

AGENDA ITEM 8

APPENDIX 3

HABITAT REGULATIONS APPRAISAL

**Aviemore Highland Resort
Local Development Plan 2015
Development Brief**

Habitat Regulations Assessment

11th April 2018

Introduction

This document outlines the Habitats Regulations Appraisal (HRA) of the Aviemore Highland Resort Local Development Plan 2015 Development Brief (hereafter referred to as the “Development Brief”) which outlines a design plan for tourism, housing and commercial development across the Aviemore Highland Resort site.

Article 6(3) of the EC Habitats Directive requires that any plan (or project) which is not directly connected with or necessary to the management of a European site, but would be likely to have a significant effect on such a site, either individually or in combination with other plans or projects, shall be subject to an ‘appropriate assessment’ of its implications for the European site in view of the site’s conservation objectives. This procedure is applied in Scotland through The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended), and is known as the ‘Habitats Regulations Appraisal’ of plans.

European sites are Special Areas of Conservation (SACs) designated under the EC Habitats Directive to protect particular habitats and non-bird species, and Special Protection Areas (SPAs) designated under the EC Birds Directive to protect wild birds. The Development Brief can only be adopted if it can be ascertained that it will not adversely affect the integrity of a European site.

This document is the HRA record for the Development Brief. This screening report includes the preliminary stages of the HRA process:

- the identification of protected areas;
- the collection of data;
- assessment of the effects that policies and allocations may have on these protected sites; and
- the identification of existing objectives from other plans, policies and programmes and details on projects which would, in combination with the Development Brief, be likely have a significant negative effect on any international nature conservation site.

If, as a result of consultation on this report, it is determined that the Development Brief is likely to have significant effects on the protected areas, alone or in-combination with other plans or projects, a more detailed assessment (an Appropriate Assessment (AA)) will be required.

The HRA Process

There is no prescribed method for a HRA. The CNPA are therefore following the guidelines prepared by David Tyldesley and Associates for Scottish Natural Heritage (SNH) 'Habitats Regulations Appraisals of Plans' (January 2015). SNH have been consulted during the preparation of the appraisal.

There are 13 stages to the methodology followed, set out in **Table I**. This report records all stages. Further details of the methodology applied during screening and appropriate assessment are given in the relevant sections.

Table I Stages of the methodology (Source: SNH Guidance: Habitats Regulations Appraisal of Plans, D Tyldesley, 2015)

Stage 1	Decide whether plan is subject to HRA
Stage 2	Identify Natura Sites that should be considered
Stage 3	Gather information about the Natura Sites
Stage 4	Discretionary consultation on the method and scope of the appraisal
Stage 5	Screening the plan for potential likely significant effects on Natura sites, including in-combination effects with other plans and projects
Stage 6	Apply mitigation measures
Stage 7	Re-screen the plan after mitigation measures have been applied
Stage 8	If significant effects still likely, undertake an appropriate assessment in view of conservation objectives
Stage 9	Apply mitigation measures until there is no adverse effect on site integrity
Stage 10	Prepare a draft record of the HRA
Stage 11	Consult on the draft record of the HRA
Stage 12	If amending the plan in light of consultation, screen amendments for likely significant effects and if required, carry out appropriate assessment and consult SNH again
Stage 13	Modify HRA record in light of any amendments, complete and publish the final HRA record with clear conclusions

Stage I: Aviemore Highland Resort, Local Development Plan 2015, Development Brief and the Decision to Screen

The Development Brief is a guidance document for the development of the Aviemore Highland Resort (AHR). It aims to provide a land use and development framework to inform the preparation of more detailed proposals. The Development Brief identifies development objectives through an overarching masterplan, which provides guidance for individual parts of AHR.

Each element or “development area” within the Development Brief will require full planning permission and will enter a formal planning application process as they come forward.

The Development Brief is not wholly concerned with the necessary management of a European site for nature conservation (Natura Site). As such the plans must be subject to an HRA under the terms of article 6(3) of the EC Habitats Directive.

Stages 2 and 3: Identification of Natura Sites and Gathering their Details

The second and third stages in the assessment process are to identify which European sites either within or out with the National Park that may be affected by the Development Brief. **Appendix I** shows a screening matrix which assesses relevant Natura Sites against the various aspects of the Development Brief.

