
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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DEVELOPMENT MANAGEMENT)

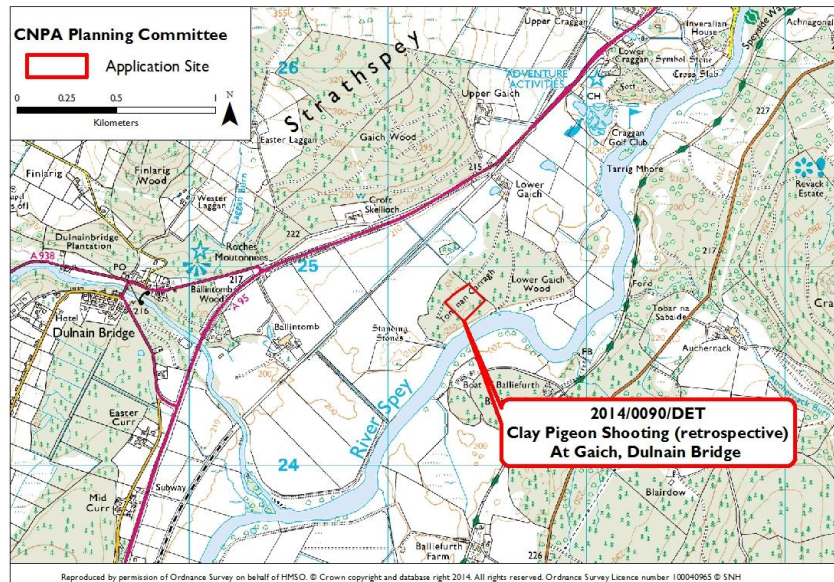
DEVELOPMENT PROPOSED: Commercial clay pigeon shooting in part of woodland (retrospective application) at Lower Gaich Woodland, Dulnain Bridge

