

# Planning Enforcement Closing Report



PERTH &  
KINROSS  
COUNCIL

<b>Case Reference Number</b>	23/00187/ALUNDV
<b>Description of Possible Breach</b>	Alleged alterations/formation of track
<b>Date Observation Received</b>	6 June 2023
<b>Address/Location</b>	Land At Glen Lyon Estate Fortingall
<b>Ward</b>	Highland
<b>Case Officer</b>	MB

## Approach to Planning Enforcement

Perth & Kinross Council endeavours to resolve breaches of planning control where possible, through either informal or formal means to remedy the breach. The use of enforcement action is; however, a discretionary power and the Council is not required to take any particular action and may decide, in some cases, that not taking action is justified.

In determining whether it is expedient to take formal action, the Council must have regard to:

- a) Whether a breach of planning control has occurred;
- b) Whether enforcement action is justified and in the wider public interest;
- c) Relevant provisions of the [Development Plan](#) and other material considerations;
- d) The priorities specified within the [Planning Enforcement Charter](#)

## Consultations

Consultee	Date Consulted	Consultee Comments
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None.

## Site History

## Main Report

The following observation was received: ***Alleged alterations/formation of track***. The results of the case officer's investigation are as follows.

It was brought to the attention of the Planning Authority that works were being carried out on an existing track on the estate.

A site inspection was undertaken on 6th July 2023.

The works carried out are along the existing route of the new track. This has been evidenced in aerial imagery and also from the photos received from complainants.

Based on the photos received it was clear that the track had been installed some time ago and as would naturally happen growth occurred both in the centre and to the side of the track. The works carried out recently has included the top scraping of the track and also of the sides. The track does however remain single track. As such this would constitute maintenance of the track.

Works have been undertaken to install culverts in a few sections of the track which based on the site visit undertaken, appear to constitute permitted development under Class 18a and/or 20.

In regard to the borrow pits formed to extract the materials for the track, aerial imagery shows historic borrow pits in the same location as the ones being utilised at present. Class 19 also allows such extraction on land for this purpose.

It has been determined that development has been undertaken and does constitute development, as defined in Section 26 of the Town and Country Planning (Scotland) Act 1997 (as amended).

The development does constitute Permitted Development under Classes 18 (maintenance of a private way), 18a (water management), 19 (winning and working of minerals) and 20 (land drainage works) of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended).

It has been established that a breach of Planning Control has not occurred and as such no further action is required.

The owner of the land should be aware that, whilst this enforcement case is being closed, the Council, as Planning Authority, reserves the right to undertake a further investigation should any further information be provided in regard to an activity in the future. However, before any further investigation is undertaken, substantial evidence of the activity and its impacts on the surrounding area, would be required.

## **Decision**

Perth & Kinross Council, as the Planning Authority, has determined that the case has been closed because:

### **No Breach of Planning Control**

This decision has been reached for the following reasons:

### **No Breach of Planning Control**

**Authorising Officer**                      **SP1**

**Date of Decision**                              **25 September 2023**

