

**CAIRNGORMS NATIONAL PARK AUTHORITY**

---

**DEVELOPMENT PROPOSED:**

Change of use of land to beer garden (in retrospect) at Land 45M SE  
Of Old Bridge Inn 23 Dalfaber Road Aviemore

**REFERENCE:** 2023/0399/DET

**APPLICANT:** Mr Owen Caldwell

**DATE CALLED-IN:** 23 October 2023

**RECOMMENDATION:** APPROVE subject to conditions

**CASE OFFICER:** Katie Crerar, Planning Officer

---



© Crown copyright and database rights 2024. Ordnance Survey Licence number 100040965

## SITE DESCRIPTION, PROPOSAL AND HISTORY

### Site Description

1. The development site comprises a small area of cleared ground located between Dalfaber Road (adjacent to the Old Bridge Inn, Aviemore) and the River Spey.
2. The site has limited vegetation due to existing use but is contained by woodland to the north and south, the existing road (Dalfaber Road) to the west and the River Spey to the east.
3. The site is used informally as a car park, picnic area and is a launch point for people and groups using the River Spey for canoeing, kayaking and other uses. There is also a core path (LBS137) running through the site.

### Proposal

4. 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.eplanningcnpa.co.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=S2H06USI0CP00>

Title	Drawing Number	Date on Plan*	Date Received
Plan - Location Plan		21/04/2023	20/10/2023
Plan – Site Layout Plan (1:1000)	100	01/09/2023*	20/10/2023
Plan – Site Layout Plan (1:200)	101	01/09/2023*	24/01/2024
Plan - Plans and Elevations	102	01/09/2023*	20/10/2024
Other - Supporting Statement		01/11/2023	01/11/2023
Other - Access Statement		01/02/2024*	08/02/2024

\*Where no specific day of month has been provided on the plan, the system defaults to the 1<sup>st</sup> of the month.

5. This proposal seeks partial retrospective planning permission for the creation of a seasonal beer garden forming part of the Old Bridge Inn Restaurant. It will comprise the erection of a 6 x 10.5m grey coloured stretch tent which will house a timber bar. The tent will be open around the sides with the canvas roof supported by 12 poles (**See Site Plans and elevations**).

6. In addition to the tent, there will be picnic benches distributed around the site for customers to sit at.
7. The site has been used in this way for over the last year or so, and this planning application seeks to formalise this use. As noted, the development site provides access to a launch point on the River Spey which is also part of a core path.
8. An Access Statement (**Appendix 2**) has been provided with the application which confirms that unrestricted pedestrian access will be maintained at all times. In addition, as indicated on the Site Layout Plan (**Appendix 1**), there will be an unmarked vehicular drop off and loading bay provided for both river users and customers to support continued access to the river and this corridor will remain unobstructed by picnic benches at all times.
9. There is no parking proposed on the site when the beer garden is in operation other than maintaining the pickup and drop off access for vehicles. The Old Bridge Inn will maintain its car park to the north west of the site and during the winter months when the beer garden is not in operation, the site will be used for car parking.

## History

10. A planning application for the erection of an outdoor shelter to be used in connection with the existing restaurant at the Old Bridge Inn (20/04604/FUL) immediately adjacent to the site was approved in February 2021 and is now constructed.

## HABITATS REGULATIONS APPRAISAL

11. A Habitats Regulations Appraisal (HRA) has been undertaken to consider the potential effects of the development upon the conservation objectives of the Natura sites listed within the HRA document which is attached as **Appendix 3**. The Natura site in this case is the River Spey Special Area of Conservation (SAC) which is designated for its otter, freshwater pearl mussels (FWPM), sea lamprey and Atlantic salmon interests.
12. The HRA considers that there are no likely significant effects on Atlantic salmon, sea lamprey or FWPM as no excavation or other construction activities are proposed that could lead to the creation of silt or sediment which would pose a threat to these qualifying species or the water quality of the River Spey.

13. In respect of otter, given the current usage of the area i.e. individuals and groups accessing the River Spey for water sports, it is considered likely that any otter using the River Spey at this location will be habituated to noise and light from this location. It is not thought that the change of use, will lead to a significant change in behaviour of otters.

