

CAIRNGORMS NATIONAL PARK AUTHORITY

DEVELOPMENT PROPOSED:

Erection of hut and siting of composting toilet at Gabhean Baddengorm Wood Carrbridge

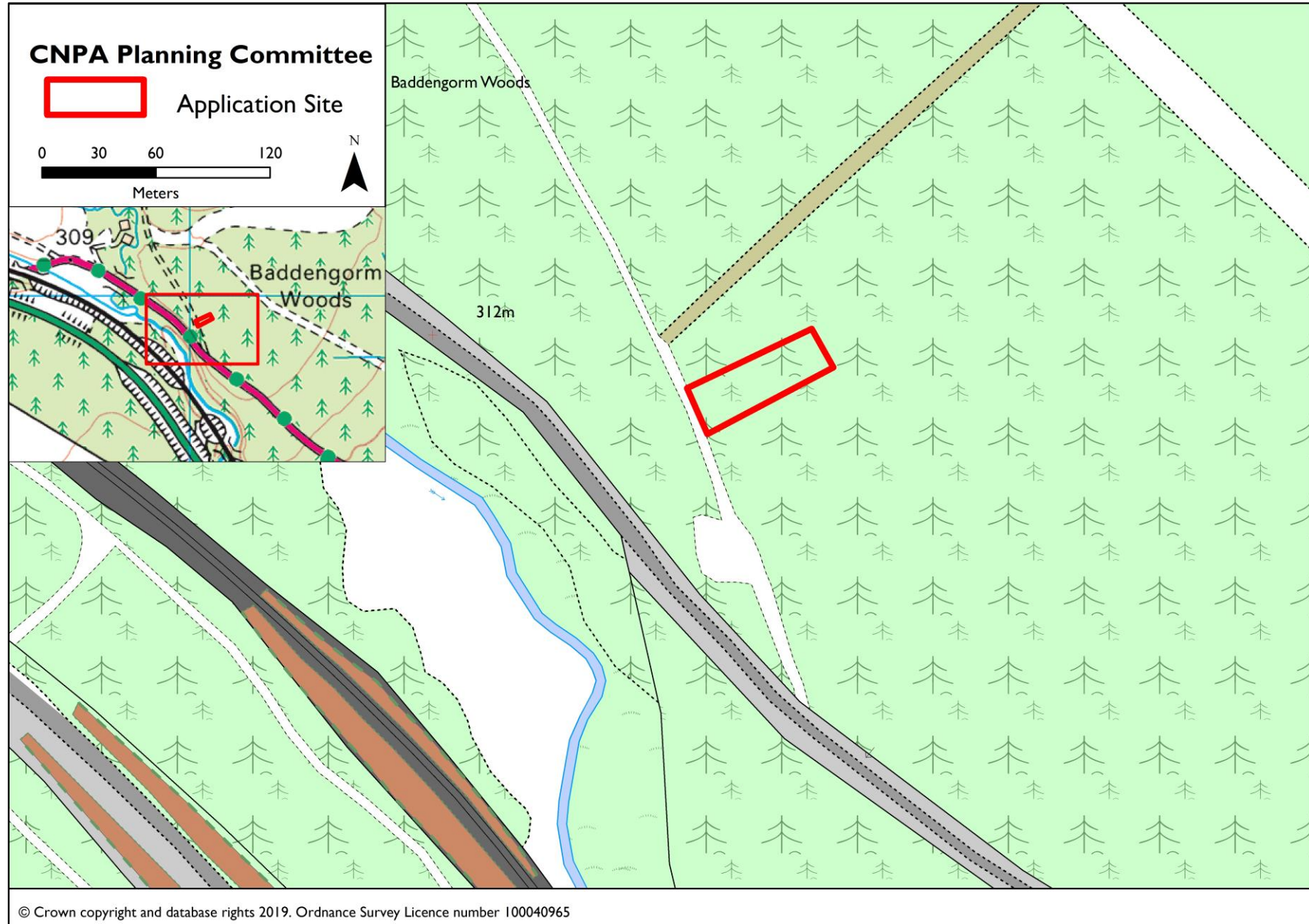
REFERENCE: 2019/0134/DET

APPLICANT: Mrs Sarah Louise Kemp

DATE CALLED-IN: 29 April 2019

RECOMMENDATION: Refuse

CASE OFFICER: Stephanie Wade, Planning Officer



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SITE DESCRIPTION, PROPOSAL AND HISTORY