The following sites have been considered but screened out of further assessment as not having connectivity to the proposed development:

Cairngorms Massif SPA
Loch Vaa SPA

The following sites have been identified with the assistance of SNH and have been screened in for further assessment due to potential to be affected by aspects in the Development Brief:

Special Area of Conservation (SAC)
River Spey

Special Protection Area (SPA)

Abernethy Forest
Anagach Woods
Cairngorms
Craigmore Wood
Kinveachy Forest

Stage 4: Discussions on the Method and Scope of Appraisal

Advice from SNH was sought at key stages in preparing the HRA including:

- Initial discussion with SNH 25th October 2017
- HRA screening discussion 26th January 2018
- Meetings on 9th January 2018 and 5th April 2018 to finalise screening and scope of assessment
- Development of draft report 6th April 2018
- Consultation on draft report 6th April 2018
- Gathering feedback from SNH on draft 10th April 2018 ready to produce final report

Stage 5: Screening the Plan

According to David Tyldesley and Associates (2015), the purpose of screening is to:

- a. Identify all aspects of the plan which would have no effect on a European site, so that that they can be eliminated from further consideration in respect of this and other plans;
- b. Identify all aspects of the plan which would not be likely to have a significant effect on a European site (i.e. would have some effect, because of links/connectivity, but which are minor residual), either alone or in combination with other aspects of the same plan or other plans or projects, which therefore do not require 'appropriate assessment'; and
- c. Identify those aspects of the plan where it is not possible to rule out the risk of significant effects on a European site, either alone or in combination with other plans or projects. This provides a clear scope for the parts of the plan that will require appropriate assessment.

The screening process has four key steps:

- Screening step 1: screening out general policy statements
- Screening step 2: screening out projects referred to in, but not proposed by, the plan
- Screening step 3: screening out aspects of a plan that could have no likely significant effect on a site, alone or in combination with other aspects of the same plan, or with other plans or projects.
- Screening step 4: consideration of likely significant effects alone and in combination

Steps 1-3: Screening

Table 5a provides a summary of the screening process, outlining the steps in which the elements of the CFS were either screened in or out of the appraisal.

Table 5a Screening Summary

Outcome / Policy	Step 1: General policy statements	Step 2: Projects referred to in, but not proposed by, the plan	Step 3: Other aspects of the Plan that could have no LSEs
1. Woodland Lodges: expansion of existing provision by 19 additional lodges.	IN		
2. Spey Valley Leisure Arena: Describes potential for expanding mixed retain and leisure facilities.			OUT
“Potential mixed development area adjoining the site” (page 4): describes potential opportunity of development outside of the Aviemore Highland Resort. Doesn't specify type of development i.e. housing, commercial, leisure		OUT	
3 Green spaces & green networks/linkages Describes how green spaces should be protected and enhanced, including an area adjacent to Milton Burn (River Spey SAC)			OUT
4. Residential Development: approximately 20 houses	IN		
5 Residential and mixed commercial site: Approximately 66 houses plus commercial units.	IN		
6. Residential site with existing permission: brief description of this development and how it integrates into the resort development.		OUT	
Design (page 8): description of design of development, sustainability etc.	OUT		
Sun paths & key views: indicates path of sun and topography of the site	OUT		
Natural heritage (page 10): description of how development should aim to meet policies on natural heritage			OUT

Outcome / Policy	Step 1: General policy statements	Step 2: Projects referred to in, but not proposed by, the plan	Step 3: Other aspects of the Plan that could have no LSEs
Transport/Roads (page 11): describes improvements needed to current road network	OUT		
Developer contributions (page 11)	OUT		

Summary of Likely Significant Effects

There are policies and material in the strategy that may have a Likely Significant Effect (LSE) on European sites. These are detailed in Table 5b below.

