

Agenda Item	7.5
Report No	PLS-047-21

HIGHLAND COUNCIL

Committee: South Planning Applications Committee
Date: 15 June 2021
Report Title: 21/01323/FUL: The Green Hut
Braveheart Car Park, Glen Nevis, Fort William
Report By: Area Planning Manager – South

Purpose/Executive Summary

Description: Siting of catering trailer
Ward: 21 – Fort William and Ardnamurchan
Development category: Local

Reason referred to Committee: Objection by the Community Council

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

Recommendation

Members are asked to agree the recommendation to **GRANT** the application as set out in section 11 of the report.

1. PROPOSED DEVELOPMENT

- 1.1 This proposal is for the siting of a catering trailer within the existing Braveheart Car Park, Glen Nevis, Fort William. A temporary seasonal permission is sought, from Easter to the end of October, until the end of October 2022, with the facility proposing to operate on Fridays, Saturdays and Sundays only from 9am until 4pm (and from 8am to set up).
- 1.2 The mobile unit will be unhitched from a vehicle and sited within the existing car park in a corner away from the main circulation route, and at the end of each day the trailer will be removed from the site. All infrastructure - a generator, LPG gas bottles and litter bin - will be provided by the applicant and brought to the site daily – no fixed infrastructure is to be left in the car park.
- 1.3 A Permitted Development Enquiry (21/01272/PDENQ) was submitted to establish if planning permission was required for the siting of the catering trailer in this location.
- 1.4 Supporting Information: A copy of the applicant's contract and additional terms and conditions with Forestry and Land Scotland (FLS); photos of the site; their business plan; details of the power supply which will be from a diesel generator and LPG gas cylinders; the water supply will be brought from their base and will come from a mains water supply; waste water will be disposed of to the mains drain back at their base; waste and recycling will be removed from the site daily.
- 1.5 Variations: none

2. SITE DESCRIPTION

- 2.1 Braveheart car park is 1¼km from the Nevis Bridge roundabout at the north – town end of the Glen, and ¾km north of Ionad Nibheis, the Glen Nevis Visitor Centre. It is a large car park managed by Forestry and Land Scotland, which has recently been remodelled and enlarged, with a number of paths leading from it into the forest and onto Cow Hill at the back of the town. A forestry track also leads into the forest from here and runs parallel with the public road down the glen as far as Achriabhach, and up to the vitrified fort, Dun Deardail. It is on the other side of the road to the River Nevis, and there is a small stream runs down the south-east side of the car park into a small pond.
- 2.2 The car park is located just outwith the Settlement Development Area, in the wider countryside. Fort William town centre is approx. 2km away. The site lies within the Ben Nevis and Glen Coe National Scenic Area (NSA). The West Highland Way comes down the forest track and passes through the car park before turning along the road into the town. The site is on a well used route from the Glen Nevis camp site and from the Glen Nevis visitor centre into town.

3. PLANNING HISTORY

- 3.1 None

4. PUBLIC PARTICIPATION

4.1 Advertised: Section 34 and Unknown neighbour, Oban Times

Date Advertised: 08.04.2021

Representation deadline: 14.4.2021

Timeous representations: 0

Late representations: 1 (Nevis Landscape Partnership)

4.2 Material considerations raised are summarised as follows:

- a) Lack of need – other food providers nearby
- b) Litter – Friends of Nevis recovered 30+ bags of litter on 9 May 2021 with a large proportion from the roadside verge between the Curling ponds and Visitor centre – a substantial amount consisted of food wrappers and plastic bottles; an additional outlet may add to the problem
- c) Concern at the carbon footprint of a trailer being driven between Braveheart and Fort Augustus on a daily basis given the Climate Emergency and upcoming COP26

4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam.

5. CONSULTATIONS

5.1 **Fort William, Inverlochy and Torlundy Community Council:** Objects.

“Having consulted with local residents, walkers and user of the Braveheart car park and staff members of organisations and agencies working in and around the area it was agreed at our meeting last night to object unanimously to this application on the grounds that:

There are already business outlets in the glen for teas/coffees and Toilets.

It has been reported by the Rangers and volunteer litter pickers that disposable cups in large numbers are already being discarded in many areas of the upper Glen. This will add to the problem as people will take cups and food away from the car park.

A number of walkers who were consulted responded: 'Why' 'not necessary' encourage more litter' 'Setting a precedent for other applications'

We have a letter asking us to object from residents of the Glen.

