

## CAIRNGORMS NATIONAL PARK AUTHORITY

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### **DEVELOPMENT PROPOSED:**

(Prior Approval) Erection of a forestry building at Land Near Baddengorm Carrbridge

**REFERENCE:** 2019/0386/NOT

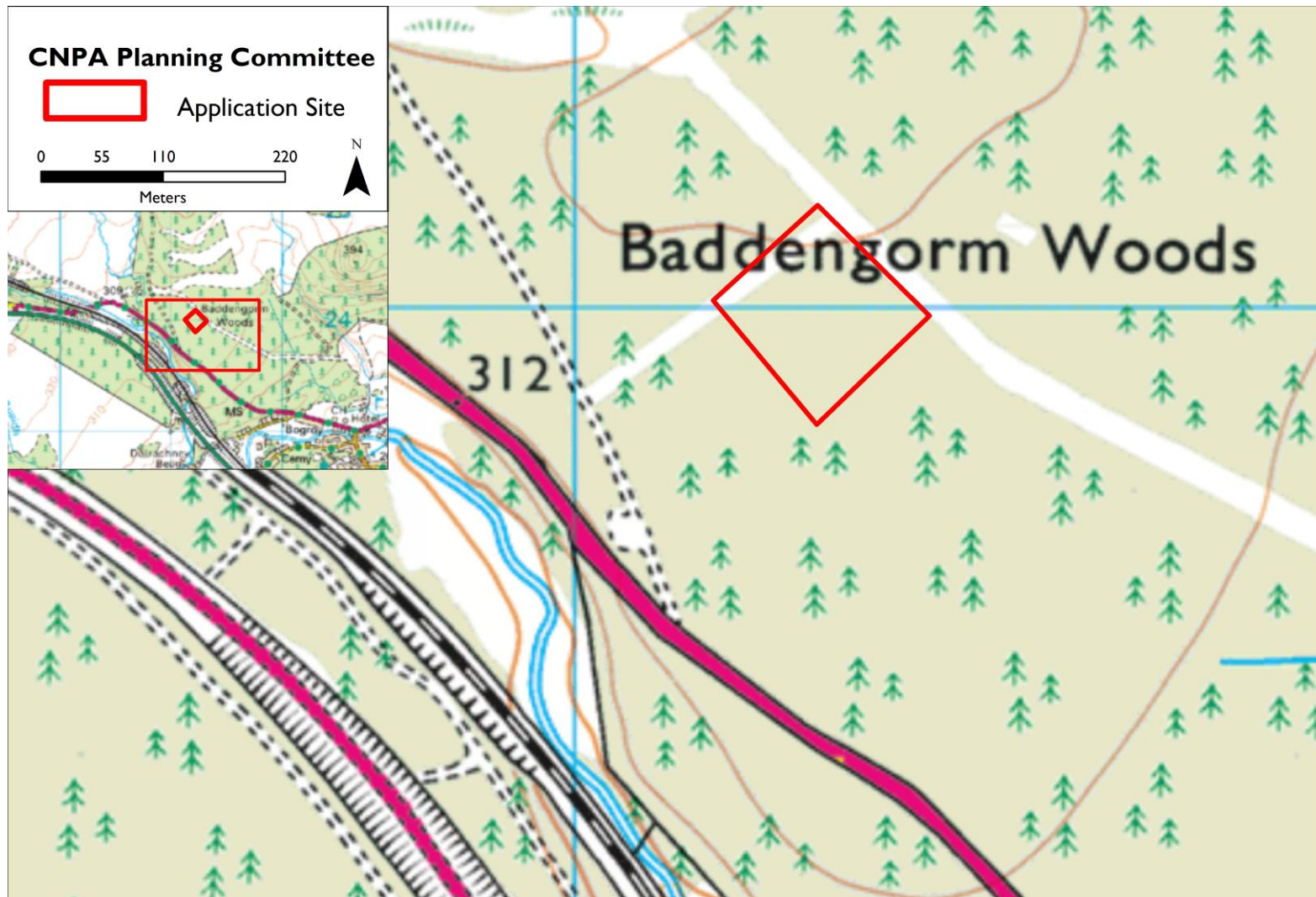
**APPLICANT:** Mr Graeme Hill

**DATE CALLED-IN:** 16 December 2019

**RECOMMENDATION:** Refuse

**CASE OFFICER:** Ed Swales Monitoring and Enforcement Officer

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## SITE DESCRIPTION, PROPOSAL AND HISTORY