REFERENCE: 2014/0090/DET

APPLICANT: Craggan Outdoors

DATE CALLED-IN: 24 March 2014

RECOMMENDATION: APPROVAL SUBJECT TO CONDITIONS

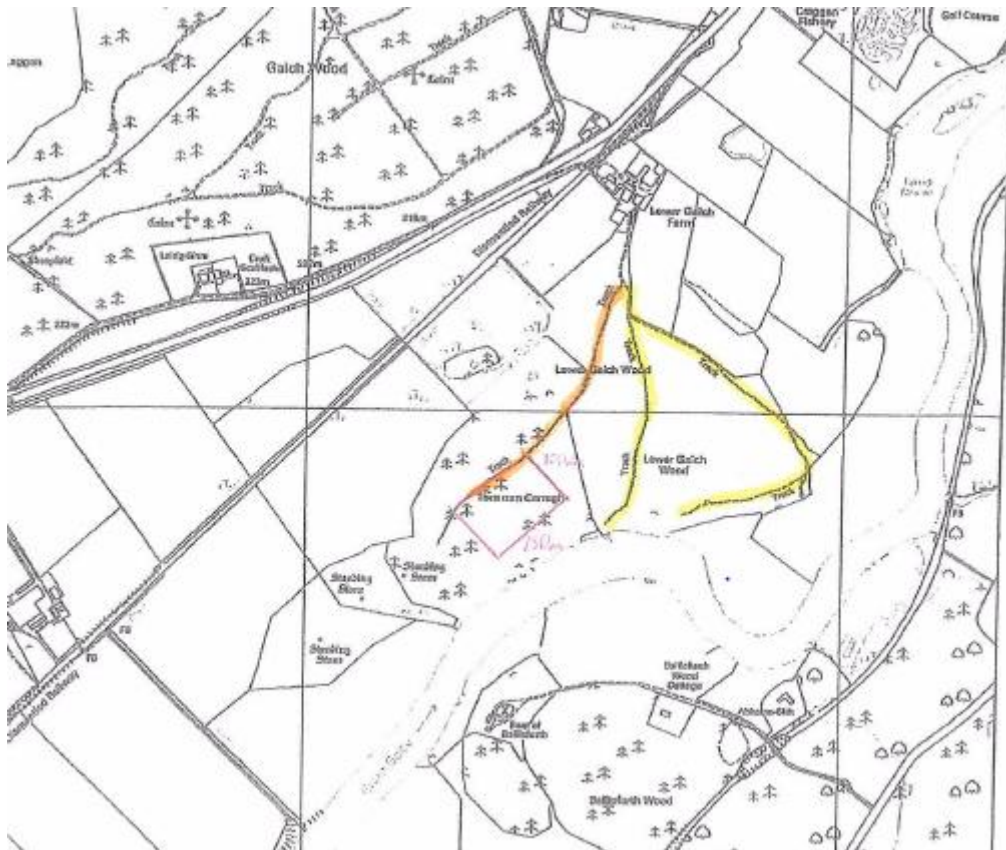


Grid reference: (E/301408 N/824847)
Fig. 1 - Location Plan

SITE DESCRIPTION AND PROPOSAL

1. This is a retrospective planning application for commercial clay pigeon shooting within Lower Gaich woods some 1.7 km to the south west of Granttown and some 1.5 km to the east of Dulnain Bridge. The site is accessed through Lower Gaich farm using an existing access track onto the A95 Granttown to Aviemore trunk road. This farm track continues south from the farm through fields and onto the woods where it becomes a grassed track leading into the woods. The River Spey runs to the south around 35 metres away at the closest point to the site boundary.
2. There are other tracks for fishermen leading south to the River Spey which lies to the south. The site lies some 500 metres south of the trunk road with the former railway line running between the site and the road. This context is shown on **Figure 2** below with the yellow highlighted tracks showing access for fishers and the orange the track to the site.

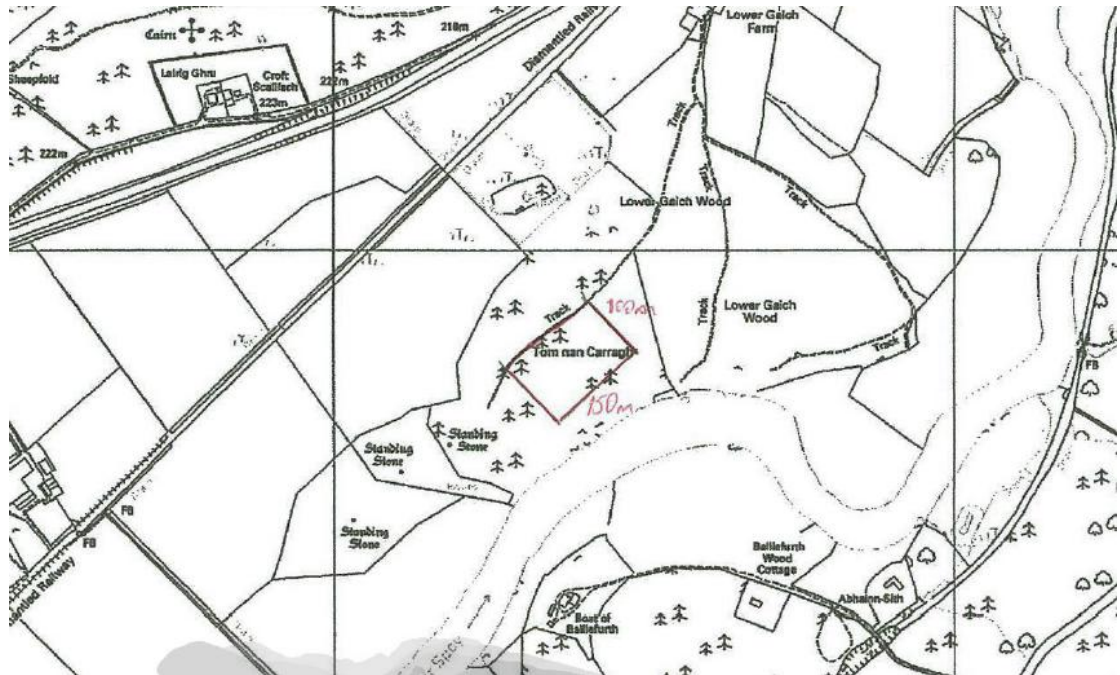
Figure 2 Location of Site



3. The site is located on the north of the River Spey at distances ranging from 300 to 500 metres from the residential properties at Balliefurth on the opposite side (south) of the River. This relationship is shown on **Figure 3** below which illustrates these properties. There are further residential properties at Gaich Farm to the some 750 metres to the south west and

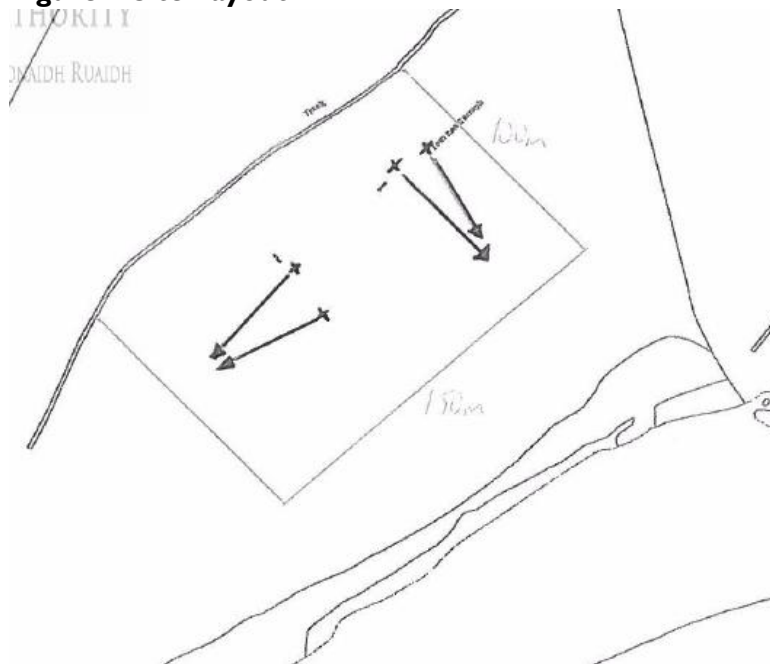
Lower Gaich Farm itself (around 500 metres to the north) and through which access is taken as noted earlier.

