route, a well-designed and controlled track will have fewer impacts than the current vehicle route. The alternative outcome is continued damage to habitats, and further landscape and visual impacts along the route's length.
26. There are no planning policies that rule out the principle of development of a track in circumstances such as this.

### **Landscape and Visual Impacts, Impacts on Wild Land Area**

27. **Policy 5:** Landscape of the Cairngorms National Park Local Development Plan 2015 presumes against development which does not conserve and enhance the landscape character and special qualities of the Cairngorms National Park including wildness, and in particular the setting of the proposed development. **Policy 6 I:** Landscape of the Highland-wide Local Development Plan 2012 states new developments should be designed to reflect the landscape characteristics and special qualities identified in the Landscape Character Assessment of the area in which they are proposed and **Policy 57:** Natural, Built and Cultural Heritage provides a cross reference to SNH's interim guidance on Wild Land impacts assessment.
28. The applicant has undertaken a Wild Land Assessment that combines landscape and visual assessment with assessment of impacts on the Wild Land Area. Representations have objected that additional assessment of cumulative effects other tracks on the Wild Land Area is required. However, SNH and the CNPA landscape advisor are satisfied that the assessment follows SNH's best practice guidance and that it is sufficient to assess the impacts of the proposal.
29. It is worth highlighting that SNH and CNPA officers recognise that the baseline for the assessment includes the existing long established vehicle route and its negative visual and landscape impacts as well as influence on wild land experience. The route has been there for many years and was included as a 'modern artefact' route in the CNPA's original wildness mapping of 2008 and therefore almost certainly also part of the baseline data for SNH's later identification of Wild Land Areas. In fact, this route pre-dates a number of more recent tracks constructed in this part of the Wild Land

Area that have never been the subject of a planning application and have not been constructed using best practice to minimise their impacts.

30. As the estate's established route to its northern end, officers' opinion is that the estate will continue to undertake legitimate management and will therefore have a demonstrable operational need to access its northern parts. The estate does not control an alternative access. Officers' opinion is that a carefully constructed track, designed to minimise impacts on the landscape and surrounding habitats, will in the long term have less significant impacts on the landscape character, experience of wildness and of the Wild Land Area than the existing eroded and braided route. Conditions on the size, appearance and construction methods are proposed to ensure the constructed track's landscape and visual impacts are minimised.
31. Subject to the conditions being applied, the proposal complies with **Policy 5:** Landscape of the Cairngorms National Park Local Development Plan 2015 and **Policy 61:** Landscape and **Policy 57:** Natural, Built and Cultural Heritage, of the Highland-wide Local Development Plan 2012. The proposal also complies with national policy on Wild Land Areas outlined in SPP.

### Impacts on Natural Heritage, Soils and Peat

32. **Policy 4:** Natural Heritage of the Cairngorms National Park Local Development Plan 2015 seeks to ensure that there is no adverse impact upon protected species or biodiversity and **Policy 10:** Resources seeks to minimise release of carbon from carbon stores and minimise disturbance of soils and peat. **Policy 57:** Natural, Built and Cultural Heritage, **Policy 58:** Protected Species, **Policy 59:** Other Important Species, **Policy 60:** Other Important Habitats and Article 10 Features, and **Policy 55:** Peat and Soils, of the Highland-wide Local Development Plan 2012 provide the equivalent protection outside the National Park area.
33. The proposals is linked to these policies in two parts. Firstly there is the construction of the proposed track and the detailed methods and precautions that will be required to minimise its direct impacts on habitats, species, soils and peat. Officers are satisfied that through careful construction methods, secured through conditions including a requirement for an Ecological Clerk of Works, track width of 2.5m, central vegetation strip and further details of restoration, the proposal can avoid and minimise impacts to an acceptable level. Secondly, restoration of habitats beside the track line either through direct restoration associated with the construction or the track or the absence of vehicle traffic on them, combined with wider restoration through drain blocking on Meall á Chòcaire and the creation/restoration of juniper woodland near the Dulnain will be improvements on the current state that compensate for the new track's impacts.
34. Subject to conditions being applied, the proposal complies with **Policy 4:** Natural Heritage and **Policy 10:** Resources of the Cairngorms National Park Local Development Plan 2015, as well **Policy 57:** Natural, Built and Cultural Heritage, **Policy 58:** Protected Species, **Policy 59:** Other Important Species, **Policy 60:** Other Important Habitats and Article 10 Features, and **Policy 55:** Peat and Soils, of the Highland-wide Local Development Plan 2012.

