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Head of Planning
[Local Planning Authorities]

18th August 2015

Dear [Head of Planning]

Prior Notification of Private Ways (Scottish Government Circular 2/2015 Consolidated Circular on Non-Domestic Permitted Development Rights)

I am writing on behalf of the Scottish Environment LINK Hill Tracks Campaign Group. As you may know, LINK is the forum for Scotland's voluntary environment community, with over 35 member bodies representing a broad spectrum of environmental interests with a common goal of contributing to a more environmentally sustainable society. The members of the hill tracks group are the National Trust for Scotland, Association for the Protection of Rural Scotland, North East Mountain Trust, Ramblers Scotland, Scottish Wild Land Group, Cairngorms Campaign and Scottish Campaign for National Parks. The Mountaineering Council of Scotland and the John Muir Trust, while not members of LINK, are supporters and have been involved with our activities.

You will be aware of the Scottish Government's formal guidance on the new arrangements (*Circular 2/2015 - Consolidated Circular on Non-Domestic Permitted Development Rights* and SNH's guidance (*Constructed Tracks in the Scottish Uplands*), an updated version of which is shortly to be published in light of the new arrangements. While LINK campaigned to bring the construction of all hill tracks (private ways) in Scotland under full planning control, and will continue to do so, we welcome the recent change which brings these under Prior Notification procedures as a step in the right direction. We are now writing to planning authorities to highlight various issues related to this new legislation. We also want to let you know LINK intends to continue to have arrangements in place to monitor applications and track construction on the ground.

LINK considers it is crucially important for planning authorities to bear in mind why a change in the law has been necessary when considering Prior Notifications. There is a history in Scotland of vehicle tracks being created in sensitive and attractive upland landscapes, on the basis that these were for agricultural purposes and thus permitted development, when all the evidence suggested that they were primarily for sporting use. Any agricultural use was often confined to some minor or incidental activity such as putting sheep on the ground as tick mops. Many of these tracks were poorly constructed with little heed being paid to SNH's guidance on best practice in design and construction.

The new arrangements have the potential to eliminate such problems if planning authorities



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ascertain the purpose of each track presented under prior notification procedures. We believe it is essential that planning authorities satisfy themselves each track being considered is, indeed, for agricultural or forestry purposes and is not presented as such, when a track built primarily for sporting purposes should be subject to a full planning application. Secondly the new arrangements bring the opportunity for planning authorities to scrutinise the design and construction of tracks which are permitted development to ensure that they avoid damage to peat, avoid erosion and reduce drainage problems. Also, designations can be dealt with appropriately and visual intrusion limited through the careful siting of the actual line of the track.

LINK has been setting up arrangements to monitor Prior Notifications as we would like to comment when these raise concerns for us. In respect of this, there are matters regarding process which we have raised below:

- Planning authorities may produce local guidance and we would be grateful if you could let us know once you have produced this and where it can be accessed. With regard to this, we are finding Highland Council's interim guidance very helpful - *Permitted Development Rights: Guidance for Agricultural and Forestry Private Ways [interim]* http://www.highland.gov.uk/download/downloads/id/12339/interim_guidance_on_agricultural_and_forestry_private_ways.
- It is not always obvious where Prior Notifications are posted on planning authority websites. We would be grateful if you could assure us that these will always be posted so they are publicly available. We would also be grateful if you could advise us of the location on your authority's website where these will be available.
- Also relevant is the timing of Prior Notifications being posted on your website due to the 28 day period for consideration. In para 30 of its guidance, the Scottish Government outlines its expectation that the planning authority should not wait for the 28 days before responding to the developer when the planning authority does not require further information for Prior Approval. However, we are concerned that members of the public would not then have an opportunity to comment. Therefore we would recommend that planning authorities should allow the full 28 days to elapse before responding.

We appreciate that dealing with Prior Notifications in many cases will not be straightforward for planning authorities, but we hope systems can be established which are not burdensome for authorities and yet allow the opportunity for the public to comment. LINK members would be happy to offer assistance and advice where possible if difficult issues arise. We can be contacted at the postal or email addresses overleaf but would be grateful if you could mark the subject of any correspondence as 'Hill Tracks'.

We look forward to hearing from you.

Yours sincerely

Helen Todd
Co-convenor, LINK Hill tracks campaign group