

# **AGENDA ITEM 5**

## **APPENDIX 2**

**2016/0442/DET**

### **HABITAT REGULATIONS APPRAISAL**

## Habitats Regulations Assessment for:

### 2016/0442/DET Installation of new 4 person chairlift, Glenshee

#### Introduction

This is a record of the assessment under regulation 48 of the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) for the planning application 2016/0442/DET made by the Glenshee Ltd for the installation of a new four person chairlift at Glenshee Ski Centre. This will involve the removal of the existing T-bar lift and the installation of new chairlift. New pylon bases will be created along the route, some material will require helicopter delivery. Habitat restoration will be undertaken.

The proposal is located to the North of the Cairnwell summit on the north slope of the Cairnwell it is surrounded by ski infrastructure, lifts, tracks, tows and centre buildings. The Cairnwell Burn flows down through the site into the River Dee SAC, watercourses in this area also drain to the River Tay SAC. The site supports heath habitat and acid grassland.

#### Background to the assessment

The principal documents which have been taken into account for this assessment are:

- Glenshee Ski centre –New Chairlift, Baseline Ecological Survey, Atmos Consulting (August 2017)
- SEPA Advice on GWDTE (February, 2017)
- SEPA Advice re-consultation (August 2017)
- SNH Natura Appraisal (February, 2017)
- SNH Natura Appraisal re-consultation (August 2017)

**Table 1. Stages of Assessment**

<b>Stages of Assessment</b>	
<b>Stage 1</b>	Decide whether proposal is subject to HRA
<b>Stage 2</b>	Identify Natura Sites that should be considered and gather information about the Natura Sites
<b>Stage 3</b>	Consultation on the method and scope of the appraisal with SNH and others. Request additional information from applicant if required.
<b>Stage 4</b>	Screening the proposal for likely significant effects on Natura sites including mitigation measures included within the proposal
<b>Stage 5</b>	Screen for “in combination effects” with other plans or

	projects
<b>Stage 6</b>	Appropriate Assessment to determine effect upon conservation objectives. Preliminary conclusion about adverse effect upon the integrity of any site.
<b>Stage 7</b>	Consultation with SNH (and others if considered appropriate)
<b>Stage 8</b>	Apply additional mitigation measures, if required, via conditions or agreements to ensure that there is no adverse effect on site integrity
<b>Stage 9</b>	Conclusion on Integrity test
<b>Stage 10</b>	Regulation 49 derogation procedures. This only applies if adverse effects remain and Competent Authority still wishes to approve the application

### **Stages 1-5 describing the Natura sites and Screening**

The proposed development is not wholly concerned with the necessary management of a European site for nature conservation and requires planning permission and so the plans must be subject to assessment under the terms of Directive 92/43/EEC.

### **Stages 2: Identification of Natura Sites and gathering their details**

The list below is those sites that have been taken forward to screening for likely significant effects. See Appendix I for details on each site and its qualifying features.

#### **Special Area of Conservation (SAC)**

- River Dee

#### **Special Protection Area (SPA)**

- Cairngorms Massif

### **Stage 3: Discussions on the method and scope of the appraisal and requests for additional information**

Advice has been sought from SNH as to the potential for the proposal to impact on the Designated Features. SNH have determined that as long as appropriate Pollution prevention Guidelines are included within a Construction Method Statement and adhered to they are satisfied that this will protect the River Dee from silt and nutrient laden run-off water

(February, 2017). SNH required more information on helicopter usage – timing, flight path and noise level from the use of helicopters to transport construction material. Further information has been provided by the applicant on helicopter usage and this will be used together with expert opinion from SNH to assess whether there is a Likely Significant Effect within this HRA.

Additional information relevant for this HRA was provided by the applicant on 14<sup>th</sup> August 2017 and included:

- A Construction Environmental Plan with Pollution Prevention Plan; and
- A Baseline Ecological Survey.

SNH were re-consulted and provided further advice on the impacts to Qualifying Interests (Golden Eagle) of the Cairngorms Massif SPA on 31<sup>st</sup> August 2017 and SEPA provided further advice on the water environment on 30<sup>th</sup> August 2017.

#### **Stage 4: Screening the proposal for likely significant effects**

The effects identified are discussed in Table 3 below.