## **DEVELOPMENT PLAN CONTEXT**

### **Policies**

<b>National Policy</b>	National Planning Framework 4 (NPF4) Scotland 2045	
POLICY 1	Tackling the Climate and Nature Crises	
POLICY 2	Climate Mitigation and Adaptation	
POLICY 3	Biodiversity	
POLICY 4	Natural Places	
POLICY 9	Brownfield, Vacant and Derelict Land, and Empty Buildings	
POLICY 13	Sustainable Transport	
POLICY 14	Design, Quality and Place	
POLICY 20	Blue and Green Infrastructure	
POLICY 22	Flood Risk and Water Management	

<b>Strategic Policy</b>	Cairngorms National Park Partnership Plan 2022 – 2027	
<b>Local Plan Policy</b>	Cairngorms National Park Local Development Plan (2021) Those policies relevant to the assessment of this application are marked with a cross	
POLICY 1	NEW HOUSING DEVELOPMENT	
POLICY 2	SUPPORTING ECONOMIC GROWTH	X
POLICY 3	DESIGN AND PLACEMAKING	X
POLICY 4	NATURAL HERITAGE	X
POLICY 5	LANDSCAPE	
POLICY 6	THE SITING AND DESIGN OF DIGITAL COMMUNICATIONS EQUIPMENT	
POLICY 7	RENEWABLE ENERGY	
POLICY 8	OPEN SPACE, SPORT AND RECREATION	
POLICY 9	CULTURAL HERITAGE	
POLICY 10	RESOURCES	X
POLICY 11	DEVELOPER OBLIGATIONS	

14. All new development proposals require to be assessed in relation to policies contained in the adopted Development Plan which comprises National Planning Framework 4 (NPF4) and the Cairngorms National Park Local Development Plan 2021. The full wording of policies can be found at:

<https://www.gov.scot/publications/national-planning-framework-4/documents/>

and at:

<https://cairngorms.co.uk/wp-content/uploads/2021/03/CNPA-LDP-2021-web.pdf>

## **Planning Guidance**

15. Supplementary guidance also forms part of the Local Development Plan and provides more details about how to comply with the policies. Guidance that is relevant to this application is marked with a cross.

Policy 1	Housing Supplementary Guidance	
Policy 2	Supporting Economic Growth Non-Statutory Guidance	X
Policy 3	Design and Placemaking Non-Statutory Guidance	X
Policy 4	Natural Heritage Non-Statutory Guidance	X
Policy 5	Landscape Non-Statutory Guidance	
Policy 7	Renewable Energy Non-Statutory Guidance	
Policy 8	Open Space, Sport and Recreation Non-Statutory Guidance	
Policy 9	Cultural Heritage Non-Statutory Guidance	
Policy 10	Resources Non-Statutory Guidance	X
Policy 11	Developer Obligations Supplementary Guidance	

## **CONSULTATIONS**

16. A summary of the main issues raised by consultees now follows:
17. **SEPA** was consulted as the development lies within an area at risk of flooding. They have no objection to the application on the grounds of flood risk as the use is ancillary to the existing business. They do however recommend in line with section 7 (small-scale street furniture) of the Standing Advice on Flood Risk, that the picnic benches are secured to avoid wash-out.

