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## CAIRNGORMS NATIONAL PARK AUTHORITY

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### DEVELOPMENT PROPOSED:

Retrospective planning permission for the upgrading of an existing track, including widening, the use of imported material and the installation of drainage at Land At Clova Estate Glen Clova

**REFERENCE:** 2020/0068/DET

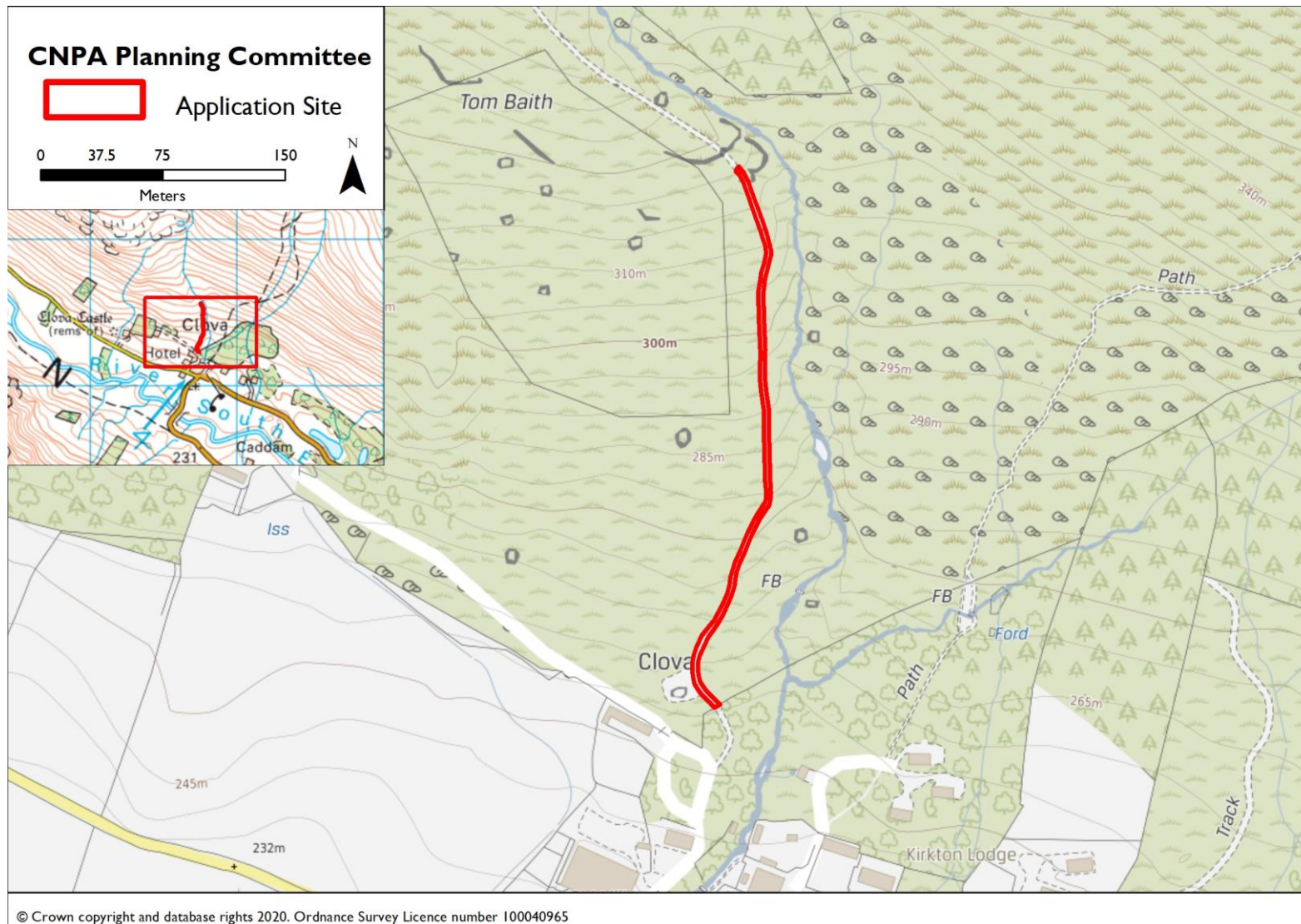
**APPLICANT:** Mr Hugh Niven

**DATE CALLED-IN:** 9 March 2020

**RECOMMENDATION:** Approve

**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 is adjacent to the Clova Hotel and is accessed by the B955.

### 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=Q6PSURSI0CH00>

Title	Drawing Number	Date on Plan*	Date Received
Existing Cross Section			09/03/2020
Planning Statement		19/12/19	09/03/2020
Site Plan	19/0033/4		09/03/2020
Supplementary Location Plan	19/0033/2		09/03/2020