### Site Description

1. The site is Baddengorm Woods, around 500m west of Carrbridge. The woodland has been divided into multiple sections and sold off individually. This section of woodland, named as Crannaich, is 6 acres and accessed along the pre-existing track within the woodland from the roadside access off the A938.
2. Baddengorm Woods is classed as Caledonian Forest and the application site is included within land listed in the Ancient Woodland Inventory. Regarding environmental designations, Baddengorm Wood is not specifically designated however, due to its association with capercaillie, the wider environmentally designated areas listed below are of relevance:
  - a) Abernethy Forest Special Protection Area [SPA] and Abernethy Forest Site of Special Scientific Interest [SSSI];
  - b) Anagach Woods SPA;
  - c) Cairngorms SPA and Glenmore Forest, Cairngorms, Northern Corries and North Rothiemurchus Pinewood SSSIs;
  - d) Craigmore Wood SPA;
  - e) Kinveachy Forest SPA and Kinveachy Forest SSSI.

### Proposal

3. 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=Q2GCZESI0CH00>

Title	Drawing Number	Date on Plan*	Date Received
Specifications - Crannaich Management Plan (2020 to 2030)		15/07/19	12/01/20
Specifications		17/11/19	12/01/20
Location Plan		15/10/18	16/12/19
Proposed Floor Plans			12/01/20

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

4. The proposal is to build a forestry hut in the upper corner of Crannaich with the reason given as to facilitate the submitted woodland management plan.
5. This is an application for Prior Approval rather than a full planning permission.

## History

6. While this section of woodland has no previous application history Baddengorm Woods has received a number of applications for either prior notification or full planning permission.
7. The track through the woodland was approved as a Prior Notification under The Highland Councils reference 17/05230/PNO in November 2017.
8. A hut, which has been built on site, was approved as a Prior Notification under The Highland Councils reference 17/05620/PNO in December 2017.
9. A recreational hut was refused by the Cairngorms National Park Authority under application reference 2019/0134/DET. The reason for refusal was due to the application being contrary to Policy 4 – Ecology in July 2019.

## DEVELOPMENT PLAN CONTEXT

### Policies

<b>National Policy</b>	Scottish Planning Policy 2014	
<b>Strategic Policy</b>	Cairngorms National Park Partnership Plan 2017 - 2022	
<b>Local Plan Policy</b>	Cairngorms National Park Local Development Plan (2015) Those policies relevant to the assessment of this application are marked with a cross	
POLICY 1	NEW HOUSING DEVELOPMENT	
POLICY 2	SUPPORTING ECONOMIC GROWTH	
POLICY 3	SUSTAINABLE DESIGN	
POLICY 4	NATURAL HERITAGE	X
POLICY 5	LANDSCAPE	X
POLICY 6	THE SITING AND DESIGN OF DIGITAL COMMUNICATIONS EQUIPMENT	
POLICY 7	RENEWABLE ENERGY	
POLICY 8	SPORT AND RECREATION	
POLICY 9	CULTURAL HERITAGE	
POLICY 10	RESOURCES	
POLICY 11	DEVELOPER CONTRIBUTIONS	

10. 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/uploads/documents/Park%20Authority/Planning/LDPI5.pdf>

### Planning Guidance

11. 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	New Housing Development Non-Statutory Guidance	
Policy 2	Supporting Economic Growth Non-Statutory Guidance	
Policy 3	Sustainable Design Non-Statutory Guidance	
Policy 4	Natural Heritage Supplementary Guidance	X
Policy 5	Landscape Non-Statutory Guidance	X
Policy 7	Renewable Energy Supplementary Guidance	
Policy 8	Sport and Recreation Non-Statutory Guidance	
Policy 9	Cultural Heritage Non-Statutory Guidance	
Policy 10	Resources Non-Statutory Guidance	
Policy 11	Developer Contributions Supplementary Guidance	

### **Habitats Regulations Assessment (HRA)**

12. A Habitats Regulations Assessment (HRA) has been undertaken to consider the effects of the proposal upon the conservation objectives of the Natura Sites within the Strathspey area. A copy of the HRA is included in **Appendix 4**. The five SPAs of relevance are: Abernethy Forest SPA, Anagach Woods SPA, Cairngorms SPA, Craigmore Wood SPA and Kinveachy Forest SPA.
13. The Assessment highlighted the importance of Baddengorm Woods to the meta-population of capercaillie in Strathspey, as well as the woodland not being used frequently for recreation purposes and as such likely to be the key factor behind its suitability for capercaillie to live and breed here successfully.
14. The HRA concludes that the conservation objectives of the SPAs will not be met by this proposal, so it cannot be shown that this proposal will not adversely affect the integrity of the five SPAs.