This is an area of natural beauty and as litter has been such an awful problem for many years we do not wish to encourage this and have not been able to evidence any necessity for food and drink at this location.”

5.2 **Environmental Health:** no objections, subject to a condition if the water supply is private – to ensure it is a potable supply and highlighting the need for a Street Traders Licence.

5.3 **Lochaber Access Panel** supports the application. Normally the panel requests that an additional lower counter be hinged below the existing counter, but this could add

to safety issues. It requests confirmation that the staff will assist wheelchair users and ambulant walkers with their purchases to their vehicles.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application:

6.1 Highland Wide Local Development Plan 2012

28 - Sustainable Design
29 - Design Quality & Place-making
36 - Development in the Wider Countryside
43 - Tourism
56 - Travel
57 - Natural, Built & Cultural Heritage
72 - Pollution
77 - Public Access
78 - Long distance routes

6.2 West Highland and Island Local Development Plan (WestPlan) 2019

Policy 1 – Town Centre First

6.3 Highland Council Supplementary Planning Policy Guidance

Sustainable Design Guide (Jan 2013)

7. OTHER MATERIAL POLICY CONSIDERATIONS

7.1 Scottish Government Planning Policy and Guidance

Scottish Planning Policy, June 2014 (Revised December 2020)

Para 212 National Scenic Areas

Evolving the Nevis Strategy 2020-40 Consultation draft 2019 (Nevis Landscape Partnership - NLP)

8. PLANNING APPRAISAL

8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

Determining Issues

8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

Planning Considerations

8.3 The key considerations in this case are:

- a) compliance with the development plan and other planning policy

- b) siting and design, including impact on NSA
- c) impact on amenity
- d) access and parking
- e) any other material considerations.

Development plan/other planning policy

- 8.4 The proposed food van will be located outwith the Settlement Development Area of Fort William, in an area of Wider Countryside, therefore requires to be primarily assessed against Policy 36 of the Highland wide Local Development Plan, which outlines that proposals will be assessed to the extent to which they are acceptable in terms of siting and design, are sympathetic to existing patterns of development, are compatible with landscape character, and can be adequately serviced.
- 8.5 Policy 28 requires proposals to be assessed against the impact on individual and community residential, landscape and scenery amenity, the environment and existing infrastructure. As the proposal is situated within a National Scenic Area (NSA), Policies 57 and 61 are also relevant and need to be given appropriate consideration.
- 8.6 The proposal is situated within an established car park owned and managed by Forestry and Land Scotland (FLS) at the end of Glen Nevis, an important facility well used by locals and tourists alike. As it will offer a business that could complement existing tourist facilities Policy 43 is therefore also relevant. Policy 43 seeks to ensure that facilities are of appropriate scale to their location, increase the length of visitor stay and/or increase visitor spend.
- 8.7 Policy 1 of the West Highlands and Islands Local Development Plan seeks to ensure that development that generates significant footfall, such as food outlets, are located within town centres. The idea is to ensure that such uses outwith a town centre do not adversely impact on the vitality or viability of the town centre. Given the scale of the proposal however, this is unlikely to have a detrimental impact on the vitality or viability of Fort William town centre. While there are other food businesses in the vicinity, it will be for the market to decide whether another outlet, which may meet a slightly different customer profile, would be successful here. The issue of demand, or competition, are not relevant planning considerations.
- 8.8 Providing that the development is appropriately sited and designed, is compatible with landscape character without adverse impact on scenery, can be adequately serviced and have no adverse impact on individual and community residential amenity, the proposals would comply with the development plan.

Siting and Design including impact on National Scenic Area

- 8.9 The small scale of the venture, and the type of hut proposed would generally fit with this woodland setting. The proposal would be acceptable in principle in terms of siting and design; its small scale would be sympathetic to existing patterns of development in the area.

- 8.10 Given the scale of the development within such a large landscape designation it is not considered that it will have a significant impact on the character or quality of the Ben Nevis and Glencoe NSA.

