
CAIRNGORMS NATIONAL PARK AUTHORITY

Title: REPORT ON CALLED-IN PLANNING APPLICATION

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(PLANNING OFFICER,
DEVELOPMENT MANAGEMENT)**

DEVELOPMENT PROPOSED: Alter the shape of the previously consented grassed camping area and revised the access paths around this. Alter the route and location of the previously consented mountain bike trail. At Badaguish Outdoor Centre Glenmore Lodge Road Glenmore Aviemore (Retrospective Application)

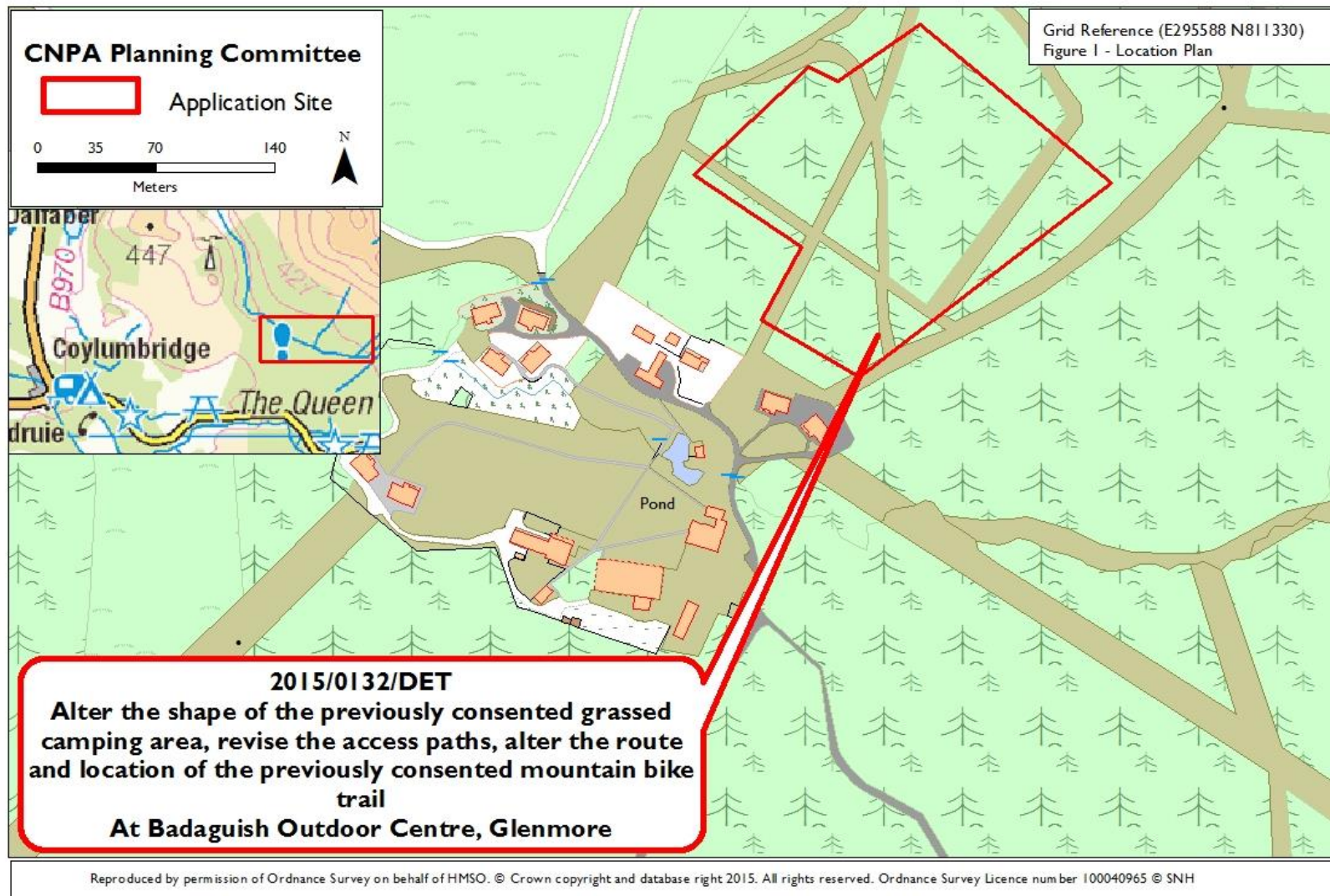
REFERENCE: 2015/0132/DET

APPLICANT: Speyside Trust

DATE CALLED-IN: 11 May 2015

REASON FOR CALLIN: The proposed development is directly related to applications previously determined by the Cairngorms National Park Authority and raises issues of potential significance to the collective aims of the National Park in terms of social and economic well-being, visual impact and enjoyment and understanding of the Park.