Figure 3: Relationship to Residential Properties



4. The site is located in the middle of a woodland area and measures some 100 metres by 150 metres. This area is roped off, and there are two shooting stances on the site as shown in **Figure 4** below. These aim south and west and comprise simple wooden stands for persons to stand and shoot, with a clay firing trap firing out the clays for persons to aim at and shoot.

Figure 4 Site Layout



5. In terms of environmental designations, the woodland within which the site is located is listed as Ancient Woodland and the River Spey to the south is designated as a Special Area of Conservation and Site of Special Scientific Interest. Standing stones lie to the south west of the site some 200 metres from the site boundary.
6. The application is accompanied by a Supporting Statement from the applicants who have requested to be **heard** at Committee. This statement is attached as **Appendix I**. It outlines how the Craggan Outdoors centre has been operation on the Glenbeg Estate since 2003 with the current owners taking it over in 2008 when commercial clay pigeon shooting formed part of the activities. The landowner has advised that the shooting had been taking place for around 2-3 years before this i.e. from around 2005. When the applicants took over the site their solicitors investigated the status of the site and the need for planning permission for the clay pigeon shooting was not raised.
7. The applicants' supporting statement outlines in detail how they believe the development to comply fully with the aims of the National Park in terms of :
 - The care for the environment exercised
 - Promoting the qualities of the Park to visitors
 - The doubling of the work force (from 4 full time equivalents- FTE- to 8) as a result of the applicants investment in the business and range of activities (including the clay pigeon shooting)with consequent economic benefits.
8. The statement highlights that the clay pigeon shooters comprised 7% of the 9,678 visitors to the site in 2012/13 and is the fourth highest attraction for Craggan Outdoors in terms of number of heads. Due to its higher pricing this represents 9.4% of the annual turnover of the business so as such effectively supports 1 FTE employee.
9. The frequency of shooting over the time that the current applicants have been operation is detailed. This rises from 383 persons over 54 days in 2008/9 (with average shooting time of 85 minutes on each of these days) to 674 persons over 76 days in 2012/13 (with average shooting time of 106 minutes on each of the days)
10. The applicants have also replied in detail to the contributions made by third parties and consultees. In relation to Environmental Health comments they have noted that other clay pigeon ranges in the area (Rothiemurchus and Dell of Glenlivet) also lie within 1 -1.5 km of houses. Also that their operational practise of no shooting outwith 10 am to 4 pm ensures that the impacts upon residents are minimised, with noise not being constant as there is shooting taking place only around 20% of the total days in any year. They also highlight that if there had been excessive noise/disturbance it would have been anticipated that complaints would have been received before now.

11. Safety concerns raised by objectors are also commented upon explaining that there is no conflict.

Site History

12. It is understood that there has been clay pigeon shooting taking place on this site for some years with the landowner advising that this dates back to 2005 as noted earlier. The applicants acquired the business (Craggan Outdoors) in 2008 and have submitted records to demonstrate that they have been using the site for clay pigeon shooting since then as outlined above. Earlier this year the Highland Council received complaints regarding the operations and investigated the situation. They determined that planning consent was required for the operations and advised the applicants accordingly. Following contact from the Council the applicants immediately submitted this retrospective application for consideration.
13. There is no other relevant planning history on the site itself. There is another clay pigeon range in the area at Rothiemurchus which was granted temporary consent by Highland Council in 1987 (Ref 87/334) and thereafter permanent consent, with use of an existing building as a café in 1990 (Ref 90/456)
14. There have been numerous planning applications at the Craggan Outdoors site to the north granted by the Highland Council over the years as summarised below
 - Erection of High Ropes (04/00314/FULB)
 - Erection of office, changing room and rope slide (05/0027/FULB)
 - Renewal of temporary consent for existing clubhouse and extension (02/00065/FULBS)
 - Erection of Toilet Block (98/00121/FULBS) | Status: Permission Granted

The following applications were refused

- Display of Advertisement (06/00101/ADVBS)
- Erection of Cages and Buildings to house birds of prey, formation of picnic area, car and coach park (97/00284/FULBS)