Table 5b: Summary of Likely Significant Effects

Development screened in at Stage 5	Natura site	Qualifying interest	LSE?
1. Woodland Lodges	River Spey SAC	Otter, Atlantic salmon, Sea Lamprey, Fresh water pearl mussel	No (no connectivity)
	Kinveachy Forest SPA	Capercaillie	Yes, from recreational disturbance
		Scottish crossbill	No
	Anagach SPA	Capercaillie	Yes from recreational disturbance
	Abernethy SPA	Capercaillie	Yes from recreational disturbance
		Scottish crossbill	No
	Cairngorms SPA	Capercaillie	Yes from recreational disturbance
		Scottish crossbill, Merlin, Peregrine, Golden eagle, Osprey	No
Craigmore SPA	Capercaillie	Yes from recreational disturbance	
4. Residential development	River Spey SAC	Otter, Atlantic salmon, Sea Lamprey, Fresh water pearl mussel	No (no connectivity)
	Kinveachy Forest SPA	Capercaillie	Yes, from recreational disturbance
		Scottish crossbill	No
	Anagach SPA	Capercaillie	Yes from recreational disturbance
	Abernethy SPA	Capercaillie	Yes from recreational disturbance
		Scottish crossbill	No
	Cairngorms SPA	Capercaillie	Yes from recreational disturbance
		Scottish crossbill, Merlin, Peregrine, Golden eagle, Osprey	No
Craigmore SPA	Capercaillie	Yes from recreational disturbance	

5. Residential and mixed commercial development	River Spey SAC	Otter	Yes, from construction (noise, disturbance and pollution/water quality), and post-construction disturbance impacts
		Atlantic salmon, Sea Lamprey, Fresh water pearl mussel	Yes, from construction (pollution/water quality) impacts
	Kinveachy Forest SPA	Capercaillie	Yes, from recreational disturbance
		Scottish crossbill	No
	Anagach SPA	Capercaillie	Yes from recreational disturbance
	Abernethy SPA	Capercaillie	Yes from recreational disturbance
		Scottish crossbill	No
	Cairngorms SPA	Capercaillie	Yes from recreational disturbance
		Scottish crossbill, Merlin, Peregrine, Golden eagle, Osprey	No
	Craigmore SPA	Capercaillie	Yes from recreational disturbance

Step 4: In combination effects

The following list of plans and projects have been considered for in combination effects:

- Dalfaber, Aviemore, 75 dwellings (consented, not yet built)
- 2016/0224/DET Allt Mhor Housing, Aviemore, 42 dwellings (consented, not yet built)
- “Pony Field” housing, Aviemore Highland Resort, 140 dwellings (consented, only partially built)

A minor residual effect was identified for the Cairngorms National Park Local Development Plan (2015-2020) on Cairngorms Massif SPA. However, as this SPA has been screened out, no further consideration of this is required.

Assessment of Likely Significant Effects (both alone and in combination with other plans or projects)

For all the SPAs, **the only qualifying interest likely to be affected by the proposal is capercaillie** due to their ground nesting and leking behaviour, which increases their sensitivity to disturbance. The other species are not ground nesting and so are unlikely to be disturbed by ground level recreation activity arising from development of areas 1 (woodland lodges), 4 and 5 (residential development).

a. Assessment for Kinveachy Forest SPA alone

Kinveachy forest comprises of Scots pine forest west of the A9, in between Aviemore and the park boundary. The forest includes both a designated area (Kinveachy Forest SPA) and non-designated forest. Kinveachy Forest SPA is split into two parts, a southern part which is parallel to the A9 and adjacent to Aviemore, and a northern part is west of Carrbridge that lies along the River Dulnain.

For the Aviemore part of the SPA, the SPA boundary is separated from the non-SPA forest by a 2m high deer fence. The non-SPA forest comprises of the steep slope of Kinveachy (known as Kinveachy face) in between the A9 and the SPA boundary. Capercaillie use both the SPA and non-SPA areas. Leks are concentrated within the SPA. The non-SPA is used by wintering birds and recent survey evidence suggests that the non-SPA might also be used for brood rearing, increasing the importance of this habitat.

Due to the nature of the capercaillie metapopulation, impacts on non-SPA populations can indirectly affect the SPA population where the movement of birds between different areas, or the functionality of different areas is impacted. This is due to reduced breeding success in non-SPA population, resulting in reduced movement of birds from the non-SPA into the SPA and therefore reduced genetic viability of the SPA population. (This effect also applies to population interactions between the five Badenoch and Strathspey SPAs, where a likely

significant effect on one can result in a likely significant effect at the population level for all of the SPAs.)