**Table 3. Screening for LSE from new chairlift installation at Glenshee Ski Centre**

<b>Cairngorms Massif SPA</b>					
<b>Qualifying Feature Affected</b>	<b>Possible effect of development</b>	<b>Likely significant effect</b>	<b>Duration</b>	<b>Screening assessment</b>	<b>Screening Outcome</b>
Golden Eagle ( <i>Aquila chrysaetos</i> )	Disturbance to nesting Golden Eagle from helicopter movements	Significant disturbance during the breeding season could result in brood failure	Temporary, during construction only	The applicant has provided a schedule of helicopter movements on the development site, SNH have assessed the proposals as very unlikely to have an effect on Golden Eagle as there are no recent records of eagles nesting nearby. There is a historic nest site which should be checked as a precaution prior to works being undertaken. The Construction Method Statement must include a pre-construction check for Golden Eagle (SNH to provide details of nest location) As a further precaution to disturbance of any eagles nesting in the area, the applicant must provide a flight path to SNH detailing the route taken through the SPA to reach the development site.	<b>Likely Significant Effect Alone</b>

<b>River Dee SPA</b>					
<b>Qualifying Feature Affected</b>	<b>Possible effect of development</b>	<b>Likely significant effect</b>	<b>Duration</b>	<b>Screening assessment</b>	<b>Screening Outcome</b>
Otter	Pollution of watercourses through run – off during construction: siltation during ground excavation work, fuel or other chemical run-off	Pollution from chemical leakage and siltation clouding water	Temporary, during construction only	A Construction method Statement has been submitted with the application detailing a Pollution prevention Plan to prevent silt or pollution reaching any of the watercourses. The CMS requires updating to adhere to Guidance for Pollution prevention (SEPA, 2017) to prevent pollution from concrete wash waters which are very corrosive and alkaline.	<b>Likely Significant Effect Alone</b>
Atlantic salmon	Pollution of watercourses through run – off during construction: siltation during ground excavation work, fuel or other chemical run-off	Pollution from chemical leakage and siltation clouding water	Temporary, during construction only	A Construction method Statement has been submitted with the application detailing a Pollution prevention Plan to prevent silt or pollution reaching any of the watercourses. The CMS requires updating to adhere to Guidance for Pollution prevention (SEPA, 2017) to prevent pollution from concrete wash waters which are very corrosive and alkaline.	<b>Likely Significant Effect Alone</b>

Fresh water pearl mussel	Pollution of watercourses through run – off during construction: siltation during ground excavation work, fuel or other chemical run-off	Pollution from chemical leakage and siltation clouding water	Temporary, during construction only	A Construction method Statement has been submitted with the application detailing a Pollution prevention Plan to prevent silt or pollution reaching any of the watercourses. The CMS requires updating to adhere to Guidance for Pollution prevention (SEPA, 2017) to prevent pollution from concrete wash waters which are very corrosive and alkaline.	<b>Likely Significant Effect Alone</b>
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## Stage 5: In-combination effects

The plans and projects in Table 4 have been searched for any likely insignificant effects that may combine with those identified the proposed development.

No Minor Residual Effects were identified during the Appropriate Assessment or screening of the proposal, therefore there are no possible in-combination effects.

## Stages 6–10 Assessment and Conclusions

### Stage 6: Appropriate Assessment

The proposals have been screened in Stages 4 and 5. It was found that one aspect of the proposal may have a Likely Significant Effect on Golden Eagle in the Cairngorms Massif SPA from the helicopter flight route to the development site at the Glenshee Ski Centre, it was considered that this could be addressed through simple mitigation alone (see Table 4 ) therefore no Appropriate Assessment is required.

It was found that a second aspect of the proposal which involved the disposal of concrete washings to groundwater through the car park drainage could have a negative impact on the qualifying features of the River Dee SAC, was considered that his could be addressed through simple mitigation alone (see Table 4) therefore no Appropriate Assessment is required.