DEVELOPMENT PLAN CONTEXT

National policy

15. **Scottish Planning Policy** (SPP, revised 2014) sets out national planning policies that reflect Scottish Ministers priorities for the operation of the planning system and for the development and use of land. Under planning law, planning applications must be determined according to the development plan unless material considerations indicate otherwise. The content of SPP is a material consideration in planning decisions that carries significant weight. The SPP promotes consistency in the application of policy across Scotland while allowing sufficient flexibility to reflect local circumstances. SPP

highlights the importance of increasing sustainable economic growth to create a more successful country with opportunities for all of Scotland to flourish. It also seeks to ensure that the planning system encourages rural development which supports prosperous and sustainable communities and businesses whilst protecting and enhancing environmental quality. SPP also highlights the need for the planning system to promote business and industrial development that increases economic activity while safeguarding the natural and built environments as national assets. Due weight is to be given to the economic benefit of proposed development.

The SPP sits alongside four other Scottish Government planning policy documents:

- The **National Planning Framework** (NPF) which provides the statutory framework for Scotland's long term spatial development. The NPF sets out the Scottish Government's spatial development policies for the next 20 to 30 years;
 - **Creating Places**, the policy statement on architecture and place, containing the Scottish Government's policies and guidance on the importance of architecture and design;
 - **Designing Streets**, a policy statement putting street design at the centre of placemaking. It contains policies and guidance on the design of new or existing streets and their construction, adoption and maintenance; and
 - **Circulars**, which contain policy on the implementation of legislation or procedures.
16. **Scottish Government Planning Advice Note 1/2011: Planning and Noise** is also relevant in this case. It promotes the appropriate location of new potentially noisy development and a pragmatic approach to the location of new development within the vicinity of exiting noise generating uses to ensure that quality of life is not unreasonably affected and that new development continues to support sustainable economic growth. It stresses the importance of involving Environmental Health officers at an early stage for development proposals which are likely to have significant noise impacts.
17. The guidance explains the importance of fully considering noise impacts with development management and the role of noise impact assessments. It also outlines the role of mitigation measures to control noise and the need for these to be proportionate and reasonable. There is specific mention of clay target shooting under recreational and sporting uses. This notes the need for any noise impact assessment to demonstrate that the proposed activity does not have an adverse impact on nearby noise sensitive land uses.
18. In addition specific guidance on the "**Control of Noise for Clay Target Shooting**" produced in 2003 by the Chartered Institute of Environmental Health is also relevant in terms of representing the guidance used by Environmental Health officers to consider fully the noise impacts of such proposals along with their other standard legislation and guidance. This guidance sets out issues to be considered and potential mitigation measures

for noise. It recommends that no shooting should take place in the direction of any public right of way (or any building with public access) that is within 275 metres of the shooting position.

19. This guidance goes on to set out that a much larger buffer zone will be required to protect noise sensitive premises which will depend on local circumstances and on the level of shooting noise transmitted. It stresses that the guidance is intended to offer practical guidance on the typical size of a noise buffer zone, rather than precise enforceable distances, recommending that where shooting is taking place on flat land in the absence of significant sound reflecting media (e.g. rock faces, woodland areas, large lakes, significant buildings) that a noise buffer zone of at least 1.5 km in the general direction of shooting and 1 km in the rearward arc is advisable.
20. The guidance concludes on this point by saying “*shooting should nevertheless not normally take place with separation distances of less than 1 km in the direction of shooting unless under very exceptional circumstances which have been fully discussed and agreed with the local authority and any affected residents.*” It also notes that as the size of a noise buffer decreases so the frequency and duration of events may also need to be decreased.

Strategic Policies

Cairngorms National Park Partnership Plan (2012-2017)

21. The Cairngorms National Park Partnership Plan 2012 – 2017 is the management plan for the National Park for the next 5 years. It sets out the vision and overarching strategy for managing the Park and provides a strategic context for the Local Development Plan. Three long term outcomes have been identified to deliver the vision for the Park, to continue the direction set out in the first National Park Plan and to together deliver the four aims of the National Park. The outcomes are:
 - A sustainable economy supporting thriving businesses and communities;
 - A special place for people and nature with natural and cultural heritage enhanced; and
 - People enjoying the park through outstanding visitor and learning experiences.

Policies to secure the outcome of ‘a special place for people and nature with natural and cultural heritage enhanced’ are of relevance. Also relevant in this case is Policy 1.1 which seeks to grow the economy of the Park by strengthening the existing business sector as well as supporting business diversification and start ups.