The boundary of Kinveachy SPA is approximately 1.2 miles by footpath from Aviemore Highland Resort (AHR). Closest access by vehicle from AHR involves driving through Aviemore, under the A9 underpass on Old Meall Road and parking within the High Burn side housing estate. This reduces the journey to the Kinveachy Forest SPA boundary to less than a mile. To reach the boundary of the SPA visitors need to walk through non-SPA woodland - Kinveachy face. Although recreation in Kinveachy (both the SPA and adjoining non-SPA woodland) is not formally promoted, there are known issues with informal trail creation (mainly by downhill mountain bikers) and the landowner has erected signs alerting people to the risk of disturbing capercaillie.

A baseline report has been written that provides an initial assessment of the likely human population increase and the subsequent potential increase in recreation users as a result of development areas 1, 4 and 5. This report uses knowledge of the current observed recreation pattern for Aviemore to determine what the increase in recreation levels might be and if there is likely to be a change in recreational behaviour as a result of the above development areas in the Design Brief.

Recreational activities that are “high risk” in terms of causing disturbance to capercaillie include:

- dog walking away from existing popular paths in sensitive areas (including with dogs off-lead)
- mountain biking, running, walking, skiing or horse riding away from established trails in sensitive areas
- wildlife watching away from established paths and trails in sensitive areas
- exploring informal paths created by the above activities
- the disturbance caused by the above activities is heightened during the early morning and late evening

Capercaillie lek sites are situated within the Kinveachy Forest SPA boundary and are 1.2 mile via foot path from AHR and then by crossing a 2m high deer fence at set points. Most users of Kinveachy are likely to use the main forest tracks on the southern and eastern parts of the forest above Aviemore and High Burnside which are out with the SPA. Overwintering of birds does occur in this non-SPA area and there is indication that brood rearing occurs in this area as well which increases its importance. Observed recreation levels indicate that people are starting to recreate away from established forest tracks and onto informal trails which increases the zone of disturbance.

The Development Brief describes two development areas (areas 4 and 5) that will provide residential development to a maximum increase of 86 houses. Development of area 1 is for tourist accommodation, comprising approximately 19 woodland lodges. The patterns of

behaviour of tourists compared to residents is considered to be different, so separate assessment of the residential and lodge development is required:

Residential: development of areas 4 and 5

We cannot assume that residents of the AHR site won't consider recreating in Kinveachy Forest. However the proportional increase in recreational visits from residents of development areas 4 and 5 is predicted to be small. This is because there are other options available for recreation that are likely (based on existing patterns of recreational behaviour) to be more attractive for day-to-day use, including Craigellachie NNR, Aviemore orbital and Aviemore Riverside Park. Based on existing patterns of recreational behavior, the number of residents undertaking the "high risk" recreational activities above are also likely to be in the minority.

Development Areas 4 and 5 may contribute to recreation disturbance taking place in Kinveachy Forest (particularly non-SPA habitat which is supporting the SPA), though these would be relatively small numbers of additional visits. However, given the low population level of capercaillie, their high sensitivity to disturbance and that observed recreation levels in Kinveachy from Aviemore residents are higher than previously thought, there is a risk that new residents from AHR could adopt patterns of recreation that disturb capercaillie.

Therefore it is considered that there will be a direct likely significant effect on Kinveachy Forest SPA capercaillie caused by disturbance from residents of development areas 4 and 5, which would be long term.

Woodland lodges: development of area I

The Development Brief states there is capacity for additional woodland lodges to complement the existing lodges. These lodges provide self-catering holiday accommodation. This "capacity" would allow for a maximum doubling of the existing lodges, meaning a further 19 lodges. There is no indication that visitors staying in the lodges would recreate any differently from existing visitors – the most popular recreation activities involve sightseeing and low level walks. Craigellachie National Nature Reserve is adjacent to the lodges and is likely to be a popular choice for low level walks close by. Kinveachy Forest is more distant and is likely to be less appealing due to dense forestry and limited views, especially when there are other well promoted scenic alternatives in the surrounding area (eg Loch an Eilein and the many routes in and around Glenmore).