RECOMMENDATION: APPROVAL SUBJECT TO CONDITIONS



SITE DESCRIPTION AND DEVELOPMENT PROPOSAL

- I. The drawings and documents associated with this application are listed below and are available on the Cairngorms National Park Authority website unless noted otherwise:

<http://www.eplanningnpa.co.uk/online-applications/#searchApplications>

Title	Drawing Number	Date on Plan	Date Received
Long Term Masterplan – (original approved site layout)	3663-020-Rev B	June 09	
Long Term Masterplan (proposed layout)	3663-030	June 09	
Design and Sustainability Statement by Bracewell Stirling Consultants bike trail and roads and site layout		April 2015	
Location Plan	3663-01 Rev A	May 09	
Supporting statement by Bracewell Stirling		undated	
Aquaterra Ecology Statement entitled Badaguish development Camping and Wigwam Area Ecological Surveys and Impact Assessment Update 2011		May 2011	
Copy of squirrel license- SNH		undated	
Aquaterra Ecological Survey 2009 wigwam and bike trail		undated	
Aquaterra Ecological Survey update 2014 wigwam and bike trail		undated	
Aquaterra Ecological Survey update 2015 wigwam and bike trail		undated	
Tree Planting Schedule (wigwam and bike trail)		undated	
Tree Planting plan original	3663 TR-01 and Rev B	June 2011	
Tree Planting Plan Proposed	3663 TR-01 Rev C	June 15	
Original Topographical Survey General Site Survey by Zenith	100107	10 Oct 2012	
Current Topographical Survey by Bracewell Stirling	3663-02/Cairn Topo	June 15	

Original and current topographical surveys overlaid with section (bike trail) by Bracewell Stirling	3663-02/040	June 15	
New access track Detail by AF Cruden Associates	CA6336 Drawing No 02	13 May 11	
Drainage information by AF Cruden Associates		4 August 2014	
Landscaping plan – tree planting proposals by Keith L Wood	HLD K178.14.SL-01 Rev D	24 June 15	
Landscape Maintenance Schedule by Highland Landscape Design	HLD J178.14	9 September 2014	
Business Statement entitled Application for Planning permission June 2011		undated	
Visitor Management Plan version 5		September 2015	
Explanatory letter from agent Bracewell Stirling		24 June 2015	

Site Description

2. The application site is located at Badaguish, some 6km to the east of Aviemore. This is an established recreational site offering an environmental and outdoor education service for youth and community groups with numerous existing facilities on site (offices, toilet/shower block, lodges, café, play area, paths etc). It takes access off the Glenmore road via a private road and it is situated in a woodland setting. Land to the south of the Badaguish complex is designated as a Special Protection Area, SSSI, and Special Area of Conservation and the entire site lies within the Cairngorms National Scenic Area.
3. The application site was formerly occupied by commercial plantation planting which was felled in 2013, when Forest Enterprise Scotland (formerly Forestry Commission Scotland) were felling on the surrounding land, to accommodate development. The requisite squirrel licenses were obtained in order to proceed with this felling. **Figure 2** shows an aerial photograph of the site prior to clear felling.



Figure 2: Aerial photograph of area prior to development

Development Proposal

4. This application proposes to alter the approved layout of a wigwam, camping and mountain bike trail site at Badaguish by Aviemore. The works have commenced and are well on the way to completion with the bike trail formed and wigwams in situ.
5. Planning consent was originally granted in 2011 (2011/0206/DET) for the erection of 35 wooden wigwams, on site activity area, canvas tent area and mountain bike trail at Badaguish as shown in **Figure 3**.



Figure 3: Approved Layout Plan 2011/0206/DET

6. The overall proposal was to provide an all-weather camping facility for organised youth and community groups using the Badaguish site together with a free bike facility. This was understood to be the final phase of European and Scottish Government funded development plan for Badaguish Centre as a centre of excellence for equal opportunity access to outdoor learning, training and employment opportunities in the National Park. The Speyside Trust is the lead partner and has operated for 30 years. They are a registered charity whose objectives are the promotion of equal opportunity for disabled people to enjoy the Speyside countryside, providing specialist care and training services. This work is partly funded by the operation of the Badaguish Centre.
7. As noted above, work commenced on tree felling to facilitate this development in 2013. Further works began on the formation of bike tracks and siting of bases for wigwams in 2014 when it was noted that the works were not in accordance with the approved plans; hence the submission of the current application and the next application on the agenda.
8. The layout as now proposed is shown in **Figure 4**. An application to change the position and layout of the wigwams is the subject of the next item on the agenda (2015/0133/DET). Submitting the applications as two individual cases has meant that the development does not constitute a “major” development as set out in the Scottish Government’s hierarchy of new developments.