Local Plan Policy

Cairngorms National Park Local Plan (2010)

22. The Cairngorms National Park Local Plan was formally adopted on 29th October 2010. The full text can be found at :
<http://www.cairngorms.co.uk/parkauthority/publications/results.php?publicationID=265>

23. The Local Plan contains a range of policies dealing with particular interests or types of development. These provide detailed guidance on the best places for development and the best ways to develop and all relevant policies of the Plan apply. The following paragraphs list a range of the key policies that are appropriate to consider in the assessment of the current development proposal.
24. Policy 33: Tourism Related Development – which sets out that tourism related development which has a beneficial impact upon the local economy through enhancement of the range and quality of tourism attractions and related infrastructure will be supported provided, amongst other criteria it does not have an adverse impact on the built or natural environment which in the judgement of the Planning Authority outweigh the beneficial impacts.
25. Policy 35: Sport and Recreation Facilities – this policy supports the development of formal facilities or diversification or extensions to existing recreation related business activities where they demonstrate best practise in terms of sustainable design and where there are no adverse environmental impacts on the site or neighbouring areas and they meet an identified community or visitor need.
26. Policy 6: Landscape which sets out that there will be a presumption against development which does not conserve and enhance the landscape character of the National Park unless any significant adverse effects are outweighed by social or economic benefits of national importance and all adverse effects can be mitigated.
27. Policy 16: Design Standards for Development which sets out the design standards to be met with new development and is supported by supplementary planning guidance in the form of the sustainable design guide. This policy seeks to ensure that the amenity enjoyed by neighbouring proprietors is protected
28. Policy 5 - Biodiversity which sets out the importance of ensuring there is no adverse impact upon habitat or species identified in the local biodiversity action plan.
29. Policy 4 – Protected Species sets out that any development which would have an adverse effect on any European Protected species (e.g. bats) will not be permitted unless there are reasons of public health, safety or overriding public interest and beneficial environmental consequences and no other satisfactory alternatives available.
30. Policy 1: Natura 2000 Sites which sets out that any development likely to have an effect on a Natura 2000 site will be subject to an appropriate assessment and where this is unable to ascertain that the development will not adversely affect the integrity of the site, the development will only be permitted where there are no alternative solutions or there are imperative reasons of overriding public interest including those of a social or economic reason

31. Policy 3 Other Important Natural and Earth Heritage Sites and Interests which seeks to ensure that any adverse impacts upon such areas, including ancient woodland, are mitigated and that the overall interests are not compromised.
32. Policy 11: The Local and Wider Cultural Heritage of the Park which seeks to conserve and enhance features, or uses, of local/wider or cultural significance,
33. Policy 34: Outdoor Access which seeks to improve opportunities for responsible outdoor access and to ensure that new development does not reduce public access rights.
34. Policy 12 :Water Resources which seeks to ensure that resources are used sustainably, connection is made to public sewers and surface water is treated in accordance with SUDS principles.
35. Policy 29: Integrated and Sustainable Transport Network which seeks to ensure that adequate consideration is given to maintaining or improving the sustainable transport network and requires submission of transport assessment where impacts are considered to be significant. This should cover local transport impacts.

Supplementary Planning Guidance

36. In addition to the adoption of the Cairngorms National Park Local Plan (2010) on 29th October 2010, a number of Supplementary Planning Guidance documents were also adopted. With this application key documents are the Sustainable Design Guide which sets out the principles to be considered when planning new development in the Park and Natural Heritage supplementary planning guidance which sets out matters to be considered.

CONSULTATIONS

37. **The CNPA Economic Development Manager** notes that the applicants have developed a reputation for providing a good quality of service and expertise (2012 Highland and Islands Best Visitor Attraction) with turnover and employment increasing since 2008. The wider clay pigeon market in the UK has grown rapidly in the last decade with a growing demand from the entertainment market (e.g. stag/hen parties, and companies looking to entertain guests and employees) in addition to membership shooting clubs.
38. The Officer concludes that clay pigeon shooting is an important and appropriate part of the product mix for Craggan Outdoors providing enough income to employ a member of staff and is a key driver in bringing people to the centre. The impact could potentially be lessened by having a more robust structure around availability which may focus marketing and reduce the days in which the activity is available.
39. **The CNPA Ecology Advisor** notes that the development lies within a thicket stage Scots pine plantation with the closest designated site being the River Spey SAC/SSSI. It is noted that the woodland is isolated from other

blocks of woodland in the area whereby there should be no disturbance to capercaillie. The use has been taking place since 2008 and before, whereby there is unlikely to be any further negative impacts as a result of the development continuing. From the site visit it was clear the area is still being used by raptors/owls with a large number of brown hares evident. It is concluded that there are no ecology issues raised