### **CONSULTATIONS**

A summary of the main issues raised by consultees now follows:

15. **Scottish Natural Heritage (SNH)** objects to the proposal stating that the development could affect internationally important natural heritage interests. They state that the proposal is likely to disturb capercaillie in Baddengorm wood and this is therefore likely to have a significant effect on the capercaillie in the five nearby SPAs.
16. The officer agrees with the conclusions of the HRA that the population of capercaillie as a viable component of the Special Protection Areas, and the distribution of capercaillie within the SPAs, could be indirectly adversely affected by the proposals, and hence these conservation objectives will not be met.
17. **Highland Council Forestry Officer** states that while the woodland management aims and objectives are commendable, there is no clear need for a shed for forestry management purposes within an area of woodland of this size and the level of work proposed (800 seedlings) does not necessitate a work building.

18. **CNPA Landscape Officer** has considered the application and can confirm that there is no significant landscape issue with this proposal.
19. **CNPA Ecology Officer** concludes that after undertaking a Habitats Regulations Appraisal (HRA) in conjunction with SNH, regarding the development's potential impact upon NATURA sites, support cannot be given to the application proposal as it would have a likely significant effect on capercaillie populations within Baddengorm Woodland, which in turn could potentially affect the populations of the five surrounding connected Special Protection Areas (SPAs). The proposal therefore does not meet the requirements of the Habitat's Directive for the conservation of natural habitats and of wild fauna and flora (European Union Council Directive 92/43/EEC). Because of this the CNPA cannot positively determine this application without approval from Scottish Government.
20. Also stated is that any new buildings in the woodland would cause increased noise and activity levels creating disturbance in an area that is currently relatively undisturbed. This would be a permanent effect with no mitigation possible.
21. **Carrbridge & Vicinity Community Council** has grave reservations about this application. Whilst they acknowledge the degree of planning, research and detail contained in the submission, which would improve the well-being of that specific woodland area, they feel that approval could lead to a plethora of similar building applications, which they feel would be detrimental to the woodland environment and to capercaillie viability.

## REPRESENTATIONS

22. Two objections have been received for this application. The RSPB object to the application stating that this proposal is within 300m of an important capercaillie lek and there is connectivity between the proposed development and the Kinveachy Forest Wood Special Protection Area SPA and Abernethy Forest SPA and potential disturbance would have a likely significant effect on the SPA.
23. Whilst they acknowledge that the applicants hope to undertake forestry works to improve the woodland habitat, capercaillie are particularly susceptible to disturbance and the erection of a building within this woodland is likely to result in unacceptable disturbance of this Annex I priority species.
24. Another objection to the application highlights that the hut will bring additional disturbance to an area not currently overly disturbed and seasonally where this disturbance would likely be low as well.
25. The hut could also lead to overnight stays which would be problematic to enforce as well as being unnecessary for the requirements of the woodland management plan.

## APPRAISAL

### Principle

26. The main consideration of this Prior Approval is principle of development in relation to the Permitted Development rights under class 22 of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as well as the impact of the development on the natural environment including species and landscape impacts.

### Principle

27. The relevant section within the General Permitted Development (Scotland) Order 1992 is class 22 a) the carrying out on land used for the purposes of forestry, including afforestation, or land held or occupied with that land, of development reasonably necessary for those purposes consisting of works for the erection, extension or alteration of a building.
28. While the building is proposed for forestry its necessity to fulfil the submitted Woodland Management Plan (WMP) is in question. Both the Cairngorms National Park Authority Heritage team and The Highland Council's Forestry Officer have questioned the need to have a permanent structure for what is something that could be undertaken within a few weeks. There is a likelihood that the building would also be used for recreational use that is not permitted within the class of development that has been applied for or an intensification of use of visits to the woodland, increasing potential disturbance to capercaillie.