18. **The Highland Council's Flooding Risk Management Team** was consulted, and also have no objection. Again, they are satisfied that given the beer garden is ancillary to the existing business and does not include any new buildings or hard standing, it would not impede the flow of floodwater or reduce floodplain capacity. They have identified that the applicant will need to have a suitable flood evacuation plan in place to ensure the site can be cleared in a timely manner when flooding is predicted.
19. **The Highland Council's Transport Planning Team** have no concerns that the formalisation of the beer garden will have any adverse impact on Dalfaber Road.
20. **CNPAs Outdoor Access Team** do not object to the proposal. Initial concerns about maintaining access on the site were expressed prior to an Access Statement being provided by the applicant. The Outdoor Access Team are now satisfied that the statement adequately addresses the necessary points, particularly around maintaining provision for vehicles to drop off/unload, along with signage and ensuring a clear corridor through the area for river users.
21. **CNPAs Ecology Advisor** highlights the proximity of the site to the River Spey SAC and SSSI however acknowledges that it is currently used for launching water sports and parking and is therefore subject to frequent disturbance. The application site is disturbed with very little ground vegetation and therefore the potential for impact on species/breeding birds is low. In addition, given there is no proposed construction or excavation, pollution of the River Spey is unlikely however all 'built' elements of the proposal should remain more than 10 metres from the edge of the river. It is suggested that whilst enhancement opportunities are limited, the addition of bird and/or bat boxes may help to enhance the site.
22. **Aviemore Community Council** objects to the proposal. They note that works were undertaken in 2019 to improve the River Spey Access Point (LBS137) and that additional picnic benches have impaired access. They are of the view that the formal change of use will hinder essential access to the Spey and they would like to see clear plans showing how access for river goers and emergency services will be maintained. They do not object to the concept of a beer garden but hope that it can coexist with safe access, up to the bollards by the river. They also express concern relating to the reduction / removal of car parking which is already having issues on Dalfaber Road.

## REPRESENTATIONS

23. The application was advertised and there was a total of 8 representations received – 5 objecting (including the Spey Fisheries Board) and 3 noting more general comments (including the Scottish Canoe Association). A copy of these comments is attached in **Appendix 5**.
24. Key issues raised in the representations are summarised as follows:
- a) River Access - Of particular concern is the impact that the proposal is and will have on people accessing the River Spey Access point which is important for paddle sport and river users as well as being a core path. Most are concerned that the use of this space as a beer garden will make it increasingly difficult to access the river with canoes. The Spey Fisheries Board was of the view that strict conditions should be in place to maintain clear access up to the bollards by the river to allow unloading of canoes. It is also suggested that use of the area closest to the river is discouraged.
  - b) Aims of the National Park – some felt that the proposal does not meet the aims of the National Park.
  - c) Nearly all respondents raised the issue of traffic and parking, and that the proposal will increase traffic and congestion outwith the site and particularly along Dalfaber Road. Two respondents, whilst not objecting to the proposal, highlighted that car access along Dalfaber Road can be difficult especially during busy times and suggested improvements for managing traffic including: restricting use of the proposed beer garden to allow parking at other times on the site; including some parking on the site; putting yellow lines on the road to prevent parking especially on the bed and increase the width of the pavement.
  - d) Flooding – it was raised that items/furniture from the site could be carried downstream.

## APPRAISAL

25. Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the Development Plan i.e. National Planning Framework 4 (NPF) and the adopted Cairngorms National Park Local Development Plan 2021 unless material considerations indicate otherwise. Where there is conflict between policies, NPF4 policies will be used.
26. The main planning issues are considered below:



## Principle

27. This proposal relates to the operation of a small established business, and there is limited reference to this in NPF. Policy 26: Business and industry, part c) states that “Development proposals for business and industry uses will be supported where they are compatible with the primary business function of the area”.
28. In addition, Local Development Plan Policy 2: Supporting Economic Growth, part 2.4 Other economic development sets out that “proposals which support or extend the economy, or which enhance the range and quality of economic opportunities or facilities, will be considered favourably where they have no adverse environmental or amenity impacts on the site or neighbouring areas (a); are compatible/complementary with existing business activity in the area (b); and support the vitality and viability of the local economy (c).
29. The supporting text of Policy 2 recognises food and drink as a key sector within the National Park which is important for the sustainability of the National Parks economy and the policy should encourage opportunities to support, enhance and diversify these key sectors.
30. This proposal seeks to create a seasonal beer garden forming part of the existing established restaurant at The Old Bridge Inn in Aviemore. There is already an outdoor seating area serving the Inn known as ‘The Shelter’ adjacent to the development site and this proposal will more formally create an additional seasonal space and bar to expand the business and increase capacity during the busy summer season.
31. The proposal does not comprise any permanent built development, but it will enhance the offering and capacity of the existing business during the summer season. The development site lies directly opposite the existing Old Bridge Inn and Bunkhouse and immediately north of several holiday lodges and chalets (part of another business).
32. Due to the existing established operation which already has both inside and outside catering/seating, the beer garden will not introduce a new or incompatible use. The area is already a popular location for visitors and residents visiting the Old Bridge Inn and staying in the nearby accommodation as well as canoeists/river users using the Spey Access Point. This already creates a degree of existing disturbance on the site and as such, the proposal would not result in unacceptable additional environmental or amenity impacts.