\*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. This application seeks retrospective planning permission for the upgrading of an existing track. The track is intended to provide access to the hillside for agricultural, forestry and sporting purposes. The track is approximately 450m in length and up to about 10m in width including drains and verges. It is partly surfaced, although the surfacing is rough.
4. This application was sought through the service of a Section 33A enforcement notice requiring the submission of an application.

### History

5. The section of track upslope of this application is subject to an enforcement notice served by the CNPA requiring its removal.
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. A prior approval application for a forestry track higher in Glen Clova was recently approved by Angus Council.
7. 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 (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	X
POLICY 4	NATURAL HERITAGE	X
POLICY 5	LANDSCAPE	X
POLICY 6	THE SITING AND DESIGN OF DIGITAL COMMUNICATIONS EQUIPMENT	
POLICY 7	RENEWABLE ENERGY	
POLICY 8	SPORT AND RECREATION	
POLICY 9	CULTURAL HERITAGE	
POLICY 10	RESOURCES	
POLICY 11	DEVELOPER CONTRIBUTIONS	

8. 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/LDPI5.pdf>

9. Other relevant local policies are (delete if not applicable)

### 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	
Policy 3	Sustainable Design Non-Statutory Guidance	X
Policy 4	Natural Heritage Supplementary Guidance	X
Policy 5	Landscape Non-Statutory Guidance	X
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	

Policy 11	Developer Contributions Supplementary Guidance	
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## CONSULTATIONS

11. A summary of the main issues raised by consultees now follows:
12. **SEPA** have no objection to this planning application on flood risk grounds.
13. **CNPA Outdoor Access** note that a nearby path to Loch Brandy is a core path (EC6) that will not be affected and therefore have no objection to the application.
14. **CNPA Landscape Advisor** states the track is clearly visible from the opposite, north-facing side of Glen Clova, with some views drawn to its location upon the hill backdrop when directed to the focal features of the crags of Ben Reid and Boustie Ley beyond. The track is also visible from the popular path to and from Loch Brandy although the track appears as a small part of a wide panorama and near other human elements of the landscape pattern.
15. At a local level, the track results in adverse landscape and visual effects primarily due to its crude routeing and construction, ground disturbance, extensive width, broad drainage ditches, extensive deposition of spoil (soil and rocks) either side of the track, contrasting surface aggregate colour and texture, and exposed cutting and embankment slopes.
16. They go on to suggest the width of the track be reduced to the minimum required, any disturbed ground be restored using best practice and incorporate drainage measures to avoid surface erosion. Further mitigation suggested includes any turning circle for the end of the track is considered prior to construction and ongoing monitoring of the track once the above mitigation has been undertaken.
17. **Kirriemuir Landward East Community Council** offered no comment on the application.

## REPRESENTATIONS

18. There have been two objections to the track which focus on the use of the track and its construction.

## APPRAISAL

### Principle

19. This section of track has existed for more than a decade and been used for a variety of agricultural, forestry and estate management purposes. It may have been used to access the hillside for much longer but does not appear on older ordnance survey maps. The route has been significantly altered in recent years, becoming wider, having drainage added and a new running surface applied. However, the principle of the track itself is considered acceptable due to its long term use linked to agricultural and forestry purposes.