40. **Scottish Natural Heritage** note the proximity of the development to the River Spey SAC and SSSI designated for Atlantic salmon, freshwater peal mussels, otter and sea lamprey. They do not consider there is likely to be any significant effect on any of the qualifying interests, either directly or indirectly.
41. **Transport Scotland** was consulted in view of the fact that access will be taken via an existing access onto the trunk road here. They have considered additional information provided by the applicants in their supporting statement and have no objections to the development.
42. **Police Scotland (Firearms Licensing)** has been consulted and have advised verbally that this site is appropriately licensed.
43. **Highland Council Environmental Health Officer** recommends that the application be refused on the grounds of the loss of amenity to nearby noise sensitive premises through noise from gunfire. They note that a suitable noise buffer zone of 1.5 km in the general direction of shooting and 1.5 km in the rearward arc is not achievable in this case and that there are existing complaints regarding the operations. They highlight that the proximity to noise sensitive premises should be a prime concern when considering suitable locations. This typically includes residential properties but can also include farm buildings particularly those housing young animals and impacts on wild and domestic animals.
44. The Service were asked by CNPA officers to consider whether any mitigation by the applicants (such as acoustic bunds, restricted operational hours, removal of one of the shooting stances, submission of noise impact assessment) could help to address and overcome these concerns as the applicants are willing to carry out any mitigation deemed necessary.
45. The Environmental Health Officer has confirmed that it is not considered there is any mitigation which would effectively address the noise impacts and loss of residential amenity. It is also advised that the noise levels are in excess of the 30 -35 decibel ambient background noise level normally experience in a rural area and that the Service are investigating these levels with a view to taking action on noise under environmental health legislation. They further highlight that the development does not comply with relevant guidance on clay target shooting.
46. **Dulnain Community Council** advise that whilst they have no objection in principle they have strong reservations about the suitability of the site in relation to the following

- Although there are not many properties close to the site there is concern regarding impacts on those which are.
 - Although rough shooting has always taken place in the area they are concerned that this proposal will be more intrusive.
 - Concern regarding proximity to standing stone and safety of persons viewing these
 - Safety of fishers in the area who may cut across the site to the river.
47. **Nethybridge Community Council** has been consulted in view of the fact that affected residences lie within their area. They object on the following grounds noting that they have been contacted by objectors to the application
- Disturbance/noise pollution to residents at Balliefurth area
 - Development breaches national standards in relation to proximity to houses
 - Shot from gun falls into River Spey
 - Adverse effects on local wildlife with the shooting over the years causing birds to leave the area.
 - Safety concerns
 - Request that enforcement action be taken immediately

Copies of these consultation responses are attached as **Appendix 2**.

REPRESENTATIONS

48. The application has been advertised in the local press and a total of four representations have been received which are attached as **Appendix 3**. Three of these letters object to the application for the following reasons and are from residents of the three houses which lie across the River at Balliefurth. The basis of objection is summarised below
- Loud repetitive noise destroys quality of life in formerly peaceful area within National Park
 - Danger to walkers and fishers using the area
 - Existing noise nuisance from operations (gun fire and shouting of instructions)
 - Objectors initially thought noise was due to private shooting
 - Lower Gaich is a SSSI designed to protect the area
 - *Note: the site lies outwith the SSSI*
 - Endangered species are on decline due to the shooting
 - Reference is made to guidance on clay target shooting which is being breached.
 - No need for this development when there is another range only 10 miles away
 - *Note: this is not a relevant land use planning consideration.*
 - Property devaluation
 - *Note: again this is not a relevant land use planning consideration*

49. One representation has been received from the landowner which responds to the objections received regarding safety, noting that the river bank is not in the line of fire from the clay pigeon shooting and is at a much lower level. Similarly the standing stones lie well outwith the marked area for the shooting.
50. The landowner also considers that there has been no reduction in the amount of wildlife over the years and notes that the application site lies outwith the designated SSSI area.
51. Finally as noted earlier the applicants have requested to be **heard** at Committee.

APPRAISAL

Principle and Economic Benefits

52. Planning policies 34 and 35 support tourism and recreational development in the National Park where these have a beneficial impact upon the local economy through enhancing the range of tourism attractions. There is no doubt that this proposal meets this policy intention with considerable evidence provided by the applicants to demonstrate the value of this development to their business. Their view is shared by the CNPA Economic Development Manager.
53. This supportive stance for the development in principle is also subject to full consideration of environmental impacts including the impacts upon neighbouring areas. Consequently the principle of this type of recreational development is in line with policy providing it is suitably sited and complies with all relevant planning policies. These will now be considered below.

Servicing

54. The development is a low key one in terms of servicing and does not give rise to any drainage or water supply issues. Existing vehicular and pedestrian access is used, with no changes proposed to the vehicular access point onto the A95 trunk road at Gaich. Transport Scotland has no objections to the proposal as noted in the consultation section.
55. Similarly the low key nature of the development does not raise any particular waste management issues with biodegradable clays being used and the applicants picking up and disposing of any spent cartridges, all as outlined in the supporting statement. In the event of the application being supported conditions could be imposed to cover these matters.