33. The proposal is also compatible with the existing business activity in its immediate surroundings and will continue to support the vitality of the local economy. Overall, the principle of this proposal complies with NPF4 Policy 26: Business and industry and Policy 2: Economic Development of the Local Development Plan.

### **Access**

34. Policy 3: Design and Placemaking, part 3.3 Sustainable Design requires that all development proposals must “maintain all opportunities for responsible outdoor access, including links into the existing path network and ensuring consistency with the Cairngorms National Park Core Paths Plan” (h).
35. There is a core path running along the northwestern edge of the site (LBS36 – along Dalfaber Road) and another through the site leading to an access point onto the River Spey (LBS137).
36. A number of concerns were raised in the representations about the impact of the proposal on the access point to the River Spey. At the request of CNPA’s Outdoor Access Officer, an Access Statement has been submitted to address the concerns raised and ensure that access via the core path and for river users is always maintained.
37. The Access Statement – which would be approved as part of any planning permission – will ensure that the following provisions are adhered to at all times (amongst others):
- a) “Unrestricted pedestrian access to the River Spey, via our site, will be permitted and promoted at all times. Signage will be erected at the entry point, as well as a clear and permanent statement at [oldbridgeinn.co.uk](http://oldbridgeinn.co.uk) & [Aviemore-bunkhouse.com](http://Aviemore-bunkhouse.com).
  - b) Vehicular access for drop off and unloading will be provided by way of the creation of a loading / drop off point within our site. This will be for both river users and Old Bridge Inn customers and will be permitted for 30 minutes per vehicle/visit. This will be made clear through the installation of signage at the entry point from Dalfaber Road and at [oldbridgeinn.co.uk](http://oldbridgeinn.co.uk) & [Aviemore-bunkhouse.com](http://Aviemore-bunkhouse.com).
  - c) No picnic benches, or any other apparatus, shall be placed outside of the Application boundary (shown in red), keeping the riverbank and river entry point entirely free to be used as intended by the wider community. Please note, at the request of the community council, the Old Bridge Inn voluntarily agreed to forego rights on its previous lease to allow the land owner to create this separate

section that included the riverbank, which could then be leased to the community. We shall continue to encourage this community asset.

- d) A clear pedestrian corridor (notated by the green arrows shown on the plan) no less than 2.5m in width shall be maintained, from the Unloading / Drop-off bay to the river entry point. No picnic benches or other obstacles will be placed here. The staff of the Old Bridge Inn will remain responsible for keeping this clear and will attend to this on a continual basis. This is an unfenced corridor, maximising flexibility of access”.

38. CNPA’s Outdoor Access Officer is satisfied that the Access Statement adequately addresses the key issues affecting access on the site, specifically around the provision for vehicles to drop off / unload, signage and the commitment to provide a clear corridor through the seating area for water users to reach the river.

39. Overall, with the provisions set out in the Access Statement it is considered that this proposal can operate whilst ensuring continued access for members of the public crossing the site and for river users. Therefore, it is considered that the proposal meets the relevant requirements of Policy 3.

### **Traffic and Parking**

40. Policy 3: Design and Placemaking, part 3.3 j) requires proposals to be designed to “include appropriate means of access, egress, levels of private amenity ground and space for off street parking”. Whilst this primarily relates to housing, the principles for ensuring appropriate site access and parking are relevant for all proposals. NPF4 Policy 13: Sustainable Transport also seeks to encourage, promote and facilitate proposals that prioritise active travel.