**Table 4. Re-screening for LSE from new chairlift installation at Glenshee Ski Centre**

Proposal in project	Potential adverse effect on European Site QF	Mitigation measures to Incorporate into Project	Revised Screening Assessment
Helicopter flight route to Glenshee Ski Centre	Disturbance to nesting Golden Eagles	Agree flight route with SNH prior to construction and include a pre-construction check in the Construction method Statement for signs of nesting at historic nest site.	No Effect
Disposal of concrete washings to groundwater through the car park drainage	Pollution of River Dee SAC	Update Pollution Prevention Plan to adhere to Guidance for Pollution prevention 5 (SEPA, 2017) which does not allow disposal of concrete washings to ground or surface water.	No Effect



## Stage 7: Consultation

Wider consultation of the draft report is at the discretion of the competent authority. In this case, consultation with SNH was carried out prior to the assessment and also after to ensure additional mitigation measures are comprehensive to ensure no likely significant effect on site integrity.

**SNH were consulted on the draft HRA and submitted further comment on 20<sup>th</sup> September 2017. These were:**

- From the location plans, it looks as though the development is entirely within the catchment of the River Dee – including the site compound, so it may not be necessary to include the River Tay SAC in this appraisal?

*Response: The River Tay SAC was removed from this HRA*

- In table 3 you say that ‘The Construction Method Statement must include a pre-construction check for Golden Eagle (SNH to provide details of nest location)’. We can provide this information in confidence to the applicant’s ecological consultant, subject to certain conditions.

*Response: The wording of the mitigation requirements has been altered to reflect this*

- In section 3 you comment that ‘SNH require more information on helicopter usage – timing, flight path and noise level before they will remove their objection from the use of helicopters to transport construction material’. We are confident that impacts can be avoided, it is just a case of agreeing the route with the operator. We therefore don’t need this information in advance of the application being determined.

*Response: The wording of the mitigation requirements has been altered to reflect this*

## Stage 8: Additional mitigation

- **The following measure must be inserted into the Golden Eagle Protection Plan**

**‘To avoid any disturbance on the nest, a pre-construction check must be made to the historic Golden Eagle nest site for any signs of recent occupation (SNH to provide the applicants ecologist with nest site location with certain conditions). To prevent disturbance to any nesting Golden Eagle in the area, the helicopter flight path through the Cairngorms Massif SPA to the development site must be submitted to SNH for comment prior to commencement of construction to agree the route’**

- **The following measure must be inserted into the Construction method Statement –Pollution Prevention Plan**

**‘To avoid any likely significant effect on qualifying features of the River Dee SAC the Construction Method Statement must be updated to adhere to GPPG5 to ensure correct disposal of concrete washings ’**

### **Stage 9: Conclusion on the integrity test**

This assessment based upon the best available scientific evidence and advice offered from SNH and others has shown that, with the mitigation measures described within the Species Protection Plan and Pollution Prevention Plan, there is not a likely significant effect from the proposed development upon the qualifying features or the conservation objectives for the following Natura sites:

- Cairngorms Massif SPA
- River Dee SPA

**We therefore conclude that the proposed development, subject to the mitigation measures identified in this appropriate assessment and applied to any consent, will not adversely affect the integrity of any of these sites.**

### **Stage 10: Section 49 (derogation)**

The conclusion that there is no adverse effect upon the integrity of any of the Natura sites covered in this report means that regulation 49 is not relevant.

### **Summary of residual effects**

No Minor Residual Effects were identified.

### **References**

#### **Habitat Regulations process**

Council Directive 92/43/EEC “the Habitats Directive” EEC adopted 1992

Managing Natura 2000 sites – EU communities 2000

Guidance document on Article 6(4) of the 'Habitats Directive' 92/43/EEC - EC 2007

The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended)

Welsh Assembly Government TAN 5: Nature Conservation and Planning - 2009

Habitat Regulations Appraisal of Plans – Guidance for Plan Making Bodies in Scotland  
SNH/DTA August 2012 (Version 2.0)

#### **Other sources**

SEPA Guidance for Pollution prevention (2017) <http://www.netregs.org.uk/media/1418/gpp-5-works-and-maintenance-in-or-near-water.pdf>

## Appendix I

### Details of Natura 2000 sites within, or adjacent to, the proposed development site

Name of European Site	Cairngorms Massif SPA
Site Type	Special Protection Area
Conservation Objectives	<p>To avoid deterioration of the habitats of the qualifying species (listed below) or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained; and</p> <p>To ensure for the qualifying species that the following are maintained in the long-term:</p> <p>Population of the species as a viable component of the site            Distribution of the species within the site            Distribution and extent of habitats supporting the species            Structure, function and supporting process of habitats supporting the species            No significant disturbance of the species</p>
Qualifying Species	Golden Eagle ( <i>Aquila chrysaetos</i> )
Site Condition	Golden Eagle, Favourable Maintained, 2015
Factors currently influencing site	In terms of development, none at present