However, given the low population level of capercaillie, their high sensitivity to disturbance and that observed recreation levels in Kinveachy from Aviemore residents are higher than previously thought, additional disturbance from visitors to the woodland lodges may add more significantly to effects. There is a risk that woodland lodge visitors could adopt patterns of recreation that disturb capercaillie. **Therefore it is considered that there will be a direct likely significant effect on Kinveachy Forest SPA capercaillie caused by disturbance from visitors of development area I, which would be long term.**

b. Assessment for Abernethy Forest SPA, Anagach Woods SPA, Cairngorms SPA and Craigmore Wood SPA alone

Due to the distance to the SPAs (and their supporting woodlands) from the AHR, and the variety of recreation opportunities in the area, visitors and residents are likely to follow existing patterns of behaviour and disperse throughout the wider area. It is therefore unlikely that there would be a discernible increase in the human activity at the above SPAs (or supporting woodlands) as a result of the woodland lodge (area 1) or residential development (areas 4 and 5) at AHR. As a result, **there would not be a direct likely significant effect caused by disturbance on the Cairngorms, Anagach Woods, Abernethy Forest or Craigmore Wood SPA populations.**

However, consideration of indirect effects is required. This is because of metapopulation interactions, meaning that impacts on one SPA population can indirectly affect the other Badenoch and Strathspey SPA populations, where the movement of birds between different areas, or the functionality of different areas is impacted. This is due to reduced breeding success, resulting in reduced movement of birds between SPAs and therefore reduced genetic viability of the SPA population. As there is a likely significant effect on capercaillie at Kinveachy Forest SPA, it is considered that **there will be an indirect likely significant effect on the capercaillie populations of the Cairngorms, Anagach Woods, Abernethy Forest and Craigmore Wood SPAs**, which would be long term.

Assessment of likely significant effects in combination with other plans or projects

There are a number of other developments in proximity and so with connectivity to Kinveachy Forest SPA:

- Dalfaber, Aviemore, 75 dwellings (consented, not yet built)
- 2016/0224/DET Allt Mhor Housing, Aviemore, 42 dwellings (consented, not yet built)
- “Pony Field” housing, Aviemore Highland Resort, 140 dwellings (consented, only partially built)

For the same reasons as given above for the assessment of Kinveachy Forest SPA alone, it is likely that residents of these developments will also recreate in Kinveachy and so add to disturbance of capercaillie.

AHR in combination with these developments will increase the size of a direct likely significant effect through a combined increase in recreation activity causing disturbance to capercaillie at Kinveachy Forest SPA.

This will in turn increase the indirect likely significant effect on the population of the Cairngorms, Anagach Woods, Abernethy Forest and Craigmore Wood SPAs.

Stage 6: Mitigation measures

Where LSEs have been screened in during **Stage 5** it may be possible to incorporate simple mitigation measures into the Development Brief that will mitigate these effects. Such mitigation must reduce the effects identified to a level where they will have no adverse effect on the integrity of any Natura site.

Stage 6 immediately follows screening. At this point mitigation may be applied by deleting an aspect of the Development Brief or modifying it in some way; for example by relocating it, changing the time of delivery, or by making changes that avoid effects or reduce scale. Where this is done the mitigated aspect is then re-screened to see if LSEs remain.

Once mitigation measures have been applied in **Stage 6, Stage 7** re-screens the strategy to determine whether significant effects are still likely. If they are, an appropriate assessment is undertaken (Stage 8), through which further mitigation measures are identified.

In this assessment, it has been possible to identify straightforward mitigation for the River Spey SAC. These are detailed in Table 6 below. However, for the capercaillie SPAs, due to the complexities of capercaillie and human behaviour, emerging information on capercaillie and human use of Kinveachy face, the different combinations of consented developments in the vicinity of AHR that may affect the in combination assessment of a HRA done for a future planning application for the AHR, the identification of simple mitigation measures to avoid likely significant effects on these SPAs is not possible. Further consideration is therefore required (presented in stage 7 onwards).

Table 66 outlines the caveats that must be included within the Development Brief as of 11th April 2018.