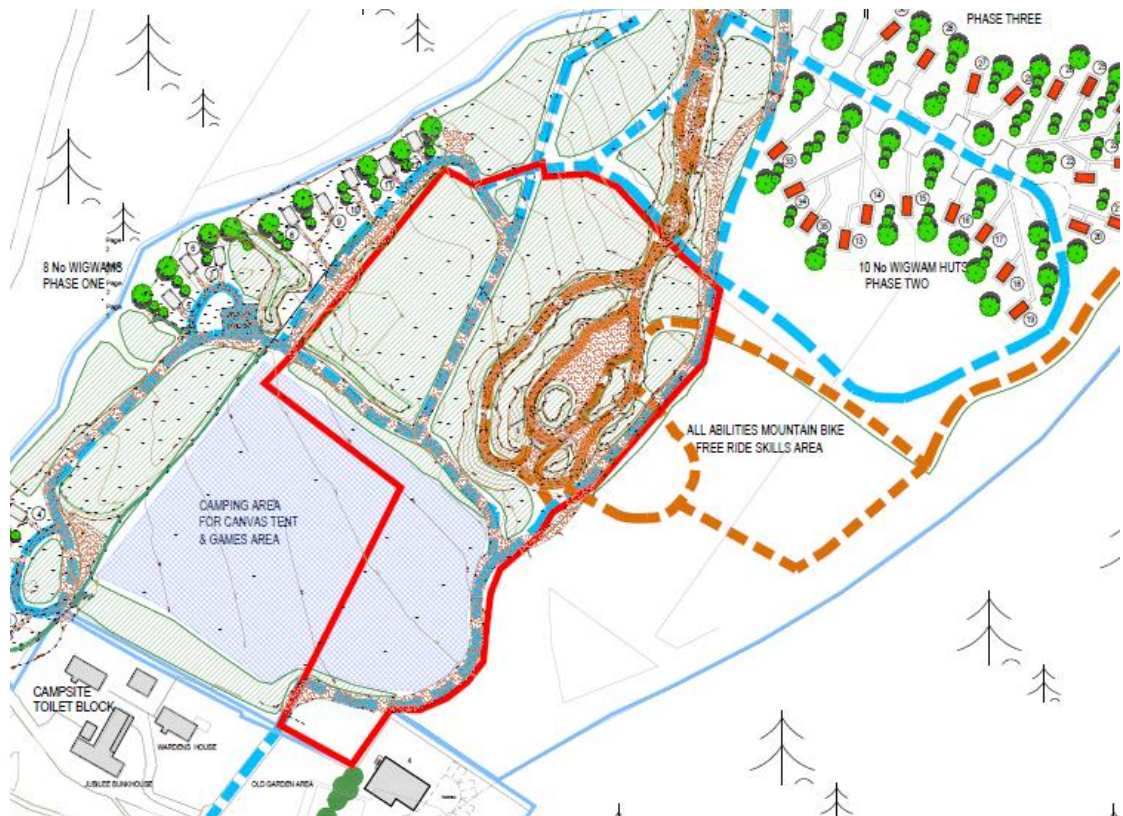


Figure 4: Proposed layout

9. The main changes may be summarised as follows:
 - a) Reconfiguration of main access track leading northwards through the site
 - b) Mountain bike trail layout altered to provide more complex layout concentrated in northern part of site and extending further north
 - c) Minor changes to configuration of tented camping area
 - d) Relocation of wooden wigwams from part of central area of site further westward. The next item on the agenda covers the relocated positions of wigwams. The wigwams sleep up to four persons and include biomass heating which make them suitable for year round use
 - e) Changes to landscaping proposals to reflect removal of commercial planting and new planting proposals
10. It is understood from the applicants agent's supporting submission that these changes were sought in order to make better use of existing topography and to minimise earthworks; the topography being revealed once felling took place. The applicants' agents have set out why work started on site in a supporting letter dated 24 June 2015. This related to concern that the applicants would lose funding for their development if they did not proceed, with reference being made to the applicant's attempts to try and clarify the planning history and way forward. The history referred to in this letter is set out later in this report.
11. Supporting information has been provided with the application, with some additional information provided during the consideration of the application in response to requests for further information. Key elements are as follows:

- a) Design and sustainability statement which explains the proposed construction with bike tracks to be 2 metres wide and main access tracks 4 metres wide compacted with aggregate and quarry dust finishes as appropriate
- b) The ecology surveys carried out with the original 2011 application were provided, with updated statements highlighting that proposed mitigation for any impacts on ecology include habitat enhancement by tree planting of native species with open areas and glades providing more varied habitat for invertebrates as opposed to the original sitka spruce cover here. Areas of undisturbed brash to be retained to provide enhanced invertebrate habitat. This information explains that a survey for red squirrels was carried out in 2012 by the Forestry and a revised assessment provided for the license application in 2013
- c) Existing and proposed topographical surveys. Clarification has been provided that tree stumps from previous felling are used in the construction of the ramped areas etc.
- d) Confirmation that disabled parking provision is provided within the main car park and that all paths are accessible with a drop off area identified in the lower part of the wigwam area
- e) Drainage information from the original application has been provided and the applicants have confirmed that the capacity (number of units and bedspaces) is the same as with the original 2011 consent
- f) Landscape Plan for the entire site including land outlined in blue, which is under the applicant's control. This effectively covers the current application site, the application which is the subject of the next item on the agenda and the remaining land which is covered by earlier consents. The proposed landscaping is a mixture of planting of native species and natural regeneration to form structure planting around the developed areas, with grassed areas with woodland/wildflower seed mix and individual tree planting within the developed areas. Planting is also proposed within the bike trail area. A maintenance regime document has also been provided covering future maintenance and protection and the plan confirms that structure planting will be carried out in the next available planting season (November 2015 to March 2016) with planting around wigwams provided in first planting season following installation. (see **Figure 5** later for the landscape layout)
- g) Business statement which sets out the original need and case for the overall proposal at Badaguish. This explains how the development would provide for improved budget accommodation, with a pilot project for ten wigwams at Badaguish proving very popular. The economic impacts of the Badaguish centre were quantified with information provided that the centre employs 15 staff directly and that it has supported other employment through construction works on site
- h) Visitor Management Plan which has been developed following ongoing discussion with Scottish Natural Heritage (SNH). This plan sets out how visitors will be managed in way to complement the aims of Badaguish to provide a sheltered and supportive setting. It explains that the main purpose of Badaguish is to provide a central residential base for off-site activities and attractions in the surrounding area, with some exceptions as follows: (1) disabled respite care visitors who require staff with skills and training and spend more time at the centre (2) larger organised events which utilize trails in surrounding area and which are the subject of consultation with Forest

