

Dear All,

Thank you for your patience on this matter. I can confirm that the landowner is willing to reinstate a stile with an integrated dog way to facilitate access. This will be undertaken as soon as possible; once I have a date confirmed I will let you know.

In the meantime I would like to take the opportunity to outline a few concerns I have. For those of you that have in the past exercised your access rights in a responsible manner I sympathise with the loss of access you have experienced over the last few months. I have however been astonished at the attitude of many of the people who have contacted me regarding this matter who believe they have the right to behave in whatever manner they see fit and to take access whenever and when ever they please. Though I would never condone the action of the land manager I am not particularly surprised that they took the action they did.

I have personally witnessed via correspondence, both written and verbal, and through observations at Mains of Monduff the lack of understanding regarding the access rights that individuals have. The principle behind the statutory access rights given to people under the Land Reform (Scotland) Act 2003 is based on responsible access, unfortunately in the case of Mains of Monduff I have witnessed more than enough examples of irresponsible behaviour and would therefore ask you to note and consider the following.

- In certain circumstances access rights may fluctuate from month to month and from year to year. This is particularly relevant to farmland where land use may change from year to year.

- The level of access rights relating to agricultural fields with crops (which includes grassland) change throughout the year.

- Where fields have been sown with crops, irrespective of what stage of growth, access should be taken around the field margins. If the field margin is narrow or has been sown you should avoid causing unnecessary damage by keeping close to the edge of the field in single file. This includes dogs, who in these circumstances should be at heel.

- Where fields are under grass access rights apply across the whole field area until the grass is at a late stage of growth. This is considered to be when the grass is 8 inches in height. Once eight inches in height access rights across the whole field cease and access rights only apply to the field margins. This includes dogs, who in these circumstances should be at heel (and not chasing balls across the field whilst the owner stands at the field margin).

- Access rights apply to fields that have been cropped. It is common practice for grass fields which are being cut for silage to have two crops per year; therefore after being cut once the grass reaches 8 inches in height access rights cease across the whole field and are restricted to the field margins.

- The Dog Fouling (Scotland) Act 2003 does not require dog faeces to be picked up on agricultural land. However dog faeces left on agricultural land, especially in fields which will later be cut for silage can contaminate harvests. High levels of dog fouling on agricultural land can lead to the disruption of agricultural activities and loss of income.

Activities that result in disruption to agricultural activities and loss of income would be regarded as irresponsible in relation to access rights and therefore not allowed. I would therefore strongly encourage all dog walkers to remove dog faeces from agricultural land. In circumstances where it can be demonstrated that dog fouling is taking place and resulting in the disruption of agricultural

activities and loss of income Aberdeenshire Council will not be able to support the upholding of access rights.

- All properties are afforded a degree of privacy from access rights, I have attached a map showing the privacy area which surrounds Mains of Monduff and its associated out buildings. Access rights do not apply to these areas and therefore no access should be taken.

This is a brief summary of access responsibilities; as an access user you have the responsibility to be aware of all your responsibilities; I would suggest if you are not sure of your responsibilities you familiarise yourself with them. Copies of the Scottish Outdoor Access Code are available from Scottish Natural heritage. I also have several copies if anyone would like one please contact me. Further information on access and your rights and responsibilities as well as an electronic copy of the code can be found at <http://www.outdooraccess-scotland.com/>