## Flooding and Drainage

35. **Policy 10:** Resources of the Cairngorms National Park Local Development Plan 2015 sets out the need to fully consider impacts on flooding and water resources. **Policy 63:** Water Environment and **Policy 64:** Flood Risk of the Highland-wide Local Development Plan 2012 provide equivalent protection outside the National Park.
36. Neither SEPA nor Highland Council Flood Risk Management Team object to the proposal. They are satisfied that with conditions requiring detail for approval that demonstrates that watercourse crossing and culverts can convey the 1 in 200 year flow of water, that ground levels will not be increased within the functional flood plain and detailed construction methods will prevent damage to deep peat, blanket bog and Groundwater Dependent Terrestrial Ecosystems, there will be no significant effect on the water environment or increase in flood risk.
37. Subject to conditions being applied, the proposal complies with **Policy 10:** Resources of the Cairngorms National Park Local Development Plan 2015 and **Policy 63:** Water Environment and **Policy 64:** Flood Risk of the Highland-wide Local Development Plan 2012.

## Other issues raised by Representations

38. A number of objectors have suggested that the estate could access its northern ground by the use of neighbouring estate tracks instead of its own, either via the public road network or construction of different track links from Balavil Estate to its neighbours and that this should be imposed by the CNPA. Whilst that is an option for the estate, it would involve negotiation over vehicle access over land they do not control and inevitably involves longer vehicle trips than those they currently undertake on their own land. However such an option could not be forced upon the estate or its neighbours through the planning system by the CNPA.
39. Objectors have also suggested that the CNPA should introduce byelaws preventing the use of ATVs in the area. There would be many challenges in bringing such measures into place, and no certainty that an attempt to would be successful, but in any case, the possibility would not be a relevant planning consideration.
40. Some objectors claim that a constructed track will not prevent ATV use on the route or that it will increase ATV use elsewhere, or that there may be future applications for extensions to the track. Officers consider that the track will take vehicle traffic across the estate and stop the extensive damage created along that line. Speculation about possible future planning applications or development is not a valid planning consideration that can be taken into account in this decision.
41. There is a fear amongst some objectors that an approval of this application would set a precedent that any ground damaged by vehicle traffic can automatically be given consent for a new constructed track. This is unfounded. Firstly, each case has to be considered on its own merits and against relevant planning policy and material considerations. The circumstances of this application are unusual in that this route has been the estate's established and only vehicle access to its northern ground for a long period of time that has created significant landscape, visual and environmental impacts.

Those impacts will not be significantly increased through the careful construction of a track and will prevent further deterioration of the ground around it.

42. Some objectors argue that walkers and other hill users will not appreciate the new track, and one claims that Scotland's tourist industry will be harmed tracks. This is a difficult point to qualify in this application. For a variety of reasons, the area is not frequently visited by recreational users. Those that do visit will have seen the existing track lines and damaged ground, and that will be part of their experience. With a new constructed track, the area will be physically easier to access, but in the medium to long term, the existing damage will be reduced and replaced with a track that has been constructed to fit the landscape as far as possible. Officers consider the well-controlled track is a better long term solution than not.
43. Two objectors have noted that part of the track route was once the main drove route between Sutherland and Falkirk and that the entire area was grazed by cattle in the past. They suggest that the track proposal will destroy the character of the area and prevent a long distance walk being established that celebrates the drove road and Wild Land experience. The drove route described has no clear physical evidence on the ground and is not widely known or promoted. Nevertheless, it is further evidence of Badenoch's central role in the history of the Highlands to celebrate. There are no directly relevant policies in the Highland-wide Local Development Plan 2012 that apply here. However, the route of the drove road travels across a landscape that has changed significantly over time and the area of overlap with the proposed new track includes some of the most clearly defined sections of existing vehicle track. CNPA officers do not consider that the proposed new track will significantly affect people's ability to appreciate the historical significance of the landscape and its past uses.

## **CONCLUSION**

44. Balavil Estate has one long-established vehicle access route to the north and no alternative route in their control. The use of the route by current and previous owners has created visual scarring to the landscape and damage to habitats. The planning application seeks to provide faster and safer vehicle access for staff managing the estate as well reduce the landscape and visual impacts and damage to habitats of the existing route through the construction of a well-designed track.
45. Officers consider that with appropriate conditions imposed, the long term benefits of restoration of damaged ground will outweigh the shorter term impacts of construction and that there will not be significant effects on the Monadhliath Wild Land Area. For those reasons, it is considered that the development proposed complies fully with Local Development Plan policies under the Cairngorms National Park Local Development Plan 2015 and the Highland-wide Local Development Plan 2012. In addition, officers consider that the approval of this proposal is consistent with the intent of the National Park Partnership Plan's policy presumption against new constructed tracks in open moorland.