Impact on amenity

- 8.11 The potential for the food van to generate more litter in the Glen is the main concern for residents, the Community Council and Nevis Landscape Partnership (NLP). This is an endemic problem, evident along all of the roadsides and laybys in the area. It is ultimately a matter of personal responsibility to dispose of rubbish responsibly. Litter bins are not routinely provided by the Council in some areas because of the financial burden this presents in their emptying. It is possible however to require that a litter bin is provided by the food van, and for it to be removed and the litter disposed of properly each day by the proprietor. It would also not be unreasonable to require the proprietors to undertake a regular litter sweep of the car park. This would tie in with one of the conditions of the FLS lease. It is not possible to limit the nature of packaging proposed to compostable materials only, or to control the ethical or “green” credentials of products offered through planning controls.
- 8.12 FLS also has a requirement that the generator must be suitably silenced or branded “quiet” with noise output not exceeding 60db. The site is not close to any residential properties, the nearest being at Roaring Mill on the other side of the river, approx. 370m away, and Tigh na Bruaich, approx. 500m to the south. The noise of the generator would erode the generally quiet character of the area, however provided it is a quiet model, or suitably silenced, and given the limited days and hours of operation, it is considered acceptable in this location.
- 8.13 Other requirements of the FLS lease are concerned with Health and Safety, food hygiene, products to have an emphasis on quality and healthy options, not using the pitch as a venue for private functions and events without prior permission from FLS, minimisation of packaging, use of biodegradable and environmentally friendly products, marketing and signage, customer service, staff and training, particularly with reference to Covid19 protocols, and for there to be a bi-annual review with the FLS Visitor Services Manager. Much of this is outwith the scope of planning controls, or is covered by other legislation; e.g. food hygiene requirements are covered by Environmental Health.
- 8.14 The proposed food van would be self sufficient in terms of water, power and waste and subject to conditions regarding litter and noise it would not require any permanent service infrastructure. Conditions are recommended also to limit the days and times of operation and a temporary permission is proposed to allow the Planning Authority to review the management of the site. On this basis the development would not significantly adversely affect individual or community amenity.

Access and Parking

- 8.15 The site in the eastern corner of the car park would not interfere with the flow of traffic in the car park. It would displace 1 or 2 parking spaces, which will not be a significant loss. While well used this car park is rarely full. The car park entrance was recently

moved as part of its enlargement and re-modelling, and the junction with the public road has good visibility and is sized for forestry vehicles also.

- 8.16 The van would not affect the West Highland Way long distance trail, which comes through the car park, or any of the other paths.

Other material considerations

Nevis Strategy

- 8.17 The Evolving the Nevis Strategy 2020-40 Consultation draft 2019 Nevis Strategy divides the Glen into 3 zones for planning purposes. The proposal would be in Zone 1: Nevis Bridge to Cattle grid (just past the Youth Hostel) – where there will be a presumption against all development except for residential and visitor accommodation, and facilities and services to the Nevis area, which are consistent with the objectives and guidance in the Nevis Strategy. The objectives and key criteria are to encourage and support planning policies which provide scope for limited scale development in appropriate locations in Lower Glen Nevis, and to maintain the undeveloped characteristics of Mid and Upper Glen Nevis and mountain and wild country areas, while providing scope for improving informal visitor facilities and for essential development or operations associated with land or visitor management, or health and safety. In considering development proposals, the planning authority will require to be satisfied that these meet a bona fide need, which cannot be better satisfied outwith the Nevis area, contribute to the well-being and amenity of local residents, landowners and/or businesses, and do not conflict with, and where practical enhance environmental qualities.
- 8.18 One of the criteria in the guidance states that there will be a presumption against mobile trading. However, the Nevis Strategy is not part of the formal development plan and while it is a material consideration it would not be reasonable to resist the proposal on this basis alone.

Precedent

- 8.19 Each planning application is considered on its merits according to the details of the proposal and location. A grant of permission here would not necessarily lead to a proliferation of food vans further down the glen. If proposed in any other car park that is off the road (eg. at the Lower Falls) a planning application would be required, and if on the public road (eg. Steall Falls car park) a licence would be required from the Council's Road's dept.

Climate emergency

- 8.20 The planning process cannot reasonably control the distance that individuals travel for work purposes to this extent. Wider energy and transport policies encourage sustainable means of transport and are influencing the move from fossil fuels to electric vehicles and renewables.

Disability access

- 8.21 Other legislation addresses accessibility for disabled persons. The design of the van is not considered to preclude its patronage by any particular group.

Non-material considerations

- 8.22 Mobile catering vans can provide a first step in the development of small businesses which go on to establish permanent premises or operate in conjunction with a fixed base. The issue of competition with existing businesses in the area is not a material planning consideration however.