41. There is an existing established access to the site which will remain unaltered. Many of the public representations raised the issue of parking and traffic along Dalfaber Road which they believe would be compounded due to the loss of parking on the site. It is proposed that during the season when the beer garden is in operation, there would be no parking on the site (other than as set out in the Access Statement for off-loading/ pick-up access to the river access point).

42. According to the representations, Dalfaber Road can get very busy at peak times from the combination of river users, visitors staying in the surrounding accommodation and customers of the Old Bridge Inn parking along it.

43. Whilst these concerns are noted, the Highland Council's Transport Planning Team have no concerns that the formalisation of the beer garden will have any additional adverse impacts on Dalfaber Road. The Old Bridge Inn will maintain their car park on the west side of Dalfaber Road for their own customers, however the wider parking concerns cannot be addressed by this planning application on the basis that car parking for visitors to the beer garden will continue to be provided across the road and the pressures on Dalfaber Road are cumulative.
44. In addition, whilst not located within Aviemore's town centre, the Old Bridge Inn is within close walking distance of it as well as being well connected in terms of active travel with surrounding core paths and the cycle network. Cycle parking is also available at the Old Bridge Inn and as such, these sustainable transport links to the site can also be utilised by visitors.
45. Overall, it is considered that there is adequate access and parking provision for this proposal, and therefore complies with Policy 3: Design and Placemaking.

## **Flooding**

46. Policy 22: Flood Risk and water management of NPF4 states that development proposals at risk of flooding will only be supported where it is for essential infrastructure; water compatible uses; redevelopment for an equal or less vulnerable use; or for the redevelopment of previously used sites where the LDP has identified a specific need to bring a site back into positive use (Policy 22a).
47. In addition, Policy 10: Resources of the Cairngorms Local Development Plan, part 10.2 Flooding states that all development should be free from Medium to High risk of flooding; and not increase the risk of flooding elsewhere; and not add to an area of land requiring flood prevention; and not impact on the functional floodplain.
48. Both SEPA and the Highland Council's Flood Risk Management Team acknowledge that the whole site lies within the floodplain of the River Spey. Both consultees were satisfied that use of the space as a beer garden is ancillary to the existing Bridge Inn and does not include any new buildings or hardstanding. The proposed structures are all temporary, moveable and would not impede the flow of floodwater or result in the loss of floodplain capacity. As such, they did not object to the proposal, however SEPA did recommend that "in line with section 7

(small-scale street furniture) of our Standing Advice on Flood Risk, the picnic benches are secured to avoid wash-out”. This will be included as an informative.

49. In addition, the Highland Councils Flood Risk Management Team stated that “The applicant will need to have a suitable flood evacuation plan in place to ensure that the site is evacuated/cleared in a timely fashion when flooding is predicted”. This requirement has been included as a condition.
50. Overall, whilst the development site is at risk of flooding, its use is ancillary to an existing business and does not seek to build any permanent structures on the site. Therefore, the proposal complies with the provisions of NPF4 Policy 22 and Local Development Plan Policy 10.

### **Environmental impacts**

51. NPF4 Policy 3: Biodiversity requires development proposals to contribute to the enhancement of biodiversity and Policy 4: Natural places seeks to ensure that development will not have an unacceptable impact on the natural environment, or any significant effect on European Site designations including Special Areas of Conservation.
52. In addition, Policy 4: Natural Heritage of the Cairngorms Local Development Plan 2021 requires new development to have no adverse effects on the integrity of designated sites, the National Park or on protected species or habitats.
53. The development site lies adjacent to the River Spey which is a Special Area of Conservation and Site of Special Scientific Interest. However, as noted by CNPA’s Ecology Advisor, it is already subject to frequent disturbance and with very little ground vegetation, the potential for impact on species/breeding birds is low. It was noted that given there is no proposed construction or excavation, pollution of the River Spey is unlikely however all ‘built’ elements of the proposal should remain more than 10 metres from the edge of the river. It is also suggested that whilst enhancement opportunities are limited, the addition of bird and/or bat boxes may help to enhance the site.
54. A condition has been included to ensure there are no structures within 10 metres of the river and an informative in respect of bird / bat boxes. Overall, this proposal complies with the provisions of NPF4 Policy 4 and Local Development Plan Policy 4.