Table 6: Mitigation Measures

Screened in at stage 5	Natura Site and LSE identified	Policy wording within the Development Brief
Development Area 5: Residential development	<p><u>River Spey SAC</u></p> <p>a) Otters may be disturbed by construction activity, noise, lighting and other features of the development's design or through disturbance by people post construction (particularly by dogs being exercised off-lead close to places used by otter). Otter only.</p> <p>b) Contamination of protected watercourses by chemical pollutants or particles washed into it from</p>	<p>As required by paragraph 16.8 of the LDP, developers must supply as part of any planning application all necessary information to allow the planning authority to carry out an Appropriate Assessment in order that they can be confident that the development will not have an adverse effect on the integrity of any European designated sites in view of their conservation objectives, either alone or in combination with other plans or projects.</p> <p>If the planning authority is unable to</p>

	<p>construction sites, affecting water quality and potentially smothering important habitats for the qualifying interests of the River Spey SAC, as well as the habitats and prey/food sources that they rely on. Atlantic salmon/sea lamprey/fresh water pearl mussel/otter.</p> <p>c) The use of hard impervious surfaces within development is likely to increase the speed with which rainfall enters watercourses. This can increase flood events causing damage to river habitats that the qualifying interests of the River Spey SAC rely on, as well as the prey/food sources that they rely on. This rainfall may also bring particles from these surfaces which may cloud water and reduce its quality again affecting the qualifying interests of the River Spey SAC, as well as the habitats and prey/food sources that they rely on. Atlantic salmon/sea lamprey/fresh water pearl mussel/otter.</p>	<p>reach this conclusion, proposals will be judged not to be in accordance with the policies of the LDP.</p> <p>In particular, development proposals must address the mitigation measures set out in the Natural Heritage Supplementary Guidance to address potential impacts on:</p> <ul style="list-style-type: none"> • Water abstraction • Disturbance to otters • Pollution and siltation from construction sites • Requirement for SUDS • Pollution from waste water
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Following application of the mitigation measures in **Stage 6**, measures identified for the River Spey SAC in **Table 6** above will allow the conservation objectives to be met and therefore will not result in an adverse effect on site integrity.

Stage 7: Re-screen the Development Brief and Determine the Need for an Appropriate Assessment

Following application of the mitigation measures in **Stage 6**, this stage re-screens the plan to identify LSEs that remain.

The following developments can now be screened out after the application of mitigation:

5. Residential and mixed commercial development - River Spey SAC

The following LSEs remain to be taken forward into Appropriate Assessment:

Aspect of Masterplan	SPA	Qualifying feature	Likely Significant Effect
1. Woodland lodges (approx. 19 units)	Kinveachy Forest SPA Cairngorms SPA Anagach Woods SPA Abernethy Forest SPA Craigmore Wood SPA	Capercaillie	Recreation disturbance
4. Residential development (approx. 66 houses)	Kinveachy Forest SPA Cairngorms SPA Anagach Woods SPA Abernethy Forest SPA Craigmore Wood SPA	Capercaillie	Recreation disturbance
5. Residential and commercial mixed site (approx. 21 houses)	Kinveachy Forest SPA Cairngorms SPA Anagach Woods SPA Abernethy Forest SPA Craigmore Wood SPA	Capercaillie	Recreation disturbance

Stage 8 Appropriate Assessment

As the conservation objectives and species affected are the same, the five SPAs are considered below in one assessment:

Kinveachy Forest, Cairngorms, Anagach Woods, Abernethy Forest and Craigmore Wood SPAs

Conservation objectives

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

To ensure for the qualifying species that the following are maintained in the long-term:

- 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

Qualifying species screened in

- Capercaillie

a. Assessment for Kinveachy Forest SPA

No significant disturbance of the species: As identified in the preceding assessment for likely significant effect, **disturbance is predicted to occur that could prevent the conservation objective from being met.** However, it is considered that **the application of mitigation (below) will enable the conservation objective to be met.** This is because although there will still be a residual potential for disturbance due to the sensitivity of the species, the low levels of additional human activity that disregard mitigation measures and cause disturbance are predicted to be in the minority of an already low level of additional activity arising from development of AHR.

Population of the species as a viable component of the site and Distribution of the species within the site: The application of mitigation required above should prevent disturbance affecting the population or distribution of the species within the SPA. **Therefore these conservation objectives will be met.**

Distribution and extent of habitats supporting the species and Structure, function and supporting process of habitats supporting the species: There will not be any direct or indirect effects on the structure, extent or function of the habitats supporting the species, therefore **these conservation objectives will be met.**

b. Assessment for Abernethy Forest SPA, Anagach Woods SPA, Cairngorms SPA and Craigmore Wood SPA

No significant disturbance of the species: As identified in the preceding assessment for likely significant effect, significant disturbance is not predicted to occur at these SPAs. **Therefore the**

conservation objective will be met.