Matters to be secured by Section 75 Agreement

- 8.23 None

9. CONCLUSION

- 9.1 The proposed hot food van would provide a facility for locals and visitors at the busier end of Glen Nevis and on the outskirts of the town. It would be sited where it would not inconvenience any existing residents, and it would be in keeping with the forest car park setting.
- 9.2 It would be possible to require the proprietors to manage litter associated with the development, and in the immediate environs of the car park. It is not considered reasonable to resist the proposal on the basis of the unacceptable behaviour of those people who dispose of their litter and rubbish irresponsibly. This occurs in any event and is a wider anti-social issue. Conditions are recommended to grant a temporary permission to allow the proposal to be reviewed, and to limit the season, days and hours of operation to minimise its impact outwith the main periods of demand.
- 9.3 All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

10. IMPLICATIONS

- 10.1 Resource: Not applicable
- 10.2 Legal: Not applicable
- 10.3 Community (Equality, Poverty and Rural): Not applicable
- 10.4 Climate Change/Carbon Clever: Not applicable
- 10.5 Risk: Not applicable
- 10.6 Gaelic: Not applicable

11. RECOMMENDATION

Action required before decision issued No

Notification to Scottish Ministers No

Conclusion of Section 75 Obligation No

Revocation of previous permission No

Subject to the above, it is recommended to **GRANT** the application, subject to the following:

Conditions and Reasons

1. Planning permission is hereby granted for a temporary period only and shall cease to have effect on 31 October 2022 (the 'cessation date'). Prior to the cessation date, the application site shall be cleared of all development approved under the terms of this permission (including any subsequent ancillary works, infrastructure, fixtures, fittings and any temporary developments permitted under Class 14 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended)) and the site reinstated to its pre-existing condition

Reason: In recognition of the temporary nature of the proposed development, to enable the Planning Authority to reassess the impact of the development after a given period of time and secure removal of the mobile food van hereby granted permission.

2. The mobile catering van hereby permitted shall not be sited in the car park outside of the following dates and times:
 - Easter – end October
 - Friday, Saturday and Sundays only
 - 8am – 4pm

And the site shall be cleared of all associated equipment at the end of each day.

Reason: In the interests of the appearance and amenity of the area, in accordance with policies 28 and 36 of the highland wide Local Development Plan.

3. The use hereby permitted shall not be operational until a litter bin with a lid has been provided adjacent to the van. The litter to be collected regularly and frequently by the operator of the premises, including in the surrounding car park, and disposed of responsibly at the end of each day.

Reason: To avoid a litter nuisance, in accordance with policies 28 and 72 of the highland wide Local Development Plan

REASON FOR DECISION

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

TIME LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION

N/A – temporary permission

FOOTNOTE TO APPLICANT

Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

Accordance with Approved Plans & Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action

Local Roads Authority Consent

In addition to planning permission, you may require one or more separate consents (such as road construction consent, dropped kerb consent, a road openings permit, occupation of the road permit etc.) from the Area Roads Team prior to work commencing. These consents may require additional work and/or introduce

additional specifications and you are therefore advised to contact your local Area Roads office for further guidance at the earliest opportunity.

Failure to comply with access, parking and drainage infrastructure requirements may endanger road users, affect the safety and free-flow of traffic and is likely to result in enforcement action being taken against you under both the Town and Country Planning (Scotland) Act 1997 and the Roads (Scotland) Act 1984.

Further information on the Council's roads standards can be found at: <http://www.highland.gov.uk/yourenvironment/roadsandtransport>

Application forms and guidance notes for access-related consents can be downloaded from:

http://www.highland.gov.uk/info/20005/roads_and_pavements/101/permits_for_working_on_public_roads/2