Landscape and Visual Impact

56. This is a low impact development visually, comprising a roped off area and two timber shooting stances. It sits within a wooded area with no trees

removed/affected and existing grass tracks used with no upgrading proposed. This means it is visually unobtrusive and does not impact upon the landscape or the special landscape qualities of the National Park. It is therefore considered to comply with Policy 6: Landscape

Environmental Impacts

57. The impacts of the proposals upon the environment and wildlife in the area have been fully considered by both SNH and our Ecology Officers. It is considered that there is not an adverse impact upon these interests as a result of this type of development with no evidence of any adverse impacts as a result of the ongoing clay pigeon shooting to date. Accordingly the application is considered to comply with Local Plan policies 1, 3, 4 and 5 relating to natural heritage sites and the environment.

Cultural Impacts

58. As noted by objectors there are standing stones located to the south of the site, outwith its boundaries. These are unaffected by the development and it is not considered that there is any adverse impact upon their setting or qualities. Persons visiting the stones would be walking outwith the application site and should not be in danger as a result of the operations. Accordingly the application is considered to comply with policy 11 on the local and wider cultural heritage of the park.

Public Safety

59. The application has been passed to Police Scotland for comment as they are responsible for licensing such activities. As noted earlier they have advised verbally that the operations have the requisite licenses in place. The Police would consider public safety both in terms of the suitability of the operator and the site itself. Accordingly this Service is satisfied that this is a matter which is adequately regulated by another body, and that there should be no particular land use planning issues in this regard. It is further noted that the standing stones and river banks lie well outwith the site, and, in the case of the river bank at a lower level.

Residential Amenity

60. This is the key remaining planning issue with this proposal. As noted earlier there are residential properties located between 300 to 500 metres of the site boundary and this breaches environmental health guidance on clay pigeon shooting which advises, as noted earlier, a noise buffer zone of at least 1.5 km in the general direction of shooting and 1 km in the rearward arc. In this case there are objections from the occupiers of these houses all of which raise concerns regarding the noise of the operations. These concerns are considered to be justified by our technical advisors in Environmental Health and are shared by the local Community Councils

61. Local and national planning policy and guidance sets out that new development should not have an adverse impact upon neighbouring areas or upon their amenity. It would appear clear in this case that there is a loss of amenity for local residents. Whilst it is not fully understood why objections have not been raised previously it may be the case that the gradual intensification of use over recent years at the site (as evidenced in the applicants' supporting statement) may have resulted in increasing loss of amenity and disturbance. In any event the fact remains that there is a loss of amenity now according to our advisors who do not consider that mitigation measures such as reduction of number of shooting stances to one, restricted operating hours or acoustic measures will address this problem. Consequently, as noted earlier, they recommend the application be refused.
62. In these circumstances it is considered that this application as submitted fails to fully comply with policies 16 Design Standards for Development and Policy 35 on Sport and Recreation Facilities, in view of the impacts upon local residents.

Conclusion

63. This Service has sympathy for the applicants' situation in this particular case in that they took on this business in good faith and were not advised at the time (2008) that planning consent was required for commercial clay pigeon shooting. It is not therefore considered that there has been any blatant disregarding of planning legislation in this case. In addition when the matter of planning permission requirements were brought to the applicants' attention earlier this year an application was immediately submitted.
64. It is also worth noting that the operations since 2008 have not given rise to any complaints to the appropriate authorities (Planning and Environmental Health) until this year. However notwithstanding this situation this Service is obliged to consider the application on its land use planning merits now.
65. This development complies fully with all Local Plan policies with the exception of the requirements to protect existing residential amenity which is the sole issue with the development. This has been discussed with the applicants who are very willing to seek to mitigate noise by implementing any measures which may be considered appropriate such as erecting any acoustic barriers that may be considered appropriate, restricting their operating hours, and removing one of the shooting stances. However Environmental Health officers do not consider that these measures could adequately address noise nuisance and would be prepared to take action under their own legislation on noise nuisance in this case.
66. Planning legislation requires decisions on planning applications to be made in accordance with the development plan unless material considerations indicate otherwise. Consequently the Planning Authority requires to fully consider whether there are any material considerations which would outweigh the policy conflict. The only material consideration in this case would be that of economic benefits. It is clear that the economic benefits of the development are considerable to the applicants business representing just below 10% of

their annual turnover and one full time equivalent job as well as the added value to the facilities on offer at their site.

67. However, this is only one aspect of this business and arguably, given the low level of works concerned, another more suitable site could perhaps be found. (This has been discussed with the applicants who point out the benefits of the current location in terms of proximity to their existing operations which maximises efficiency and minimises movements.)
68. It is also material to note that Class 15 of the Town and Country Planning (General Permitted Development)(Scotland) Order 2011 sets out as following permitted development class *“The use of land (other than a building or land within the curtilage of a building) for any purpose, except as a caravan site or an open air market, on not more than 28 days in total in any calendar year, and the erection or placing of moveable structures on the land for the purposes of that use“*
69. Accordingly should the applicant decide to operate the clay pigeon business for no more than 28 days in any year planning consent would not be required and there would be no planning control over the operations. However the Environmental Health Service could still take enforcement action if the operations were considered to constitute a noise nuisance.