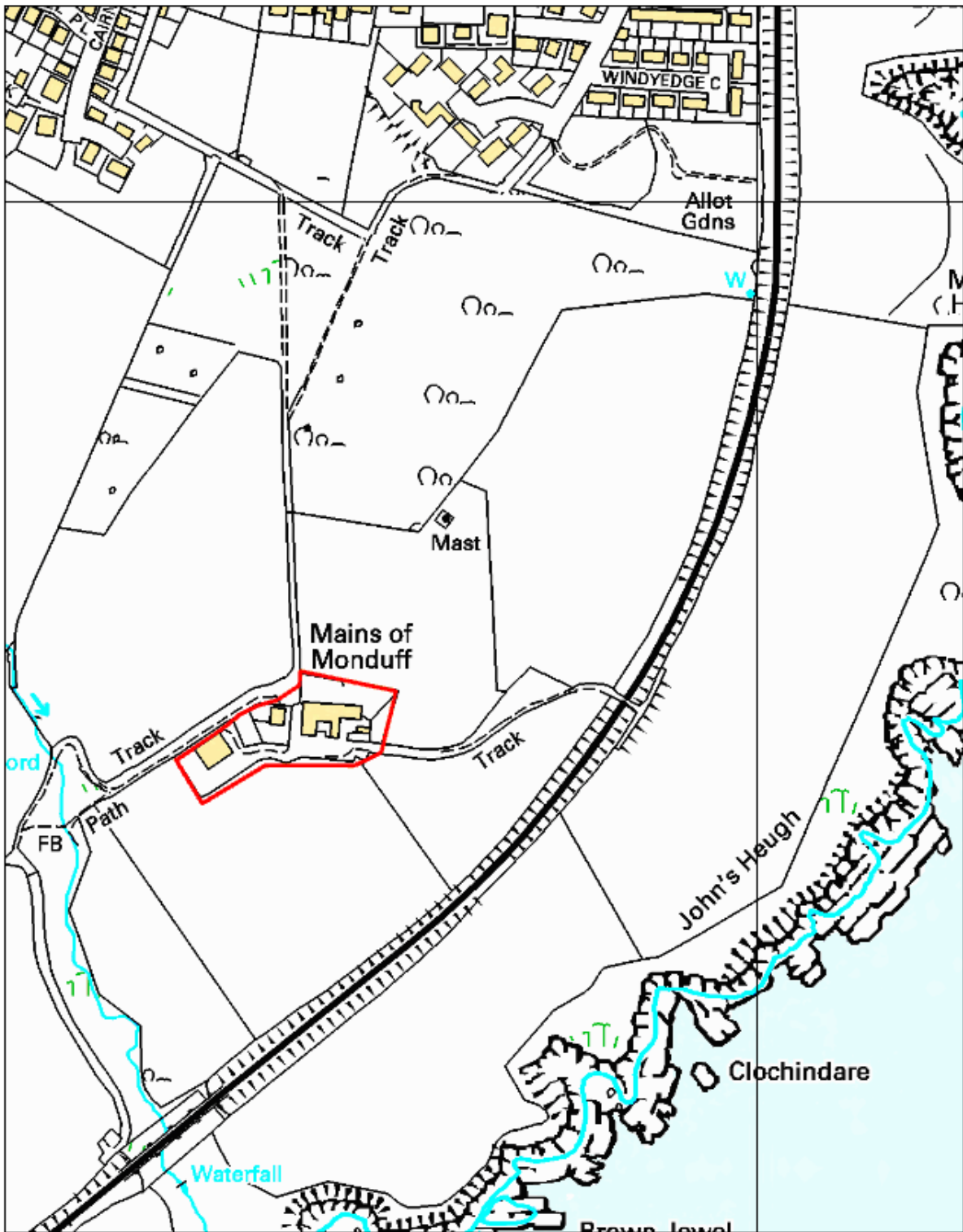
In summary I would ask you to be mindful that you are taking access to land which is in private ownership and is managed to generate an income; as such a degree of courtesy and respect should be shown to the owner and land manger. I would also remind you that access rights to land can be lost if irresponsible access is witnessed; in circumstances where it can be demonstrated that irresponsible access is taking place Aberdeenshire Council will not support the upholding of those rights.

I trust this email will find its way onto the NVA forum and hopefully reach a wider audience. There have been a number of discussions on the forum relating to members erecting their own stile and whether the route in question is a right of way. I would strongly advise against the erection of a stile, not only may this jeopardise our current arrangement regarding the installation of an official stile with the landowner but the landowner would be well within their rights to remove the stile. I would also ask you to note that this route does not meet the criteria required to assert the route as a right of way.

Regards,

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Planning & Building Standards



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Aberdeenshire Council

Scale - 1:4000

Mains of Monduff (privacy zone)