Population of the species as a viable component of the site and Distribution of the species within the site: As the other conservation objectives are met, the development of AHR should not prevent the populations being a viable, or the distribution of the species within the SPAs. **These conservation objectives will be met.**

Distribution and extent of habitats supporting the species and Structure, function and supporting process of habitats supporting the species: There will not be any direct or indirect effects on the structure, extent or function of the habitats supporting the species, therefore **these conservation objectives will be met.**

Mitigation

Without the application of mitigation, it is considered that the following conservation objectives cannot be met due to development areas 4 and 5.

- (1) No significant disturbance of capercaillie
- (2) Population of the species as a viable component of the site and Distribution of the species within the site

Mitigation is therefore required to address the effects on these conservation objectives.

There is an adverse effect on the integrity of Kinveachy Forest SPA through disturbance to capercaillie. The number of visits generated by residents of development areas 4 and 5 that fall into the “high risk” patterns of behavior are likely to be very small, and therefore there are methods of mitigation that can be adopted to reduce this to a level where there is no adverse effect.

The design brief will need to contain measures to ensure that any development coming through the LDP will not have an adverse effect on the conservation objectives. The CNPA have, in discussion with SNH, agreed that suitable mitigation is possible through a number of ways. The exact method will be agreed at the time of any such planning application and through the HRA that will be undertaken for that. However the types of mitigation could include, but are not limited to, any of the following:

- Additional signage on the Kinveachy sites to raise awareness of the sensitivity of the area and encourage use of established routes away from sensitive areas
- Ranger support on site to back up the messages on the site
- Direct contact with biking groups to raise awareness among this key group to ensure they recreate in a responsible way
- Working with the Capercaillie Framework project to examine different mitigation methods

The Capercaillie Framework is a strategic conservation project aiming to protect and enhance the populations of capercaillie in the Cairngorms National Park. The project will work with communities in the Park and Aviemore is highly likely to be one of these communities. The work of this project should therefore have a beneficial effect upon the use of Kinveachy face and SPA.

The Development Brief contains the following wording:

All development proposals on the site will need to comply with **LDP Policy 4: Natural Heritage** and the associated Natural Heritage Supplementary Guidance.

Developments on the site have the potential to have a significant effect on the following European designated sites:

- Kinveachy Forest Special Protection Area (SPA) which is connected to Abernethy Forest SPA, Anagach Woods SPA, Cairngorms SPA and Craigmore Wood SPA.
- River Spey Special Area of Conservation (SAC)

As a consequence, development proposals must address the mitigation measures set out in the Natural Heritage Supplementary Guidance to address potential impacts from:

- Disturbance to capercaillie from recreation activity in Kinveachy face woodland and Kinveachy Forest SPA
- Indirect effects of disturbance to capercaillie at Kinveachy on the other Capercaillie SPAs
- Water abstraction
- Disturbance to otters
- Pollution and siltation from construction sites
- Requirement for SUDS
- Pollution from waste water

As required by paragraph 16.8 of the LDP, developers must supply as part of any planning application all necessary information to allow the planning authority to carry out an Appropriate Assessment in order that they can be confident that the development will not have an adverse effect on the integrity of any European designated sites in view of their conservation objectives, either alone or in combination with other plans or projects.

If the planning authority is unable to reach this conclusion, proposals will be judged not to be in accordance with the policies of the LDP.

This wording requires that a HRA is carried out for any planning application that comes forward through the AHR site and that detailed mitigation proposals will be required to be submitted to demonstrate that developments do not have an adverse effect on capercaillie SPAs.

The mitigation proposals will be required, where this is identified in the HRA, to avoid significant disturbance to capercaillie from residents allowing this conservation objective (1) to be met. This will also allow the conservation objective (2) to be met, as if there is no disturbance of capercaillie, there will be indirect effect on their population within Kinveachy SPA.

Conclusion on site integrity

With the mitigation incorporated above, disturbance of capercaillie will be reduced, minimising population effects and therefore allowing the conservation objectives to be met. Therefore there is no adverse effect on site integrity for Kinveachy Forest SPA, Abernethy Forest SPA, Anagach Woods SPA, Cairngorms SPA or Craigmore Wood SPA.