Enterprise Scotland who own the surrounding land, and (3) limited use of facilities by day groups arranged by pre booking or membership scheme. Projected annual visitor numbers are around 13,000, with 5,300 being related to wigwam camping. The plan outlines how these visitors will be managed in order to minimise any environmental disturbance e.g. encouraging visitors to keep to designated paths and trails, preventing creation of informal new trails, and ensuring dogs are controlled (with no dogs permitted in the wigwams) This will be achieved through provision of information, signage and monitoring as well as landscaping to provide screening and to discourage visitors to attempt to access surrounding area. Ongoing liaison will continue with Forest Enterprise Scotland and outdoor activity providers in order to manage visitors by offering positive information and guidance. Forest Enterprise Scotland has confirmed they are signed up to the principles of this plan.

12. The landscape scheme showing the areas to be landscaped across the entire site is detailed in **Figure 5**.



Figure 5: Proposed Landscape Plan

13. There are no proposals for water and drainage connections to the wigwams. The existing facilities on site will be used. Servicing will also be as existing, with access taken via the existing road, and the existing foul drainage arrangements of disposal to existing private treatment plant which is monitored by SEPA. Surface

water from the wooden wigwams will discharge to the grass around the individual sites in the same way as canvas tents operate.

Site History – Planning Applications

14. There is a lengthy planning history at Badaguish. Since 2003 there have been numerous planning applications approved for various developments including chalets, accommodation lodges, shower block, footpaths, antennae and conversion of bothy to form coffee shop and restaurant.
15. More recently, temporary planning consent was granted in 2010 by the CNPA Planning Committee for the siting of ten wigwams on a grassed area to the south of the current application sites. An application to extend this time period to the end of 2014 was approved in 2012 (2012/0107/DET) and this consent has now expired although the wigwams remain in place. This breach is currently being investigated separately to these applications as it falls outside the defined red line application sites. An application for the formation of walk/cycle way adjacent to the access road to the site, passing places and additional car parking was also approved in 2009 and these works have now been constructed.
16. Of specific relevance to the current proposals is application 2011/0206/DET. This application for the erection of 35 wooden wigwams, on site activity area/canvas tent area and mountain bike free ride trail was approved in November 2011 by the CNPA Planning Committee. The consent was issued on 20 January 2012 following payment of developer obligations. This was the original consent which established the wigwam, camping and bike trail use at Badaguish and it remains live. The current application(s) involve changes to the layout approved under the terms of this 2011 consent.
17. Related to the above consent is application 2013/0096/DET. This application was submitted in March 2013 under Section 42 of the planning act and sought to vary condition 3 of the earlier 2011 consent in order to allow work to start on site without complying with condition 3. This condition required the footpath alongside the access road, passing places and car parking to be completed before work started. It was approved at the June 2013 meeting of the CNPA Planning Committee. Revised wording was agreed to allow work to start but that none of the facilities approved by the 2011 consent (wigwams, bike trail, camping site) were permitted to be brought into use until these access/footpath works were completed. The footpath, passing places and car parking have been provided, as previously noted.

Site History - Enforcement

18. In October 2013 the applicants' agent advised the CNPA that tree felling was to commence on site and at this time the Monitoring and Enforcement Officer (MEO) highlighted that information was required in order to comply with suspensive planning conditions. No information was received to fulfil these conditions. In May 2014 the applicant's agent contacted the CNPA regarding the potential to change the approved positioning of wigwams and was advised on

the basis of the limited information submitted that this would require submission of a new planning application.

19. In August 2014 it was noted that work had commenced on site and on investigating this situation the MEO noted that the works did not appear to be in accordance with the approved plans, nor had material required to fulfil suspensive planning conditions been submitted. Ongoing discussions took place with the applicants and their agent with a view to resolving this situation and material was submitted to try to address the conditions. However, given that the suspensive conditions could not be signed off formally due to the commencement of works, confirmation of acceptability of the information submitted was effectively in the form of a letter of comfort. It was also noted that not all of the conditions could be addressed at that stage as works were not in accordance with the approved plan. Accordingly, the applicants were advised to submit a fresh application for consideration to cover all of the unauthorised works and the entire site.
20. As no fresh application was forthcoming, a Section 33 (a) Notice (in relation to the 1997 Planning Act) was served upon the applicants on 30 April 2015 requiring the situation to be regularised either by:
 - 1) Reinstating the land back to the requirements of the approved plans and conditions of either application 2011/0206/DET or 2013/0096/DET and carrying out the actions required by the various planning conditions of these consents or;
 - 2) Submitting a planning application for the unauthorised works that have been undertaken and not as per planning applications 2011/0206/DET or 2013/0096/DET. It was stated in the notice that the application would be a major application under the Scottish Government's hierarchy of developments and as such would require pre-application consultation with the community.
21. The time period for compliance was 120 days from service of the notice and this led to the current applications being submitted in May 2015. The two applications, whilst not covering the entire application site, cover the areas which are not in accordance with the original 2011 consent.

DEVELOPMENT PLAN CONTEXT

National Policy

22. **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.