Site Description

1. The application site is located on the northern side of the A938 road within Baddengorm Woods, to the north east of the settlement of Carr Bridge. Access to the site is via a shared vehicular track off the northern side of the A938. The application site extends to approximately 6 acres of established Scots Pine woodland and is understood to form one of a number of newly formed smaller parcels of woodland which have been offered for sale separate from the larger woodland site.
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=PQS1L7SI0CH00>

Title	Drawing Number	Date on Plan*	Date Received
Amended Overall Location Plan		18/04/2019	06/05/2019
Site Location Plan			06/05/2019
Amended Site Layout Plan			06/05/2019
Proposed Floor Plan			06/05/2019
Proposed Elevations Plan		March 2019	06/05/2019
Elevation Plan- Soil Toilet and Wash Basin		22/04/2019	06/05/2019
RYNO Product Sheet			06/05/2019
Construction Details Document			06/05/2019
Supporting Information			06/05/2019

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

4. The application proposes the erection of a hut structure and the siting of a composting toilet structure within the application site grounds. The proposed structures are to be sited approximately 28 metres east from the application site vehicular parking area.
5. The proposed hut structure would measure approximately 3.3 metres by 4.5 metres with a maximum height of approximately 3 metres. The structure is proposed to take form under a shallow, dual pitched roof, clad in corrugated metal sheeting with timber clad elevations. Two units of fenestration are proposed to be installed on the east and southern elevations of the hut and a partly glazed timber door is proposed on the eastern elevation. The hut is proposed to be sited on a timber, decked area covering a ground area of approximately 27 square metres.
6. The proposed toilet structure would measure approximately 1.8 metres by 1.2 metres with a maximum height of approximately 2.4 metres. The structure is proposed with timber clad elevations and a mono pitched roof clad with corrugated metal sheeting. Two partly-glazed, timber doors are proposed to be installed on the western elevation of the structure.
7. It is understood from the application details that the proposal is to be used for recreational purposes (Sui Generis Use Class) by the owner and will not be connected to any form of mains water supply, drainage or electricity.
8. Plans of the proposal are included within **Appendix I**.

History

9. There is no recent planning history associated with the application site.

DEVELOPMENT PLAN CONTEXT

Policies

National Policy	Scottish Planning Policy 2014	
Strategic Policy	Cairngorms National Park Partnership Plan 2017 - 2022	
Local Plan Policy	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	X
POLICY 3	SUSTAINABLE DESIGN	X
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	X
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	X
Policy 3	Sustainable Design Non-Statutory Guidance	X
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	X
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 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 2**. The five SPAs of relevance are: Abernethy Forest SPA, Anagach Woods SPA, Cairngorms SPA, Craigmory Wood SPA and Kinveachy Forest SPA.
13. The Assessment highlighted the importance of Baddengorm Woods to the meta-population of capercaillie in Strathspey, functioning as a “stepping stone” for capercaillie to move between the various SPAs and improving genetic diversity. The HRA notes that the proposal is not directly connected with or necessary to site management for nature conservation. Accordingly, increased disturbance from the use of the proposal could affect the populations of the capercaillie in all 5 SPAs.
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

15. A summary of the main issues raised by consultees now follows:
16. **Scottish Natural Heritage (SNH)** object to the application, having assessed the details of the application, including the connectivity between the Strathspey SPAs and Baddengorm Woods and conclude that if that part of the capercaillie meta-population using Baddengorm Wood were to be negatively affected by this proposal, the conservation objectives of the SPAs could be affected. SNH therefore consider that the proposal is likely to disturb capercaillie in Baddengorm Wood and this is likely to have a significant effect on capercaillie in the five nearby SPAs. SNH's appraisal of the effect of the proposal has subsequently not shown that there would be no adverse effect on the integrity of the five SPAs for the following reasons:
 - a) Erecting a hut here is likely to cause significant disturbance to capercaillie; it is likely to make areas currently used by the birds less suitable or unsuitable for them, and impact on breeding success;
 - b) Baddengorm Wood is likely to be important for breeding, dispersal and relocation of birds within the Strathspey meta-population for which the 5 nearby SPAs are designated;
 - c) Impacts on the birds' ability to live and breed successfully here could therefore have wider impacts on the populations, and distributions of those populations within the five nearby SPAs.
17. SNH confirm that should the intention be for the granting of permission against their advice, notification must be given to Scottish Ministers.
18. **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.
19. A copy of the Habitats Regulations Assessment can be found at **Appendix 2**.
20. **CNPA Landscape Officer** notes that the proposed hut and associated toilet structure would be a new feature in this portion of the woods and this consequently brings a change in nature of the use in the woodlands. The proposal would mean that there will be occasions when there will be additional car parking and extended domestic recreational use over several days and evenings further changing the pattern of recreational use.

