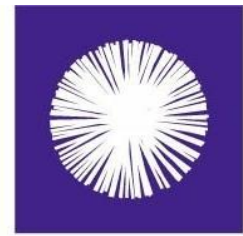


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Comments on Scottish Government guidance on prior notification and approval requirements in relation to agricultural and forestry private ways.

General points

1. LINK still considers that tracks should require full planning consent and that this is much better option than the Prior Notification (PN) process for the following reasons:
 - If a track is assessed as being for agricultural (or forestry) purposes, the planning authority cannot turn it down under PN arrangements. There are circumstances when tracks are undesirable because of the level of visual intrusion in the landscape and they could be rejected on these grounds if full consent were required.
 - While most planning authorities post PNs on their websites and accept comments from the public, they are not obliged to do so. A potential 'democratic deficit' remains, therefore. A requirement for full planning permission would remove any uncertainties regarding this.
2. LINK remains strongly opposed to forestry tracks being exempted from PN arrangements. While LINK's monitoring has identified few problems with applications for forestry tracks, exempting such tracks is likely to lead to some landowners constructing tracks for sporting purposes in open ground without notifying the planning authority and subsequently claiming that they were needed for assessing the ground for potential forestry or some such arguments.

Issues specific to the guidance

3. **Purpose of the proposed track and the information provided in an application** The issue of considering whether or not a track is permitted development is alluded to at various points. It is suggested that this is a critical issue which should be addressed much more fully in the guidance. In addition, the Review notes that many applicants have not provided adequate information regarding the location or proposed construction methods. Clarity regarding these issues should ensure better applications, thus allowing Planning Authorities to make quicker decisions based on fuller information and would reduce the need for Prior Approval in some instances. It is suggested, therefore, that para 19 should be expanded to include statements along the lines of:
 - The first decision which a planning authority must make is to ascertain whether a proposed private way is permitted development. The application should not just state what the primary use of the track will be, it should also give details of the use as

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evidence. For example, if the purpose is to access sheep on a hill, it should state the size of the flock, how many times the track will be needed for access over the period of a year and why the work cannot be undertaken without the track. If it is envisaged that there will be any secondary use of the track for other purposes (e.g. recreational or sporting use) then details of what that intended use is and the number of times over a year it is likely to be used for that purpose should be included. The Planning Authority must be satisfied that any secondary use is only occasional, as a full planning application should be made for a track which is primarily for sporting/recreational use.

- The application should contain clear maps showing accurately the line of the private way with the scale included along with OS map references.
- The application should detail the construction methods, what material it is intended to use and where this will be sourced. Private ways should not be of a greater length or width than that required to meet the purposes of the Permitted Development. Applicants are strongly encouraged to familiarise themselves with SNH's guidance 'Constructed tracks in the Scottish Uplands' (<http://www.snh.org.uk/pdfs/publications/heritagemanagement/constructedtracks.pdf>)
- Planning Authorities should consider at an early stage whether there is a need to consult with other statutory agencies. In particular, Planning Officers should consult with SNH if the proposal meets any of the criteria set out in SNH's 'Planning for Development –Service Statement' and the 'Checklist' which makes particular reference to designated sites and wild land areas.

4. **Publicising Prior Notifications and accepting public comments**

We suggest that a section needs to be included to clarify these issues along the lines of:

- There is no specific requirement for Planning Authorities to publicise Prior Notifications or to allow public representations; however, there are no legal reasons why Prior Notifications should not be publicised on planning portals or why representations cannot be made. Receiving comments from third parties, which Planning Authorities can ignore if they so choose, can draw their attention to issues which they may not be aware of. A consistent system across Scotland is desirable and so it is recommended that all Prior Notifications are publicised along with other planning issues on planning portals and that Plan Authorities consider the relevance of any representations on a case by case basis; to this end, planning websites should not state that the authority will not accept representations by the public.

5. **Timescales**

The guidance emphasises the importance of responding to applicants as quickly as possible. It is suggested that this is not sooner than 21 days to allow members of the public to make representations.

6. **Para 39**

In the version which is on the government's website, the word 'not' is still missing from the end of the second line.

LINK members of the hill tracks campaign group are:

Association for the Protection of Rural Scotland
Cairngorms Campaign
North East Mountain Trust
Scottish Campaign for National Parks

Ramblers Scotland
National Trust for Scotland
RSPB Scotland
Scottish Wild Land Group