Mud & Debris on Road

Please note that it is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

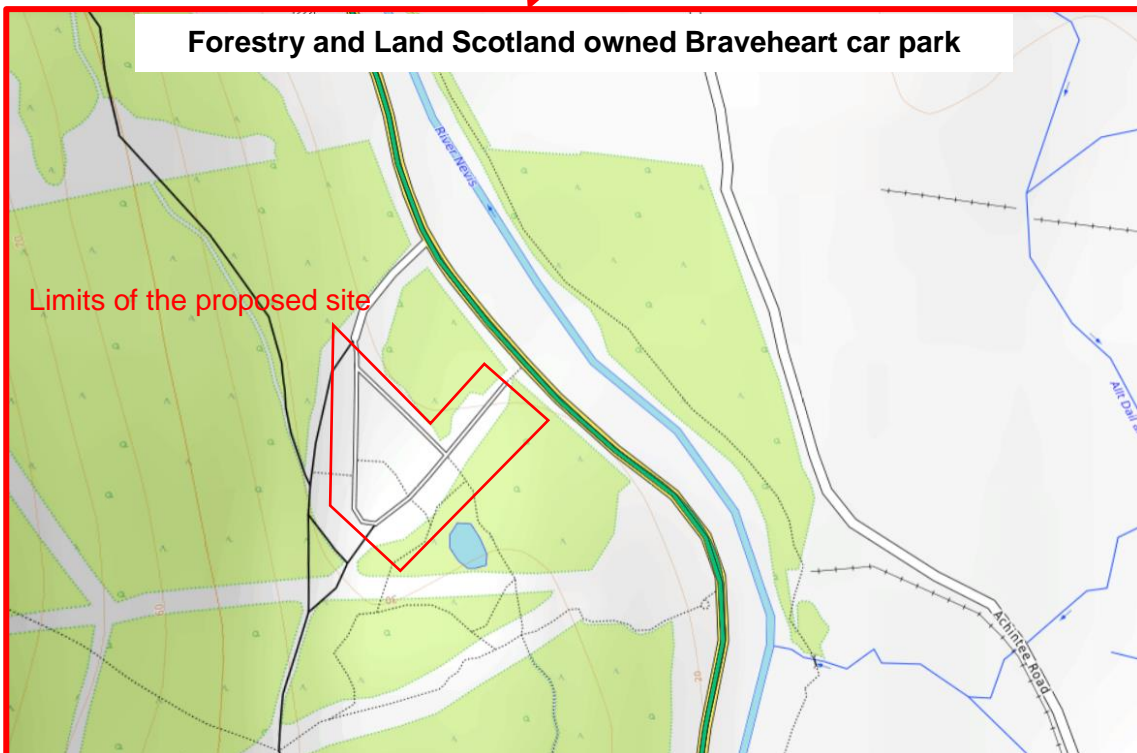
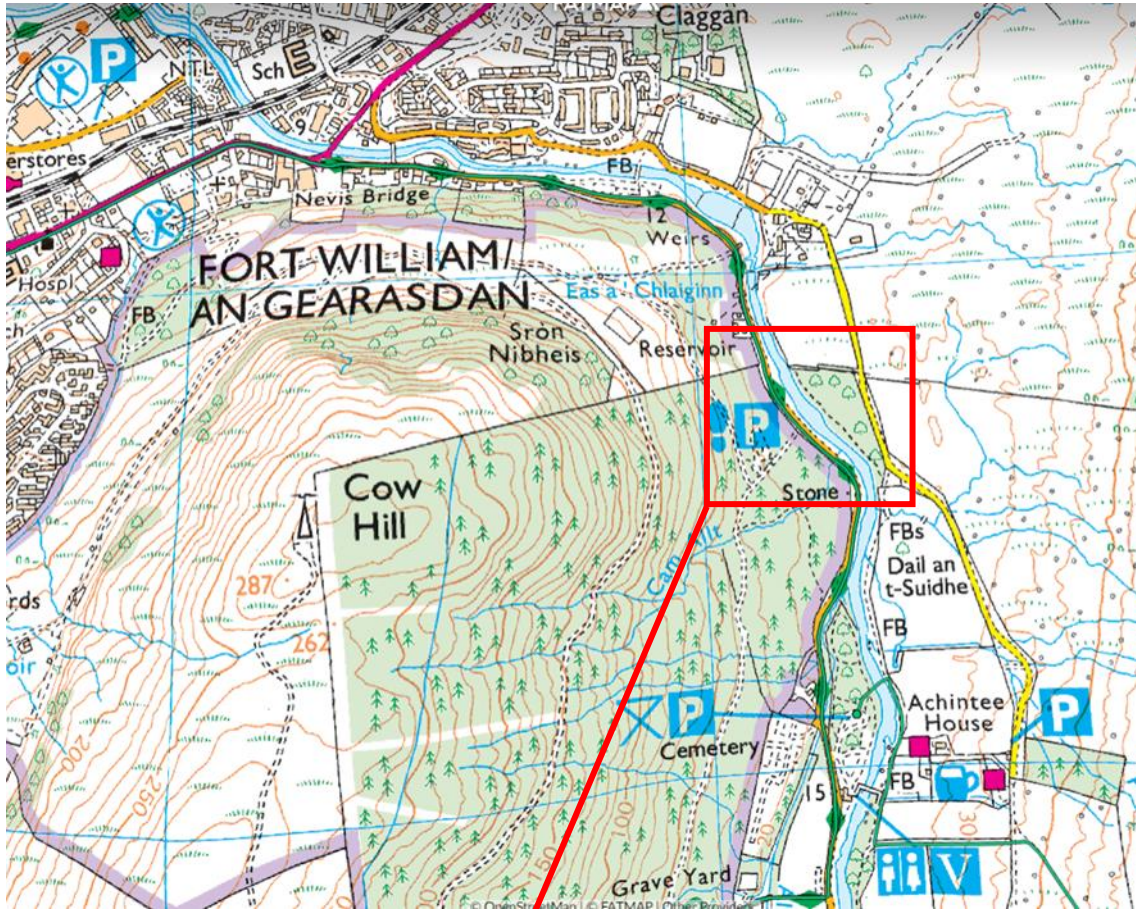
Protected Species – Halting of Work