21. The officer considers that the materials and size of the hut are appropriate for the location however the more intensive use of the site will be at odds with the expectations and experience of other recreational users. The Officer concludes that the effect of the proposal cannot be said to significantly affect the overall character of the landscape resource of Baddengorm Woods. The physical properties of the proposal are neutral and do not enhance the existing landscape character or special qualities. However, there would be significant, but very local, adverse effect upon the enjoyment of the woods due to the change in pattern and nature of recreational use. This effect is likely to diminish rapidly as the receptor moves away from the sight and sound of the site.
22. **Highland Council Flood Team** has no specific comments relating to this application.
23. **Royal Society for Protection of Birds (RSPB)** objects to the application due to its impact on the protected European species of capercaillie within the area as a result of disturbance arising from the use of the proposal. They highlight that Baddengorm Woods is functionally linked to the Strathspey SPAs and that the proposal is likely to have a significant effect on these SPAs.
24. **Carrbridge & Vicinity Community Council** object to the proposal noting their concern of the proposed site's proximity to known capercaillie activity noting their concern regarding the delineation of this woodland area into separate blocks and the potential proliferation of forest "hideaways". Reference is also made to a neighbouring shed within the same woodland which is currently under investigation for a breach in use. A copy of their full comments can be found at **Appendix 4**.

REPRESENTATIONS

25. The application has been advertised and two letters of representation have been received which are included at **Appendix 3**. One letter from Badenoch & Strathspey Conservation Group (BSCG) and one letter on behalf of the Cairngorms Campaign. The BSCG register their objection to the proposal and request the opportunity to address the Committee. They note that the proposal site is within Baddengorm Wood which is an important woodland for the Annex I species capercaillie and any impacts on capercaillie within the application site woodland would be likely to have impacts on the conservation objectives of the Badenoch & Strathspey SPAs. They state that the proposal would add human disturbance within the wood, at all times of the day which would negatively impact on capercaillie and no mitigation for the disturbance impacts would be practicable. BSCG also reference the application site's location within an area of semi natural origin as classified within the Ancient Woodland Inventory and conclude that this resource is irreplaceable and its loss cannot be mitigated for. Reference is also made to curtilages and potential impacts on public access rights in the vicinity of the proposal due to the proposal and its associated infrastructure.
26. The Cairngorms Campaign also wish to register their objection to the application, noting their support of the Community Council's comments and stating that they consider the proposal is contrary to the National Park's number 1 aim and that the threat to capercaillie and wildlife by more intrusion is not in line with the CNPA aims.

APPRAISAL

27. The main planning considerations in relation to this application comprise: the principle of development, the impact on the natural environment in respect of designated areas, protected species and landscape impacts.

Principle

28. The aim of the Scottish Planning Policies is to ensure that development and changes in land use occur in suitable locations and are sustainable. The planning system must also provide protection from inappropriate development. Its primary objectives are:
- a) To set the land use framework for promoting sustainable economic development;
 - b) To encourage and support regeneration; and
 - c) To maintain and enhance the quality of the natural heritage and built environment.