23. The SPP sits alongside four other Scottish Government planning policy documents:
- 1) 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;
 - 2) Creating Places, the policy statement on architecture and place, containing the Scottish Government's policies and guidance on the importance of architecture and design;
 - 3) 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
 - 4) Circulars, which contain policy on the implementation of legislation or procedures.
24. Scottish Planning policy introduces a presumption in favour of development that contributes to sustainable development. It also highlights that the planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term.
25. Enforcement Advice from Scottish Government is set out in **Planning Circular 10/2009: Planning Enforcement and the 'Planning Enforcement Charter - A guide to enforcing planning controls'**. Guidance on enforcement charters explains that a breach of planning control is not a criminal offence. The purpose of planning enforcement is to resolve the problem rather than to punish the mistake. In addition, any action taken has to be appropriate and proportionate to the scale of the breach.

Strategic Policies

Cairngorms National Park Partnership Plan (2012-2017)

26. The Cairngorms National Park Plan sets out the vision and overarching strategy for managing the Park and provides focus and priorities at a time of limited financial resources. The Plan also provides a strategic context for the Local Development Plan and shows how the four aims of the National Park can be achieved together. It sets out the strategic direction and priorities for the Park.
27. Three long term outcomes for the Park are set out as follows:
- a) A sustainable economy supporting thriving businesses and communities;
 - b) A special place for people and nature with natural and cultural heritage enhanced; and
 - c) People enjoying the park through outstanding visitor and learning experiences.

These outcomes address the interaction of the three main characteristics of the National Park these being that the Park is an internationally important area for

nature conservation; a fragile rural economy, and an internationally known tourism destination. Recognising the relationship of these outcomes is at the heart of the National Park. A series of work programmes to help deliver the outcomes is set out in the Plan.

28. Also of particular relevance 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. Furthermore, Policies 2.4 and 2.5 seek to conserve and enhance habitat quality and connectivity and the species for which the National Park is most important.

Local Plan Policy

Cairngorms National Park Local Development Plan (2015)

29. All new development proposals require to be assessed in relation to policies contained in the adopted Local Development Plan. The full wording of policies can be found at: <http://cairngorms.co.uk/park-authority/planning/local-development-plan>. Key policies relevant to the proposed development are summarised below:
30. *Policy 2: Supporting Economic Growth - Policy 2.2 Tourism and Leisure development* seeks to support development which enhances formal and informal recreation facilities; tourism and leisure based business activities and attractions; tourism and leisure related infrastructure including accommodation; and improved opportunities for responsible outdoor access where there is no adverse environmental impacts on the site or the neighbouring areas, and it makes a positive contribution to the experience of visitors and adds to or extends the tourist season.
31. *Policy 3: Sustainable Design* sets out that all new development should be sympathetic to the character of the area and use materials and landscaping that will complement the setting of the development, makes sustainable use of resources; improve to or add to existing public or amenity open space; be appropriately accessed, create opportunities to further biodiversity, protect amenity of neighbours as well as promoting sustainable transport methods and reducing the need to travel.
32. *Policy 4: Natural Heritage* seeks to ensure that the outstanding natural heritage of the Cairngorms National Park is conserved and enhanced. Specifically *Policy 4.1* seeks to ensure that development which is likely to have a significant effect on a Natura 2000 site demonstrates that there will be no adverse effect on the integrity of the site.
33. *Policy 5: Landscape* states that there will be a presumption against any development that does not conserve and enhance the landscape character and special qualities of the Cairngorms National Park, and seeks to ensure that any adverse effects are minimised and mitigated through appropriate siting, landscaping and design.

34. Policy 8: Sport and Recreation provides support for developments of sport and recreation facilities subject to best practise in design and no adverse impacts, as well as maintaining and maximising opportunities to link into existing path network.
35. Policy 10: Resources seeks to reduce consumption of resources. Specifically *Policies 10.1 and 10.2* seek to ensure that surface water is appropriately treated, and that development is free from risk of flooding

Supplementary Guidance

36. Supplementary Guidance has been recently approved by the CNPA. In this case guidance relating to natural heritage (statutory supplementary planning guidance) and landscape (non-statutory planning guidance) are material planning considerations.

Other Relevant Material/Guidance

37. **The Cairngorms National Park Planning Enforcement Charter** sets out how the CNPA approaches enforcement in the National Park and is based upon Scottish Government guidance (as outlined in paragraph 25 of this report). It explains that the CNPA has statutory powers to investigate breaches of planning control and to take formal action where a satisfactory outcome cannot be achieved by negotiation. The purpose of planning enforcement is to resolve the problem rather than punish the mistake and any action taken has to be appropriate to the scale of the breach. It highlights that enforcement is a discretionary power and that the CNPA must consider if it is in the public interest to take enforcement action. Therefore even if a breach occurs, if it does not cause significant harm then no action can be taken. Furthermore, when considering whether to take formal action, one assessment is whether the works would be granted planning permission when assessed against planning policy and other material considerations.
38. **Capercaillie Framework** The Cairngorms National Park is now the remaining stronghold for capercaillie, with at least 80% of the national population located here. The Capercaillie population is in decline, and the CNPA has led on the development of a Capercaillie Framework with guidance from a team comprising the Royal Society for the Protection of Birds), Scottish Natural Heritage, Forestry Enterprise Scotland, SportScotland, Seafeld Estates and Game and Wildlife Conservation Trust. The main purpose of the Capercaillie Framework is to better co-ordinate management for habitat, recreation and development at a landscape scale, to best effect for capercaillie conservation. This project is now in phase 2, where delivery of the recommendations put forward from the initial work is under way.
39. **Glenmore and Cairngorm Strategy** In 2014 the CNPA, Highlands and Islands Enterprise, SNH, Forest Enterprise Scotland, and The Highland Council formed a partnership to develop a long term strategy for management of this important area of publicly owned land in order to; enhance the visitor experience to match the quality of environment, enhance habitat and species

conservation on a landscape scale, support and enhance the regional economy, and create outdoor learning opportunities for all. The draft strategy has been developed through partner, business and community stakeholder engagement and formal public consultation on the strategy is scheduled to begin in late 2015.