You are advised that work on site must stop immediately, and Scottish Natural Heritage must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the time of discovery. Further information regarding protected species and developer responsibilities is available from SNH: www.snh.gov.uk/protecting-scotlands-nature/protected-species

Signature:	David Mudie
Designation:	Area Planning Manager – South
Author:	Lucy Prins
Background Papers:	Documents referred to in report and in case file.
Relevant Plans:	Plan 1 - 000001 REV A Local Plan Plan 2 - 000002 REV A Site Plan

Proposed site of 'The Green Hut'

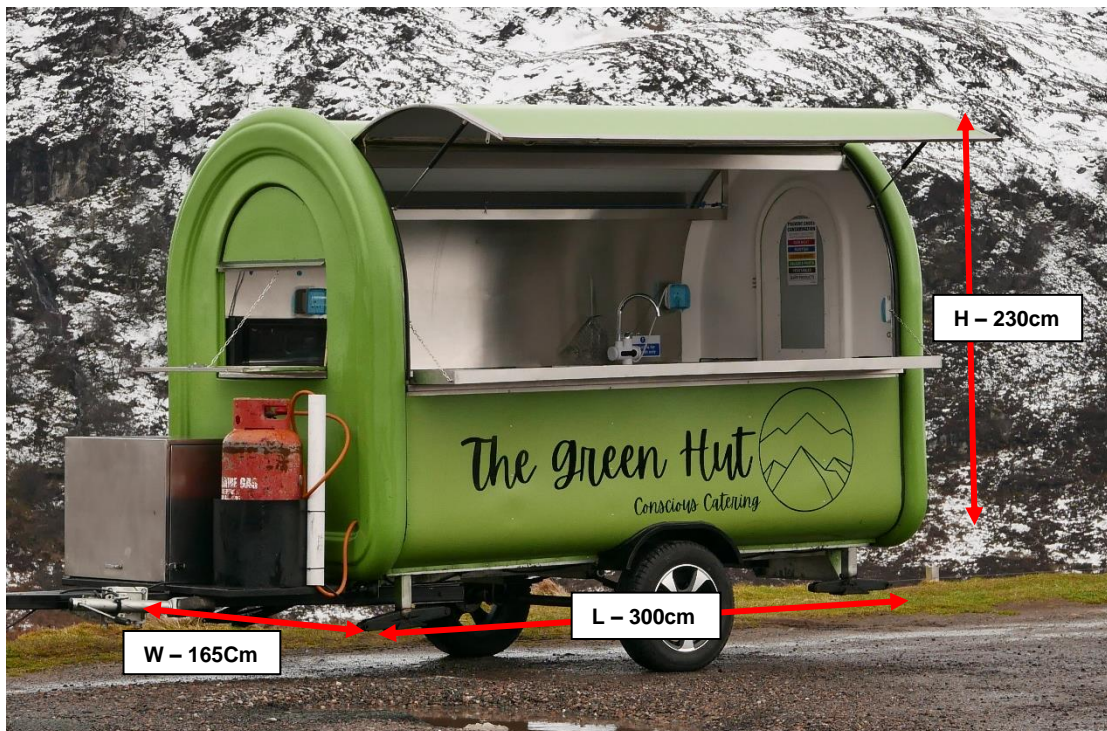
Address: Braveheart Car Park, Glen Nevis (near PH33 6PF)



Site plan in detail



*Trailer annotated to show scale. Precise location of the trailer within the car park is yet to be confirmed by FLS. Decision to be outlined in finalised permission from them.