Stage 9 Apply mitigation measures until there is no adverse effect on site integrity

The appropriate assessment at **Stage 8** found that there is an adverse effect on site integrity for Kinveachy Forest SPA through Development Areas 4 and 5, the residential elements of the Design Brief. This has an indirect effect on the other capercaillie SPAs (Cairngorm, Craigmore Wood, Abernethy Forest, Anagach), resulting in a likely significant effect on capercaillie at these sites as well.

Mitigation is required to address the adverse effect on the integrity of Kinveachy Forest SPA. This mitigation is provided within the wording of Development Brief and is included within the Appropriate Assessment at **Stage 8** above.

With this mitigation in place, the conservation objectives can be met and there is no adverse effect on site integrity for Kinveachy Forest SPA from the development Brief, and there is therefore no indirect likely significant effect on the other capercaillie SPAs (Cairngorm, Craigmore Wood, Abernethy Forest, Anagach Woods).

Stage 10 & Stage 11 Prepare a draft record of the HRA and consult on the draft record

The draft of this report was subject to consultation with SNH:

- Initial discussion with SNH 25th October 2017
- HRA screening discussion 26th January 2018
- Meetings on 9th January 2018 and 5th April 2018 to finalise screening and scope of assessment
- Development of draft report 6th April 2018
- Consultation on draft report 9th April 2018
- Preparation of final report 11th April 2018

At the consultation of the draft on the 9th of April 2018, it was decided by SNH that in-combination effects should be screened at Stage 5, during screening for LSE (due to differences between the SNH methodology and the methodology used by David Tyldsley). Therefore the layout of the report was changed at this point by SNH so that the in-combination assessment was undertaken at Stage 5. The layout of the report was also changed by SNH so that the detailed part of the assessment that was previously included in the Appropriate Assessment was instead included with the screening at Stage 5, making the appropriate assessment stage much shorter. The overall assessment/outcomes of the HRA were kept the same.

Stage 12 Make amendments following consultation and re-screen for LSE and take forward to appropriate assessment as required

The wording of the policy was amended slightly after consultation with CNPA and SNH on 5th April 2018 to make reference to disturbance of capercaillie more specific (see red text below):

*All development proposals on the site will need to comply with **LDP Policy 4: Natural Heritage** and the associated Natural Heritage Supplementary Guidance.*

Developments on the site have the potential to have a significant effect on the following European designated sites:

- *Kinveachy Forest Special Protection Area (SPA) which is connected to Abernethy Forest SPA, Anagach Woods SPA, Cairngorms SPA and Craigmore Wood SPA.*
- *River Spey Special Area of Conservation (SAC)*

As a consequence, development proposals must address the mitigation measures set out in the Natural Heritage Supplementary Guidance to address potential impacts from:

- *Disturbance to capercaillie from recreation activity in Kinveachy face woodland and Kinveachy Forest SPA*
- *Indirect effects of disturbance to capercaillie at Kinveachy on the other capercaillie SPAs*
- *Water abstraction*
- *Disturbance to otters*
- *Pollution and siltation from construction sites*
- *Requirement for SUDS*
- *Pollution from waste water*

As required by paragraph 16.8 of the LDP, developers must supply as part of any planning application all necessary information to allow the planning authority to carry out Appropriate Assessment in order that they can be confident that the development will not have an adverse effect on the integrity of any European designated sites in view of their conservation objectives, either alone or in combination with other plans or projects.

If the planning authority is unable to reach this conclusion, proposals will be judged not to be in accordance with the policies of the LDP.

With this mitigation in place, the conservation objectives can be met and there is no adverse effect on site integrity for Kinveachy Forest SPA from the development Brief, and there is therefore no indirect likely significant effect on the other capercaillie SPAs (Cairngorm, Craigmore Wood, Abernethy Forest, Anagach Woods).

Stage 13 Finalise and report and public final record

This report is the final report and the record of the HRA.

References

Report on predicted levels & patterns of recreational use of the outdoors by residents of Aviemore Highland Resort

Capercaillie Framework dataset

Scottish Government HRA Advice Sheet 2: Screening general policies and applying simple mitigation measures, 2012.

SNH Guidance: Habitats Regulations Appraisal of Plans, D Tyldesley, 2015

Appendix I

Habitat Regulations Assessment Screening Matrix – attached as a separate Excel spreadsheet