### Environmental Issues

29. **Policy 4:** Natural Heritage of the Cairngorms National Park Local Development Plan 2015 seeks to ensure that there are no adverse effects on natural heritage interests, designated sites or protected species and that any impacts upon biodiversity are avoided, minimised or compensated.
30. Although the site is not located within any NATURA designations, it has links with the surrounding designated areas due to its use by capercaillie, as noted earlier. Consequently, a key environmental issue in this case is therefore the potential impact upon the qualifying interests of the NATURA sites identified in paragraph 2 of this report. The conservation objectives for the qualifying interests of capercaillie for each of the noted Special Protection Areas are:
- a) To avoid deterioration of the habitats of the qualifying species; or
  - b) Significant disturbance to the qualifying species; thus ensuring the integrity of the site is maintained; and
  - c) To ensure for the qualifying species that the following are maintained in the long term:
    - i. Distribution of species within the site;
    - ii. Distribution and extent of habitats supporting the species;
    - iii. Structure, function and supporting processes of habitats supporting the species;

- iv. No significant disturbance of the species;
  - v. Population of the species as viable component of the site.
31. For the purposes of the Habitats Regulations Assessment (HRA) (**Appendix 4**), the application details confirm that the proposal is directly connected with or necessary for site management for woodland management purposes. As confirmed by the CNPA Ecologist, at present, Baddengorm Wood is thought to be only lightly used by people and is relatively undisturbed compared to other local woods around Carrbridge. This is one of the key factors that mean capercaillie can live and breed here successfully. New buildings in woodland would cause increased noise and activity levels which would result in a permanent effect and disturbance to any capercaillie. This disturbance can also result in the reduction of the availability of suitable habitat.
32. Within the Badenoch & Strathspey area, there are five SPAs with capercaillie as qualifying interest: Abernethy Forest, Anagach Woods, Craigmore Wood, Cairngorms and Kinveachy Forest. The distances between these SPAs are well within maximum capercaillie dispersal distances known from the relevant literature. An impact on any woodland supporting capercaillie has the potential to impact on the qualifying interests of all five SPAs.
33. The HRA concludes that three of the SPA conservation objectives will not be met by this proposal would have an adverse effect on the integrity of the five SPAs classified for capercaillie.
34. The CNPA Ecologist objects to the application as it would have a likely significant effect on capercaillie populations within Baddengorm Woodland and the five SPAs and consequently does not meet the requirements of the Habitats Directive for the conservation of natural habitats and of wild fauna and flora (European Union Council Directive 92/43/EEC). The officer also states that there are no suitable mitigation options for this proposal. SNH concur with the points raised within the HRA and object to the application. Regarding public representations, Badenoch & Strathspey Conservation Group and the RSPB also raise objection to the application for the same ecological reasons.
35. On this basis, the application is considered to be contrary to Policy 4: Natural Heritage and contrary to the aims of the National Park as set out by the National Parks (Scotland) Act 2000, as the proposal would fail to conserve and enhance the natural heritage of the area.

### **Landscape Considerations**

38. **Policy 5:** Landscape of the Local Development Plan 2015 presumes against development which does not conserve or enhance the landscape character and special qualities of the National Park and in particular, the setting of the proposed development. The proposal would introduce new features within this section of the woodland which in consequence would introduce a change in nature of the use of this area. The CNPA Landscape Officer has assessed the details of the application and considers that the effect of the proposal is not



considered to significantly affect the overall character of the landscape resource of the woodland.

39. Although it is acknowledged that there would be some impact of the proposal on the landscape considerations of the area and the user experience, this impact is not at such a level that would warrant refusal.

## CONCLUSION

40. In conclusion, whilst the proposal satisfies the requirements of use for forestry purposes its permanency and necessity for fulfilment of the WMP do not effectively demonstrate the requirement to build the hut in this location.
41. A Habitats Regulations Assessment has been undertaken to assess the effect of the proposal on the qualifying interests of the nearby Natura sites and it concludes that the proposal would have a likely significant effect on capercaillie populations within Baddengorm Woodland and the five Strathspey designated Special Protection Areas. The proposal, therefore does not meet the requirements of the Habitats Directive for the conservation of natural habitats and of wild fauna and flora and there are no suitable mitigation options for this proposal that would lessen its impact. On this basis, the proposal is contrary to Policy 4: Natural Heritage and contrary to the aims of the National Park as set out by the National Parks (Scotland) Act 2000.
42. The application is therefore recommended for refusal.

## RECOMMENDATION

**That Members of the Committee support a recommendation to REFUSE the Prior Approval of the Erection of a forestry building at Land Near Baddengorm Carrbridge for the following reasons**

- I. The proposed development is contrary to Policy 4: Natural Heritage of the Cairngorms Local Development Plan and the aims of the National park as set out by the National Parks (Scotland) Act 2000 as the development is likely to have a significant effect on the five Strathspey Special Protection Area Natura 2000 sites and the proposal has not demonstrated that it would not have an adverse effect on the integrity of those sites.

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.