CONSULTATIONS

40. **Scottish Natural Heritage** are required to advise on any implications for Natura sites, Sites of Special Scientific Interest, and National Nature Reserves, and in this respect they note that the development is close to the Cairngorms Special Area of Conservation (SAC) and the Cairngorms Special Protection Area (SPA) which is classified for its capercaillie interest. The status of these sites means that the “Habitats Regulations” apply whereby the CNPA is required to consider the effects of the proposal before the development could be consented (Habitats Regulations Appraisal).
41. SNH considered that the development is likely to have a significant effect on the capercaillie interests of the Cairngorms SPA whereby the Cairngorms National Park Authority is required to carry out an Appropriate Assessment in view of the site’s conservation objectives for its qualifying interest. They further advised that in their view, based on the information provided, the proposal will not adversely affect the integrity of the site.
42. Their appraisal considered the impact of the proposals with regard to disturbance to breeding capercaillie caused by recreational users from the Badaguish centre. They assessed the detail contained within the applicants’ Visitor Management Plan and concluded that the development proposal will not adversely affect the integrity of the site for the qualifying interest.
43. **Scottish Environment Protection Agency (SEPA)** have no objections simply noting that the developer should ensure that there is no direct run off from the site paths and mountain bike trails to any watercourses.
44. **CNPA Ecology Advisor** has considered the impacts on ecology and habitat interests and notes that the site has been completely clear felled as part of ongoing forestry works and there are no further species constraints. It is not considered that the re-location of wigwams, grassed areas and bike trail will impact upon the existing ecology of the site and the ecology updates confirm this. It is considered that the revised landscape plans are satisfactory and that over time these will create a variety of woodland and grassland habitat types which will benefit a range of different bird, mammal and invertebrate species.
45. Following on from the above advice from SNH in relation to impacts upon the Cairngorms SPA, the Heritage Team undertook a Habitat Appraisals Assessment which is attached as **Appendix I**. This screened the likely significant effects of the development and also considered any in combination effects. Likely significant effects were found in relation to the Cairngorms SPA in terms of potential impacts upon capercaillie. Consequently an Appropriate Assessment (AA) was undertaken to assess the implications for the conservation objectives of the SPA. The Appropriate Assessment concluded that with the measures

outlined in the Visitor Management Plan there will be no adverse effects on the conservation objectives of the SPA.

46. **CNPA Outdoor Access Team** note that the bike trail development offers an increase in built facility and fits well with the Developing Mountain Biking in Scotland Framework. It also accords with Active Cairngorms. They further note that the area surrounding the application site is a sensitive area for capercaillie, and whilst the evidence of disturbance to capercaillie from mountain biking is not substantiated it is important that steps are taken to encourage responsible riding to reduce risk of disturbance. They conclude that they are supportive of the development subject to an appropriate visitor management plan being in place to promote responsible riding and which also sets out how non-residents will be managed.
47. The visitor management plan has been assessed and it is considered that adequate steps are being taken through on site signs and briefings to highlight the risk of disturbance to capercaillie, and to encourage responsible riding in conjunction with the surrounding land owner.
48. **CNPA Landscape Advisor** notes that the Badaguish Centre is located within a managed forest environment on a site largely hidden in the wider views of the Glenmore area. However, with the implementation of the Forest Design Plan and areas of clear fell, at times it may be visible from elevated locations to the north. It is considered that the altered location of bike track and wigwams will make little difference to the impacts on the experience of the special qualities of the National Park by users of the centre or upon the local landscape character. Instead it is the way in which the landscape around the altered infrastructure is laid out and managed that is the key to maintaining and enhancing landscape character.
49. The Advisor considers that the landscape scheme demonstrates that this has been adequately considered and concludes that the conservation and enhancement of landscape character and creation of a robust landscape can be achieved in the longer term. Minor suggestions made by the advisor are now satisfactorily incorporated in a revised landscape scheme.
50. **CNPA Economic Development Manager** has no additional comments given that the application is simply repositioning wigwams etc. within the previously consented site. With the original 2011 application the Economic Development Officer considered the proposals would add to the bed offering on site and within the wider area, had potential to attract new visitors to the area and encourage longer stays or stays outside the traditional summer camping season, thereby adding to the visitor offering on site and in the wider area.
51. **Aviemore and Vicinity Community Council** have no comments.
52. **Inclusive Cairngorms** have no comments.

REPRESENTATIONS

53. No representations have been received within the timescales set out for responses to be submitted. However, two representations were received outwith this timescale and any material considerations raised within these have already been considered during assessment of the application.