## Other Issues Raised in Consultations and Representations

55. One representee suggested that a Management Plan should be created for the site with a local authority or CNPA taking over the lease to develop and maintain the site in line with the aims of the National Park. It is suggested that it could be designed to allow for parking, water sports access and a modest beer garden.
56. Whilst this comment is noted, it is outwith the scope of and not relevant to this planning application.

## CONCLUSION

57. This planning application seeks partly retrospective permission to create a seasonal beer garden on a site that has already been used as a car park and picnic area for a number of years. The proposal will not introduce any permanent structures on the site and is ancillary to the use of the Old Bridge Inn. Whilst a number of concerns have been raised about access, these have been satisfactorily addressed in the Access Statement which will ensure that access is maintained and managed on the site at all times. Overall, the use as a seasonal beer garden will not result in any adverse environmental or amenity impacts. This proposal complies with the relevant NPF4 and Local Development Plan policies and there are no material considerations which would warrant the refusal of planning permission. Approval is therefore recommended subject to appropriate planning conditions.

## RECOMMENDATION

**That Members of the Committee APPROVE a recommendation to the Change of use of land to beer garden (in retrospect) at Land 45M SE Of Old Bridge Inn 23 Dalfaber Road Aviemore for the following reasons/subject to the following conditions:**

Those conditions listed below in bold text are suspensive conditions, which require to be discharged prior to implementation of the development.

### Conditions

1. The development to which this permission relates must begin not later than the expiration of 3 years beginning with the date on which this permission is granted. If development has not begun at the expiration of this period, the planning permission lapses.

**Reason:** To accord with Section 58 of the Town and Country Planning (Scotland) Act 1997.

2. No 'built' elements (picnic benches or furniture associated with the proposal) should be situated within ten metres of the River Spey.

**Reason:** To ensure the protection of the River Spey SAC in accordance with NPF4 Policy 4: Natural Places and the Cairngorms National Parks Local Development Plan Policy 4: Natural Heritage.

3. The development, hereby approved, shall operate in full accordance with the approved Access Statement unless otherwise agreed in writing by the Cairngorms National Park Authority acting as Planning Authority.

**Reason:** To ensure public access to the River Spey Access Point and core paths are maintained at all times in accordance with Policy 3: Design and Placemaking.

4. The development, hereby approved, shall not operate until a Flood Evacuation Management Plan has been submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with the Highland Council's Flood Risk Management Team.

**Reason:** To ensure that site can be cleared in a timely manner when flooding is predicted and to comply with NPF4 Policy 22 and Local Development Plan Policy 10.

### **Informatives**

1. The development hereby approved must commence within 3 years of the date of this decision notice. If development has not commenced within this period then this planning permission will lapse.
2. The person undertaking the development is required to give the Planning Authority prior written notification of the date which it is intended to commence the development. Attached to this decision notice is a Notice of Initiation of Development for completion and submission. Submission of this information assists the Cairngorms National Park Authority Monitoring and Enforcement Officer in monitoring active work within the area to ensure compliance with the approved details and to identify and correct any potential problems, as they arise, rather than later when it may be more difficult and more

costly to rectify. Failure to give notice would constitute a breach of planning control which may result in enforcement action being taken.

3. Following completion of the development, a notification of completion shall, as soon as practicable, be given to the Planning Authority. Attached to this decision notice is a Notice of Completion of Development for completion and submission. Submission of this form will assist the Cairngorms National Park Authority Monitoring and Enforcement Officer in making a final inspection and checking compliance with the approved drawings and conditions. If the development hereby approved is to be carried out in phases, then a notice of completion should be submitted at the completion of each phase.
4. On account of the flood risk that exists on the site, SEPA has advised that the furniture and structures associated with this proposal are secured to avoid wash-out and any structures being washed into the river.
5. It is suggested that whilst enhancement opportunities are limited, the addition of bird and/or bat boxes may help to enhance the site.

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.