The Green Hut - Photo

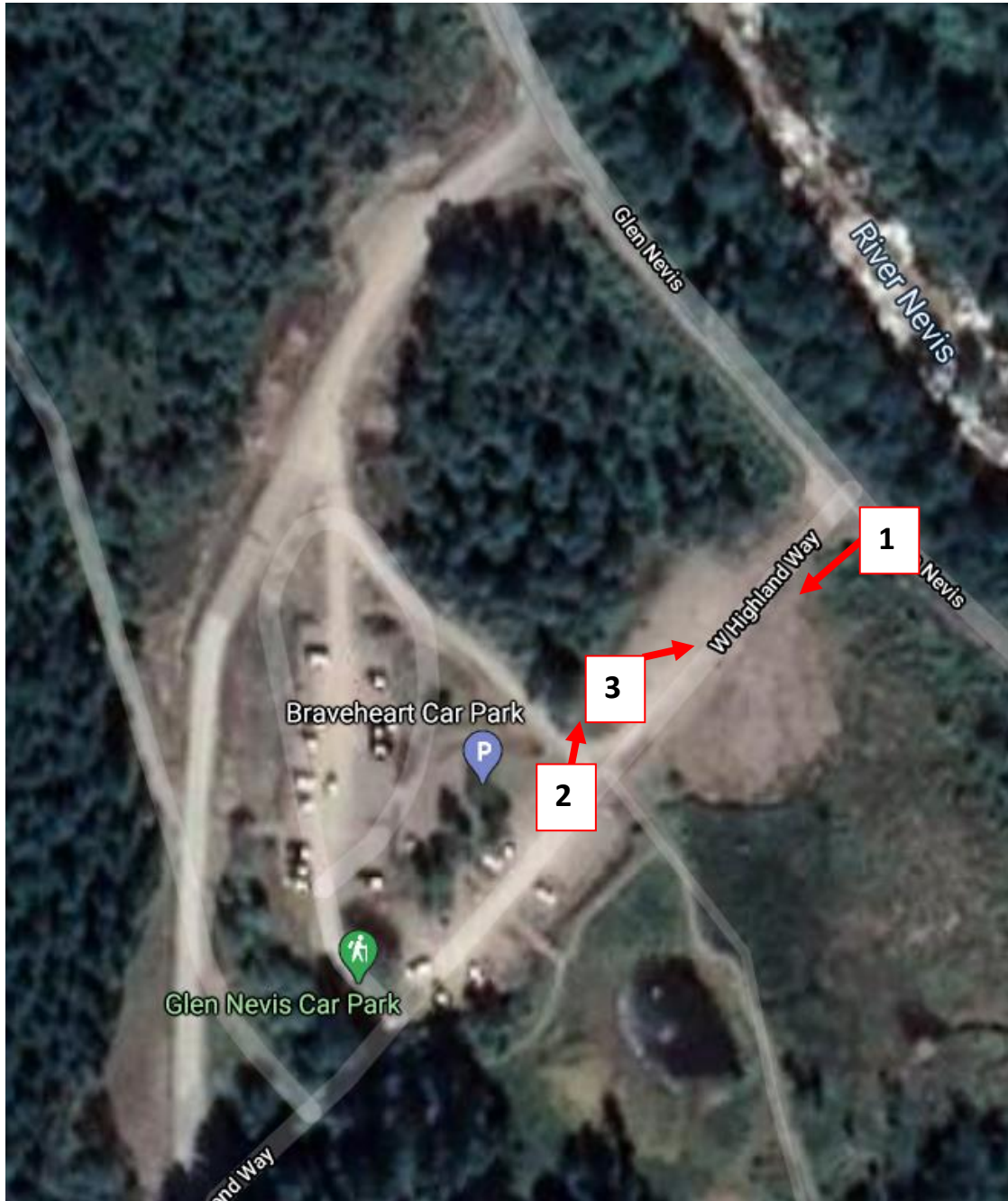


*Identical branding appears on the other side of the trailer. The logo plus the Instagram page link appears on the door and hatch at each end.