APPRAISAL

Principle

54. The principle of recreational development at Badaguish is well established and fits well with the existing activities on site. Of note here is the fact that there is an existing live consent from 2011 for 35 wigwams on this site along with camping area and mountain bike tracks. As such the key issue to be considered with this application is whether the changes now proposed are in accordance with the policies of the current Local Development Plan, which has been adopted since the original 2011 application was approved. In this regard it is also worth noting that Policy 2.2 Tourism and Leisure Development continues to offer strong support for the principle of this type of development subject to satisfying other planning policies on landscape, heritage and servicing. Policy 8 Sport and Recreation also supports the provision of such facilities.
55. It is also important to note that the fact that the works commenced in advance of planning consent being sought and have continued on site during consideration of the application should have no bearing upon the consideration of this application. The Planning Authority is required to consider all applications on their planning merits, and Scottish Government advice makes it clear that the planning enforcement system is not to be used for punitive purposes. Consequently whilst there is an extremely disappointing history of breaches of planning control at this site this is not a material planning consideration. The acceptability or otherwise of the development is the issue for consideration.

Relationship to Existing Consent and Enforcement Notice

56. As noted earlier there is a complicated planning history to this site with various breaches of planning control, including this development itself which is retrospective. Ongoing monitoring of the site is particularly important in order to ensure compliance with any planning conditions which may be necessary to ensure that the development is compliant with Local Development Plan policies.
57. Also in respect of enforcement to date, the Section 33 (a) notice which was served upon the applicants required submission of a planning application to cover unauthorised works or reinstatement of unauthorised works. This application together with the next item on the agenda seeks to address the terms of the notice. Whilst a single application for the entire site has not been submitted as recommended in the notice, which would have provided one single up to date consent for the entire site, this is again not a reason to refuse the application. The previous recommendation for a fresh planning application

covering the whole of the site was made due to a concern that the original 2011 consent may not have been formally implemented due to a failure to address all suspensive conditions. Further analysis of the situation has now satisfied officers and legal representatives that the consent has been implemented. The current submission(s) cover the unauthorised works and as such do provide an adequate mechanism to regularise the developments and bring them all under planning control.

58. In this regard, the relationship to the 2011 consent, which remains live, is important. The 2011 consent together with this application and the next one on the agenda will cover all of the wigwam/bike trail/camping site. It is therefore important to ensure that in implementing all of these consents there is no possibility of more than 35 wigwams in total being installed on the site. A planning condition can readily be attached to achieve this objective together with a condition to ensure that the landscape scheme is also implemented which will secure landscaping on areas previously identified for wigwam development. Planning conditions which were applied to the 2011 consent can be re-applied to this application as appropriate such as maintaining visibility splays at the access junction onto the public road.
59. On this basis, subject to the assessment of the key planning issues, it is considered that the proposed development will help to achieve satisfactory regularisation of the works at Badaguish.

Servicing

60. There are no changes to the servicing arrangements for this site and the mountain bike trail will not alter drainage arrangements, with surface water to be disposed of on site. The overall load on the foul sewage treatment plant, which is currently operating to the satisfaction of SEPA, will not alter as a result of the development as compared to the 2011 consent, with no new foul drainage facilities proposed in relation to the new wigwams. Access to the site remains unchanged. Waste management provision will also be as per the existing arrangements with a refuse and recycling collection point located beside the toilet/shower block.
61. With regard to access for disabled persons, this group are a key customer of the applicant's business and it is noted that Inclusive Cairngorms have no comments to make. It is also noted that wheelchair access pathways are annotated throughout the development site.
62. Accordingly the development is considered to comply with Policy 3 Sustainable Development and Policy 10 Resources in respect of ensuring that new development is satisfactorily serviced.

Landscape Impact

63. The development is located within the existing consented site at Badaguish and the landscape impacts are comparable to those of the existing consent, largely limited to the immediate environs with the changes relating to revisions to

provide a more complex bike trail facility in the centre of this extension site. These facilities will relate well in landscape terms to the existing complex at Badaguish.

64. The submitted landscape scheme details how a good setting for the development will be provided over time, with areas of structure and internal planting of suitable species and layout now proposed. This planting will cover the entire site and will again, over time, improve on the present appearance of a clear felled site.
65. The development is therefore considered to comply with Policy 5 Landscape subject to conditions being imposed to ensure that the landscape plan is implemented swiftly, particularly given the retrospective nature of the development. The applicants have indicated on the landscape scheme their intention to carry out the structure planting in the 2015 - Spring 2016 planting season and conditions can be imposed to this effect in the event of the application being supported.

Environmental Impacts

66. In terms of habitat enhancement, the landscape plan achieves the objectives of Policy 4 on Natural Heritage by creating over time improved habitat for a wider range of species as noted by the CNPA Ecology Advisor. Again planning conditions can be imposed to ensure delivery of this scheme.
67. The key potential environmental impact relates to any impacts upon the Cairngorms Special Protection Area (SPA) in terms of any impacts upon capercaillie in the SPA. As noted elsewhere in this report it is necessary to fully consider these impacts whilst of course bearing in mind the existing live consent. However the current application(s) provide an opportunity to fully and comprehensively consider any impacts in the context of the Habitats Regulation Assessment and appropriate assessment (**Appendix I**) which has now been undertaken by the Heritage Team. This concludes that any potential impacts may be satisfactorily mitigated by the implementation of a robust visitor management plan as now provided by the applicants.
68. Whilst a Visitor Management Plan was agreed under the terms and conditions of the 2011 consent, that plan is not as robust and detailed as the present proposal which provides a better context and monitoring regime, and takes account of current understanding of capercaillie. Accordingly it is considered that the current application(s) now provides the opportunity to ensure there are no adverse impacts upon NATURA interests and readily complies with Local Development Plan Policy 4 Natural Heritage. It is important to ensure that this is effectively implemented and the fact that Forest Enterprise Scotland, a key partner in managing visitors here, are signed up to the principles of the Plan gives further confidence that this will be achieved.