## RECOMMENDATION

**That Members of the Committee support a recommendation to approve the upgrade to existing hill access for vehicles, including sections of new track construction, and repair and improvements to existing track, between Allt Ruighe na Riog and River Dulnain at Balavil Estate, Kingussie 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

- I. **No work shall commence on site until a revised detailed, site specific Construction Method Statement (CMS) has been submitted to and approved in writing by the CNPA acting as Planning Authority in consultation with SNH and SEPA. The CMS shall cover the following matters:**
  - a) **Confirmation of the working corridor, route and track width, demonstrating that the track will be restricted to 2.5m in width.**
  - b) **Details of the track, and include a central vegetation strip no less than 0.75m wide;**
  - c) **Section specific methods of construction for the length of the track that includes a zig-zagged descent to the river Dulnain and measures for the protection of watercourses, avoidance of habitats including, but not limited to, flushes and springs, bog pools and Groundwater Dependent Terrestrial Ecosystems;**
  - d) **Details of restoration of damaged ground, including the rolling restoration along the route, restoration of the surrounding ATV tracks and associated peatlands and restoration of borrow pits;**
  - e) **Duration, timing and phasing of works (including any in river works) and including restoration timetable.**

**The works shall be implemented in accordance with the details approved by the CNPA.**

**Reason:** To ensure that the development conserves and enhances natural heritage, landscape character and qualities of the Wild Land Area in accordance with Policy 4: Natural Heritage and Policy 5: Landscape of the Cairngorms Local Development Plan 2015 as well as Policy 51: Landscape, Policy 57: Natural, Built and Cultural Heritage, Policy 58: Protected Species, Policy 59: Other Important Species, Policy 60: Other Important Habitats and Article 10 Features, and Policy 55: Peat and Soils, of the Highland-wide Local Development Plan 2012.

2. **No work shall commence on site until full details of and timetable for the following compensation measures have been submitted to and approved in writing by the CNPA acting as planning authority:**

- a) **Details of drain blocking on Meall á Chòcaire;**
- b) **Detailed proposals for sufficient juniper woodland to be created/restored in association with the track descending to the river Dulnain to provide a positive landscape and ecological contribution.**

**The works shall be implemented in accordance with the details approved by the CNPA.**

**Reason:** To ensure that the development conserves and enhances natural heritage, landscape character and qualities of the Wild Land Area in accordance with Policy 4: Natural Heritage and Policy 5: Landscape of the Cairngorms Local Development Plan 2015 as well as Policy 51: Landscape, Policy 57: Natural, Built and Cultural Heritage, Policy 58: Protected Species, Policy 59: Other Important Species, Policy 60: Other Important Habitats and Article 10 Features, and Policy 55: Peat and Soils, of the Highland-wide Local Development Plan 2012.

3. **No work shall commence on site until the following information has been submitted to and approved in writing by the CNPA acting as Planning Authority in consultation with SEPA:**

- a) **details to demonstrate that both the watercourse crossing and the culverts can convey the 1 in 200 year flow including plans of the crossings and culverts show that they will retain the width of the channel and will not constrict flow; and**
- b) **details that demonstrate that the approved track will not increase ground levels within the functional floodplain.**

**The works shall be implemented in accordance with the details approved by the CNPA.**

**Reason:** To prevent increased flood risk in accordance with **Policy 10:** Resources of the Cairngorms National Park Local Development Plan 2015 and **Policy 63:** Water Environment and **Policy 64:** Flood Risk of the Highland-wide Local Development Plan 2012.

4. **No work shall commence on site until:**

- a) **an Ecological Clerk of Works (ECoW) has been appointed by the developer to oversee site works and ensure compliance with the approved construction method statement and compensation measures; and**



- b) an Ecological Scope of Works including a timetable of site visits and reporting to the CNPA has been submitted to and approved in writing by the CNPA acting as Planning Authority.**

**Reason:** To ensure that environmental impacts are reduced and mitigated in accordance with Policy 4: Natural Heritage and Policy 5: Landscape of the Cairngorms Local Development Plan 2015 as well as Policy 57: Natural, Built and Cultural, Policy 60: Other Important Habitats and Article 10 Features and Policy 61: Landscape of the Highland-wide Local Development Plan 2012.

5. Notwithstanding the approved plans and documents the track width shall be limited to 2.5 meters wide and shall include a central vegetation strip of no less than 0.75m.

**Reason:** To ensure that environmental impacts are reduced and mitigated in accordance with Policy 4: Natural Heritage and Policy 5: Landscape of the Cairngorms Local Development Plan 2015 as well as Policy 57: Natural, Built and Cultural, Policy 60: Other Important Habitats and Article 10 Features and Policy 61: Landscape of the Highland-wide Local Development Plan 2012.

## **Informatives**

1. The development hereby approved must commence within 3 years of the date of this decision notice. If development has not commenced within this period then this planning permission will lapse.
2. The person undertaking the development is required to give the Planning Authority prior written notification of the date on which it is intended to commence the development. Attached to this decision notice is a Notice of Initiation of Development for completion and submission. Submission of this information assists the Cairngorms National Park Authority Monitoring and Enforcement Officer in monitoring active work within the area to ensure compliance with the approved details and to identify and correct any potential problems, as they arise, rather than later when it may be more difficult and more costly to rectify. Failure to give notice would constitute a breach of planning control which may result in enforcement action being taken.
3. 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.