Braveheart Car Park visit photos

In all photos the intended site of the trailer is represented by the silver Dacia Duster SUV.

Photo locations:



1



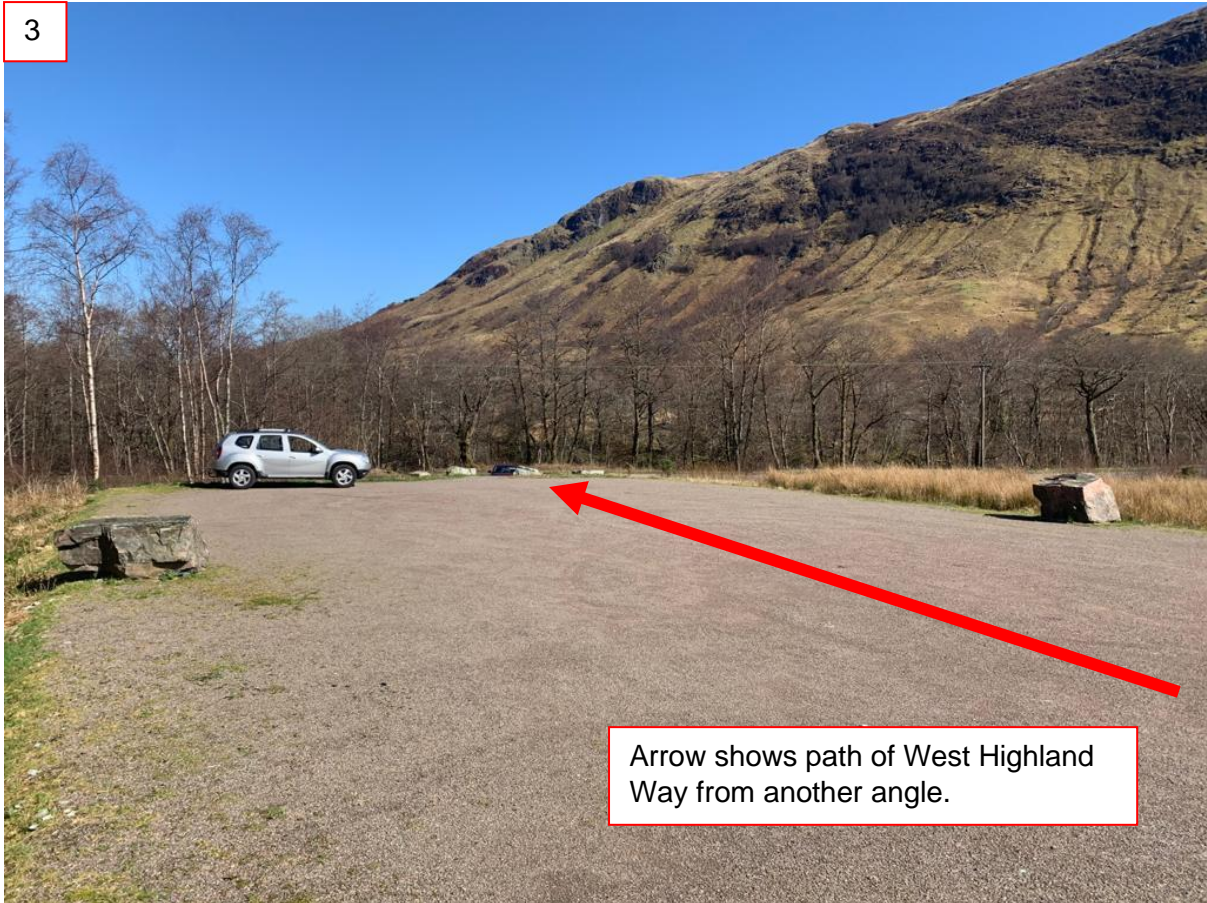
West Highland Way exits car park near intended location. No obstruction caused.

2



Intended site is at the end of a 'dead-end' section of the car park, away from the main flow of traffic through the site (represented by arrow).

3



The trailer has been sited in this location for several reasons:

- The trailer and its customers are away from the main flow of traffic for pedestrian safety and to avoid obstructing the flow of traffic.
- Being on the periphery of the car park enables us to easily site the generator in a way that prevents access by car park users.
- Located away from the benches to allow people to use the seating away from the possible queues created by customers.
- Proximity to the West Highland Way provides accessible refreshment to those using the trail.