CONCLUSION

69. It is considered that this development, which seeks to change the configuration of a previously approved mountain bike trail and camp site at Badaguish, complies with Local Development Plan policies. Conditions can be imposed to ensure that this remains the case. The changes proposed, and indeed largely carried out, are acceptable in planning terms and over time the application will help secure a better level of planning control at this site in terms of key issues such as landscaping and visitor management. In these circumstances approval is recommended subject to those appropriate planning conditions.

IMPLICATIONS FOR THE AIMS OF THE NATIONAL PARK

Conserve and Enhance the Natural and Cultural Heritage of the Area

70. The proposed development supports this aim, by providing satisfactory mitigation for environmental impacts, making provision for native planting to enhance biodiversity and providing a robust visitor management plan to help manage impacts on wider environmental interests.

Promote Sustainable Use of Natural Resources

71. The proposed development supports this aim, making use of on-site materials in construction and using timber in construction of new structures.

Promote Understanding and Enjoyment of the Area

72. The proposed development readily supports this aim, providing enhanced visitor and recreational facilities within the National Park to enable people to visit, enjoy and stay in the area, whilst the visitor management plan makes provision to promote understanding of the area.

Promote Sustainable Economic and Social Development of the Area

73. The proposed development readily supports this aim by enhancing the facilities at an established recreational facility which makes provision for all abilities use and supports inclusion in outdoor activities.

RECOMMENDATION

That Members of the Committee support a recommendation to GRANT FULL PLANNING PERMISSION to alter the shape of the previously consented grassed camping area and revised the access paths around this and alter the route and location of the previously consented mountain bike trail at Badaguish Outdoor Centre Glenmore Lodge Road Glenmore Aviemore subject to the following planning conditions:

1. No more than 35 wigwams shall be located on the entire site (as outlined in blue on the approved Drawing No. HLD K178 .14 SL-01 Revision D) at any time.

Reason: To ensure the development is controlled to that applied for and considered, as landscape and environmental impacts have been considered in relation to a total of 35 wigwams to ensure compliance with Local Development Plan Policy 4 Natural Heritage, Policy 5 Landscape and Policy 10 Resources.

2. The landscape proposals shall be implemented in strict accordance with the approved landscape scheme (drawing no. HLD K178 .14 SL-01 Revision D) in the planting season November 2015 to March 2016 in relation to the woodland and structure planting with individual tree planting and seeding around wigwams to be implemented in accordance with the approved landscape scheme in the first planting season following installation of the wigwams. The landscape scheme shall thereafter be maintained in accordance with the approved maintenance regime by Highland Landscape Design dated 09/09/15 document number HLD K178.14.

Reason: To ensure the development conserves and enhances the natural heritage and landscape character of the area, and complies with Local Development Plan Policy 3 Sustainable Design, Policy 4 Natural Heritage and Policy 5 Landscape.

3. The development hereby approved shall be operated in strict accordance with the approved Visitor Management Plan Version 5 dated October 2015, with signage installed in accordance with this plan within six months of the date of this consent. Ongoing monitoring shall be undertaken in accordance with the recommendations of the approved Visitor Management Plan throughout the lifetime of the development hereby approved. The results of monitoring (together with details of any mitigation carried out) shall be submitted on an annual basis to the Cairngorms National Park Authority acting as Planning Authority, starting from January 2017 (and then every January thereafter).

Reason: To ensure the development conserves and enhances the natural heritage of the area and does not adversely affect the Cairngorms Special Protection Area in terms of impacts upon capercaillie from the users of the site, and complies with Local Development Plan Policy 4 Natural Heritage.

4. The development shall be constructed in strict accordance with the approved plans, finishes and sections.

Reason: To ensure the development fits in to the area, conserves and enhances the landscape character and complies with Local Development Plan Policy 3 Sustainable Design and Policy 5 Landscape.

5. Visibility splays measuring 2.4 metres by 120 metres shall be kept free from obstruction at the junction of the access road onto the public road throughout the lifetime of the development.

Reason: To ensure that safe access is maintained to the site in accordance with Local Development Plan Policy 3 Sustainable Design.

Informative

- I. The Cairngorms National Park Authority recommends that the opportunity be taken to provide educational and interpretive materials to the users of the site regarding the special qualities of the National Park. CNPA staff would be happy to work with the developer on this and suggest contact be made to our Grantown Office (telephone 01479 873535) for further advice and provision of materials.

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Date: 29 October 2015

The map on the first page of this report has been produced to aid in the statutory process of dealing with planning applications. The map is to help identify the site and its surroundings and to aid Planning Officers, Committee Members and the Public in the determination of the proposal. Maps shown in the Planning Committee Report can only be used for the purposes of the Planning Committee. Any other use risks infringing Crown Copyright and may lead to prosecution or civil proceedings. Maps produced within this Planning Committee Report can only be reproduced with the express permission of the Cairngorms National Park Authority and other Copyright holders. This permission must be granted in advance.