



Campaigning for the Conservation of Wild Land in Scotland

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Convenor

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Dear Susanne

Survey on Extension of Permitted Development Rights in Scotland

I am writing on behalf of the members of the Scottish Wild Land Group [SWLG] to express our views on the current survey on Permitted Development Rights [PDR]. We do not wish to comment on all of the survey although we would support many of the proposals especially those relating to householder developments and alterations. Our concerns are associated with the Prior Notification [PN] process as used in connection with Hilltracks.

SWLG is a member of the Scottish Environment LINK Hilltracks group and I co-convene the group with Helen Todd of Ramblers Scotland, who has already contacted you on behalf of the wider group. SWLG would like to maintain contact with you over the course of the review and subsequent actions and we are happy to share our views and information with you.

The current survey considers the extension of permitted development rights to a wider range of developments. SWLG members are concerned about the application of existing PDRs in some circumstances. For example, these are allowed for the creation of new Hilltracks for claimed agricultural or forestry purposes, and for the maintenance/repair of existing tracks.

There is a long history of dissatisfaction over many decades with the random and unregulated proliferation of tracks across the landscape. PDR were granted after WW11 to support the agricultural and forestry sectors in reducing costs and the bureaucratic burden on them. These industries were needed to help the country restore vital production and contribute to the national economy. This concession has long outlived its original purpose and been abused by some estates for stalking and shooting purposes. The current situation is that upland tracks are often badly constructed, detrimental to the local environment and associated with visual impacts, a deterioration in landscape quality, poor drainage resulting in erosion and silting of burns important for wild life, and so on.

Largely as a result of the LINK Hilltracks campaign and publication of our report, Track Changes, which Helen has referred you to, these tracks were brought under the PN system under The Town and Country Planning [General Permitted Development] [Scotland] Amendment [No 2] Order 2014 [SSI 2014No 300].



Such tracks are currently only subject to Prior Notification. If the local authority planners have any concerns about a track that is submitted to them for development under PN they can specify that these are addressed and the application goes to the Prior Approval stage. In practice, this rarely happens and this additional layer of oversight is not used sufficiently or robustly. Furthermore, the PN/PA system is unsatisfactory for various reasons including the following general points:

- Planning departments are understaffed, and under resourced so these PNs receive little or insufficient scrutiny.
- There is also a shortage of landscape staff and biodiversity personnel in planning departments, so that applications that might impact on designated sites and/or habitats and species can be unrecognised. Given that the planning authority has only 21 days to respond, there is inadequate time for the detailed research, specialist communications and consideration that many of these tracks need. The absence of a payable fee does not help.
- Planning authorities do not have the staff or resources to undertake site visits to monitor the work taking place, especially in the more remote areas. Indeed, the PN/PA procedures do not allow for refusal, setting conditions or enforcement.
- There are no formal public comment or consultation stages with PNs so there is not an opportunity for concerned members of the public to raise issues that might result in adverse impacts. It is only by careful scrutiny of online planning portals that members of the public can be aware of such proposals, and there is no neighbour notification or advertising process required, so there is a huge democratic deficit in respect of PN proposals that affect a wide community of interest. In addition, there are some issues with some local authorities' portals which our monitors have encountered, mostly related to inadequacy of display of information, absence of key documents and correspondence.
- The application form and documentation required is inadequate, especially regarding justification for the track.
- As a result, developers often submit very inadequate proposals and most lack sufficiently precise site-specific construction detail.
- It is difficult to ascertain beyond reasonable doubt that a track is indeed required for its stated purpose; it is evident in some PN proposals that tracks that will be used for stalking and shooting access [which would require a full application to be made, together with full scrutiny] are applied for under [often doubtful] agricultural need. This makes it difficult for an authority, despite any concerns they may have, to determine whether PDR applies, to refuse a track and to ask for a full application to be submitted.

Please note that the above is not an exhaustive list.

As a result of the shortcomings of the planning arrangements for these tracks, and despite the new Order being in place, tracks of a poor standard are proliferating across the Scottish uplands and moorlands, causing environmental and landscape damage. Indeed, from our detailed monitoring it has been found that some tracks have been constructed without first submitting a PN. There seem to be particular problems in the Cairngorms National Park and these are exacerbated as the park is not a full planning authority and has no call-in powers.

For all such tracks it would be better if full planning applications and associated fees were required. SWLG do not agree that the PN process should be relaxed in respect of Hilltracks.

A related issue is the proposal that has been made for further extending PDRs for the purposes of increasing digital infrastructure. The case is often made that this extends coverage especially to rural locations, and increases safety in that rescue services and users can be more assured of good coverage in more remote areas. SWLG members accept this but we would point out that such infrastructure also requires tracks to be built for access for construction and subsequent maintenance. In our experience and from observing several sites, we have found that there is apparently no oversight of the standards of track construction in the proposal, its potential impacts on the site and its environment and landscape or the quality of the final track. We wish to highlight this shortcoming; it may be that there the only way to address this is to require full planning applications for such tracks.

You will no doubt include a consideration of the Heriot-Watt University research of 2005-07 in your deliberations as well as the Head of Planning Scoping Response on the Extension of PDR of April 2017. SWLG tends to agree with most of the Heads of Planning response, except that Hilltracks are only mentioned in paragraph 1.4 and the issue is not fully addressed despite the problems that are being caused by PN for planning authorities; but we recognise that their response is mostly concerned with housing etc. Also in 5.1 where conservation areas are mentioned, we consider that rural areas should be included especially where designations such as NSA, NP, and WLA are concerned.

Kind regards

Beryl Leatherland