29. Development and conservation are not mutually exclusive objectives; the aim is to resolve conflicts between the objectives set out above and to manage change. Planning policies and decisions should not prevent or inhibit development unless there are sound reasons for doing so. Paragraph 79 of the SPP states that Development Plans should set out a spatial strategy which, inter alia, includes policies and proposals for leisure accommodation, such as holiday units, caravans, and huts. Within the glossary of SPP the term “hut” is defined as:
- “A simple building used intermittently as recreational accommodation (i.e. not principal residence); having an internal floor area of no more than 30m², constructed from low impact materials, generally not connected to mains water, electricity or sewerage; and built in such a way that it is removable with little or no trace at the end of its life. Huts may be built singly or in groups.”*
30. The proposed development constitutes a hut, as the applicant states that: it will be used intermittently for recreational purposes, built from low impact materials and the internal floor area is less than 30m². No mains connections to water, drainage or electricity are proposed in accordance with the SPP hut definition. As such, the principle of development can now be assessed on the basis of recreational use for hutting.
31. While there is no specific policy relating to huts contained within the Cairngorms National Park Local Development Plan 2015, this does not warrant a reason for refusal on the basis of a lack of policy. There are several developments, which do not benefit from a specific policy which can be assessed against. In this case, criteria within Policy 8: Sport and Recreation covers this type of development, being for recreational purposes. This policy states under criterion 1:
- “developments of sport and recreation facilities, diversification of, or extensions to existing sport and recreation related business activities, or the enhancement of the quality and design of existing facilities will be supported where:*
- a) They demonstrate best practice in terms of sustainable design, operation and future maintenance, and where there are no adverse environmental impacts on the site or neighbouring areas; and*
 - b) They will meet an identified community or visitor need; and*
 - c) They maintain and maximise all opportunities to link into the existing path network.”*
32. The proposal is understood to be required for a recreational use by the owner on an intermittent basis. The development would therefore have no association with an existing sport and recreation business activity or facility and would therefore be contrary to Policy 8: Sport and Recreation of the Cairngorms National Park Local Development Plan 2015.
33. Tourism and leisure related development is also considered within Policy 2: Supporting Economic Growth of the Local Development Plan 2015. However, again, as the proposal does not relate to business activities and attractions for economic purposes, the application would therefore be contrary to the requirements of Policy 2: Supporting Economic Growth.

34. As a result, the principle of development cannot be established, as the proposal fails to meet both policies 8: Sport and Recreation and 2: Supporting Economic Growth of the Cairngorms National Park Local Development Plan 2015.

Environmental Issues

35. **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.
36. 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.
37. For the purposes of the Habitats Regulations Assessment [HRA] (Appendix 2), the application details confirm that the proposal is not directly connected with or necessary to site management for nature conservation as it is proposed for intermittent recreational use. 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 therefore, likely to be 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. 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.
38. The HRA concludes that three of the SPA conservation objectives will not be met by this proposal. It cannot, therefore, be shown that this proposal would have no adverse effect on the integrity of the five SPAs classified for capercaillie.

39. 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 and RSPB concur with the points raised within the HRA and object to the application. Regarding public representations, Badenoch & Strathspey Conservation Group and the Cairngorm Campaign also raise objection to the application for the same ecological reasons.
40. 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

41. **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, however there would be significant, but very local, adverse effect upon the enjoyment of the woods due to the change in pattern and nature of recreational use, with the more intensive use of the site for extended domestic recreational use being at odds with the expectations and experience of other recreational users. The officer does note though that the effect is likely to diminish rapidly as the receptor moves away from the sight and sound of the site. The physical properties of the proposal are considered to be neutral although it is noted that they do not enhance the existing landscape character or special qualities.
42. 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.

Other Issues

43. Carrbridge Community Council objects to the scheme noting their concern for the impact of the proposal on capercaillie within the area.
44. Highland Council Flood Team has no specific comments to make regarding the scheme.

CONCLUSION

45. In conclusion, whilst the proposal satisfies the definition of a hut in accordance with Scottish Planning Policy (2014), the principle of the erection of a hut at the proposed site does not comply with Policies 8: Sport and Recreation and 2: Supporting Economic Growth of the Cairngorms National Park Local Development Plan 2015.
46. Notwithstanding this, 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. The proposal would also lead to a more intensive use of the site for extended domestic recreation use which would cause a significant, but localised, adverse effect upon the enjoyment of the wood due to this change in pattern and nature of recreational use. The application is therefore recommended for refusal.

RECOMMENDATION

That Members of the Committee support a recommendation to REFUSE the Erection of hut and siting of composting toilet at Gabhean Baddengorm Wood Carrbridge for the following reasons:

1. 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.
2. The proposed development is contrary to Policy 8: Sport and Recreation and Policy 2: Supporting Economic Growth of the Cairngorms National Park Local Development Plan 2015 as the principle of the erection of a hut at the proposed site does not comply with policy criteria as its use is not associated with any business activity for recreation, tourism or leisure.

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