## Design, Landscape and E Impacts

20. **Policy 3:** Sustainable Design seeks generally high standards of design in development to minimise impacts and **Policy 5:** Landscape of the Cairngorm National Park Local Development Plan 2015 seeks to conserve and enhance landscape character and special qualities of the Cairngorm National Park.
21. While the track is of rough construction and has a poorly bound surface in places, the main visual and landscape impacts are a result of a wide line of exposed surfaces in the otherwise mainly grassland hillside. With appropriate mitigation through revegetation to reduce the impact of the track itself, its ditches, cuttings and spoil banks, the landscape and visual impacts will be reduced and exposed ground will be stabilised. It is considered that with conditions securing that mitigation the proposal will comply with Policy 3: Sustainable Design and Policy 5: Landscape of the Cairngorms National Park Local Development Plan.
22. **Policy 4:** Natural Heritage of the Cairngorms National Park Local Development Plan 2015 seeks to protect designated sites and protected species and conserve biodiversity. The works to upgrade the existing track have been undertaken and any damage to species or habitats has already occurred. Although more extensive earthworks could further reduce the landscape and visual impacts of the track, they would also create further disturbance to habitats. With appropriate conditions securing revegetation of exposed surfaces, the surrounding plant species will recolonise the ground, improves the ground's stability and water storage capacity, maintaining water quality. With those conditions attached to any planning permission, the development is considered to comply with Policy 4: Natural Heritage of the Cairngorms National Park Local Development Plan.

## Other Issues Raised in Consultations and Representations

23. The representations focus on the use of the track and its construction. The construction will be mitigated using the measures described above. Its use, while there will be a sporting element to it will also facilitate the estates agriculture and forestry objectives.

## CONCLUSION

24. The development undertaken is acceptable in principle as it is an upgrade to an existing track but has not been undertaken in a way that uses best practice or complies with policies in the Local Development Plan. In order to minimise the impact of the track on the landscape and natural heritage it is necessary to impose conditions on an approval to make the development acceptable. The alternative would be to require the reinstatement of the previous track, which in this case would be likely to have further significant adverse landscape impacts.

## RECOMMENDATION

**That Members of the Committee support a recommendation to approve the upgrading of an existing track, including widening, the use of imported material and the installation of drainage in retrospect at Land At Clova Estate Glen Clova /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. Within 12 months of the date of this decision the track will be narrowed to a track running surface width of no more than 2 meters;

**Reason:** To reduce the landscape and visual impacts of the track in accordance with Policy 3: Sustainable Design and Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015;

2. Within 12 months of the date of this decision any exposed culverts or covered drains shall be trimmed to their exit point above ground;

**Reason:** To reduce the landscape and visual impacts of the track in accordance with Policy 3: Sustainable Design and Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015;

3. Within 12 months of the date of this decision any bare ground adjacent to the 2 meter track, including ditches and cuttings shall be vegetated using locally robbed turves adjacent to the site, or seeded using an upland species grass seed mix identical or similar to Scotia Seeds Highland Grassland Mix at the manufacturers recommended specification;

**Reason:** To reduce the landscape and visual impacts of the track, reduce surface water discharge, improve habitat quality and ensure mitigation works are undertaken in accordance with Policy 3: Sustainable Design, Policy 4: Natural Heritage and Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015;

4. Within 12 months of the date of this decision a centre strip of not less than 750mm shall be installed in the centre of the 2 meter running surface of the track using locally robbed turves adjacent to the site, or seeded using an upland species grass seed mix identical or similar to Scotia Seeds Highland Grassland Mix at the manufacturers recommended specification;

**Reason:** To reduce the landscape and visual impacts of the track, reduce surface water discharge, improve habitat quality and ensure mitigation works are undertaken in accordance with Policy 3: Sustainable Design, Policy 4: Natural Heritage and Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015;

5. Prior to any installation of a turning circle at the upper point of the track a plan showing the details of the turning circle shall be submitted to and approved in writing by the CNPA acting as Planning Authority. The works shall be implemented in accordance with the details approved by the CNPA;

**Reason:** To reduce the landscape and visual impacts of the track, reduce surface water discharge, improve habitat quality and ensure mitigation works are undertaken in accordance with Policy 3: Sustainable Design, Policy 4: Natural Heritage and Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015;

6. The development, hereby approved, shall be constructed and maintained in accordance with the approved plans and specifications.

**Reason:** To reduce the landscape and visual impacts of the track, reduce surface water discharge, improve habitat quality and ensure mitigation works are undertaken in accordance with Policy 3: Sustainable Design, Policy 4: Natural Heritage and Policy 5: Landscape of the Cairngorms National Park Local Development Plan 2015.

### **Informatives**

1. 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;
2. 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.