Scottish Government guidance on material considerations as contained in Annex A of Circular 4/2009 Development Management Procedures states as follows *“The planning system operates in the long term public interest. It does not exist to protect the interests of one person or business against the activities of another. In distinguishing between public and private interests, the basic question is whether the proposal would unacceptably affect the amenity and existing use of land and buildings which ought to be protected in the public interest, not whether owners or occupiers of neighbouring or other existing properties would experience financial or other loss from a particular development.”*

70. Set against this background the key issue to consider with this case now is whether it is possible to support the application when there is evidence of loss of amenity to three private households, set against the economic benefits of a business to both the operator and the wider tourism facilities of the Park , and the fact that the development could operate at a lesser scale (28 days per year) without any form of planning consent or planning control, and so potentially operate for longer hours on these days.
71. Having carefully considered all options, including refusal and subsequent enforcement action, it is the view of the Service that there is another option. This option is to restrict the operations to the level first experienced when the applicants took over the business in 2008 (which gave rise to no complaint) which together with restricting the hours of operation could result in more effective planning control than the option of the application operating 28 days a year with no planning controls whatsoever. This option thus provides potential to limit the loss of amenity in planning terms. It is also appreciated that the Environmental Health Service can take action under noise nuisance legislation if they considered this necessary at any time.

72. Taking all these matters into account, in land use planning terms it is the view of this Service applying planning conditions to restrict operations to earlier levels is a practical, proportionate approach in terms of amenity considerations which strikes an acceptable balance between the competing needs here. Should the applicants feel aggrieved by the restriction in operating days then they do of course have recourse to the appeals system and similarly for residents, noise nuisance can be controlled by other legislation in any event.
73. On balance therefore approval of the application is recommended subject to appropriate planning conditions which will require to be enforced.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

74. The development does not conflict with this aim as it is well sited visually, and does not adversely affect the natural heritage of the area either. In addition it is not considered to affect the cultural heritage of the area as it does not impinge on, or harm, the standing stones in the wider area.

Promote Sustainable Use of Natural Resources

75. The application does not directly relate to this aim as it does not use natural resources other than the clays and shot used. The clays are biodegradable so do not conflict with this aim and as the site is well located in relation to the applicants' business at Craggan Outdoors to the north, traffic movements are minimised making the location a generally sustainable one.

Promote Understanding and Enjoyment of the Area

76. The development could have some potential to support this aim by offering opportunities to provide information to visitors on the attractions and qualities of the National Park, and by encourage more people to appreciate the area through providing enhanced visitor attractions for Craggan Outdoors' operations. However it detracts from the enjoyment of the area for existing residents at Balliefurth as a result of noise nuisance and therefore conflicts with this aim unless appropriate safeguards can be put in place to reduce nuisance.

Promote Sustainable Economic and Social Development of the Area

77. The development supports this aim in relation to the applicants' business in that it is an important component of the business enhancing the provision of facilities offered by the business and thus improving the package on offer. This is of wider benefit to the National Park as it provides improved economic opportunities and the potential to attract more visitors to the area with subsequent economic spin offs. However a development which causes noise nuisance could adversely affect economic and social development in relation to

impacts upon residents in the area and also potentially other economic uses such as walkers and fishers unless it is suitably controlled.

RECOMMENDATION

That Members of the Committee support a recommendation to GRANT FULL PLANNING PERMISSION for Commercial clay pigeon shooting in part of woodland (retrospective application) at Lower Gaich Woodland, Dulnain Bridge, subject to the following conditions:

1. The site shall not be used for the development hereby approved on more than 54 separate days in any calendar year and records to demonstrate compliance with this requirement shall be provided to the Cairngorms National Park Authority acting as Planning Authority within 7 days of being requested in writing for such records.

Reason: To minimise loss of amenity and disturbance for residents in the area

2. The site shall not be used for the development hereby approved outwith the following hours: Monday to Saturday 1000 hours to 1600 hours and on Sundays 1300 hours to 1600 hours.

Reason: To minimise loss of amenity and disturbance for residents in the area

3. The development hereby approved shall be operated in accordance with the applicants' supporting statement dated in terms of the use of biodegradable clays and picking up and disposing of used cartridges.

Reason: to ensure there are no adverse environmental impacts.

ADVICE NOTES:

1. It is recommended that in the interests of good practice the developer gives neighbouring residents 24 hours notice (in writing) of shooting days.

Officer Name: Katherine Donnachie

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Date: 24 June 2014

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