Name of European Site	River Dee
Site Type	Special Area of Conservation
Conservation Objectives	<p>To avoid deterioration of the habitats of the qualifying species (listed below) or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained; and</p> <p>To ensure for the qualifying species that the following are maintained in the long-term:</p> <p>Population of the species as a viable component of the site            Distribution of the species within the site            Distribution and extent of habitats supporting the species            Structure, function and supporting process of habitats supporting the species            No significant disturbance of the species</p>
Qualifying Species	Otter ( <i>Lutra lutra</i> ) Atlantic salmon ( <i>Salmo salar</i> ) Freshwater pearl mussel ( <i>Margaritifera margaritifera</i> )
Site Condition	FWPM – Unfavourable no change, 2003 Otter – Favourable declining, 2011 Atlantic salmon – Favourable Maintained, 2011

Factors currently influencing site	Agricultural operations, abstraction, morphological alteration, diffuse source pollution

Name of European Site	River Tay
Site Type	Special Area of Conservation
Conservation Objectives	<p>To avoid deterioration of the habitats of the qualifying species (listed below) or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained; and</p> <p>To ensure for the qualifying species that the following are maintained in the long-term:</p> <p>Population of the species as a viable component of the site  Distribution of the species within the site  Distribution and extent of habitats supporting the species  Structure, function and supporting process of habitats supporting the species  No significant disturbance of the species</p>
Qualifying Species	<p>Sea lamprey (<i>Petromyzon marinus</i>)  Brook Lamprey (<i>Lampetra planeria</i>)  River lamprey (<i>Lampetra fluviatilis</i>)  Otter (<i>Lutra lutra</i>)  Atlantic salmon (<i>Salmo salar</i>)</p>
Site Condition	<p>Atlantic salmon, Favourable maintained, 2011  Brook lamprey, Favourable maintained, 2007  Clear water lochs, Favourable maintained, 2009  Otter, Favourable maintained, 2012  River lamprey, Favourable maintained, 2007  Sea lamprey, Favourable maintained, 2007</p>
Factors currently influencing site	Fisheries management, invasive species, water management, water quality, development with planning permission, agricultural operations,

## Appendix 2

### Glossary of terms and abbreviations

<b>Appropriate Assessment (AA)</b>	The part of the Habitats Regulations Assessment process that considers the effects of an aspect of a plan upon the conservation objectives for a Natura site.
<b>CNPA</b>	Cairngorms National Park Authority
<b>CNAP</b>	Cairngorms Nature Action Plan

<b>Competent Authority</b>	The decision making body required under the Habitats Directive to undertake HRA. This includes Scottish Government, National Park Authorities, SNH , SEPA or Local Authorities.
<b>CPP</b>	Core Paths Plan
<b>Habitats Regulation Assessment (HRA)</b>	The whole appraisal process for determining effects upon Natura Sites. It includes Appropriate Assessments. It is a requirement by the Habitats Directive that competent authorities carry out HRAs where a plan or project affects a Natura site.
<b>CLDP</b>	Draft Cairngorms National Park Local Development Plan
<b>Likely Significant Effect</b>	An adverse effect of the development upon a qualifying interest or conservation objective that is considered to be potentially severe enough as to threaten the integrity of the Natura site itself.
<b>Natura Sites</b>	Collective term for Special Protection Areas and Special Areas of Conservation
<b>Ramsar sites</b>	Ramsar sites are wetlands of international importance designated under the Ramsar Convention 1971. Not technically Natura sites they are however usually also SPAs. They are included within the HRA process by policy.
<b>Special Area of Conservation (SAC)</b>	An area designated for the protection of habitats and species. Authorised under Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (commonly called the "Habitats Directive"). One of three designation to be considered in a HRA
<b>Special Protection Area (SPA)</b>	An area designation for the protection of birds. Authorised by the Directive 2009/147/EC of the European Parliament and of the Council (commonly called the "Birds Directive"). One of three designation to be considered in a HRA