
CAIRNGORMS LOCAL OUTDOOR ACCESS FORUM

Title: Loch Garten Area of Special Protection (ASP)

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Purpose:

To update the Cairngorms LOAF on issues surrounding the proposed removal of the Area of Special Protection (ASP) designation at Loch Garten; to discuss future safeguard of the natural heritage and visitor importance at the Loch Garten osprey nest site and capercaillie lek, and to obtain advice and guidance on this issue from the LOAF.

Advice Sought

The LOAF is asked to:

- Consider the issues surrounding the likely removal of the ASP designation.
- Assess appropriate safeguards for maintaining the significant natural heritage interest at the site, and its associated socio-economic benefits in the context of the Cairngorms National Park.
- Provide appropriate advice and guidance to RSPB, on a way forward.

Background

1. The RSPB Loch Garten Osprey Centre has been showing people ospreys for 50 years, and capercaillies for a decade. For all of that time the site has been designated as an 'Area of Special protection (formerly a Statutory Bird Sanctuary) – effectively excluding visitors from an area (see annex 1) around the nest (and lek site), during the breeding season. In 2010 the Scottish Government sought to abolish the designation, something to which RSPB did not object in principle, however RSPB requested continued protection of the site through a Nature Conservation order or Byelaw. SNH and the CNPA did not accept the case for such continued protection. The RSPB wishes to explore how best to ensure the ongoing safeguard of osprey and capercaillie at Loch Garten, as well as the benefits of the Centre to visitors and the local economy.

A history of site safeguard at Loch Garten

2. Ospreys became extinct in Scotland in the early 1900s, then after an absence of about 40 years they returned to breed in 1954 at Loch Garten in Strathspey. This area is now part of the RSPB Scotland Abernethy National Nature Reserve.

3. In the early years following the ospreys' return, a decision was taken by RSPB Scotland staff and local people to protect the nest site, since it was clear that the breeding ospreys were still being targeted by egg collectors. This was the start of Operation Osprey, a conservation programme, which continues to the present day.
4. In 1959, a bold step was taken to open the site up to the public and provide a 'Watch Point'. 14,000 visitors came to see the ospreys in that season, highlighting the huge national interest in this conservation story. The Loch Garten Bird Sanctuary Order (which underpins the ASP designation) was made the following year. Today, the 'Watch point' has become the modern RSPB Scotland Loch Garten Osprey Centre and over two million people have come to see ospreys at this location; every year, between April and August, 35-40,000 visitors come to the centre. The ospreys and the Centre have become important features of the local Strathspey economy. For more than 50 years, the area around the osprey nest – and latterly the capercaillie lek - has also been afforded protection from intruders.

Disturbance and damage

5. Since the ospreys first re-colonised, these birds have been targeted by both egg-collectors and vandals. This high profile osprey nest is, we know from intelligence received, still targeted by egg collectors. The ASP has been a means to deter this unwanted attention.
6. The presence of the Osprey Centre draws unwelcome as well as welcome attention, mainly in terms of non-malicious out-of-hours visits that risk disturbing the birds, but on occasion clearly ill-intentioned acts such as the vandalism of the osprey nest tree in 1963 and 1986.
7. Each season, we experience regular – sometimes daily - incursions of:
 - over-eager visitors, ignoring closed signs and walking up to the Centre & Forward hide out of hours, before we open in the morning and in evening after closing.
 - almost daily incursions by early season visitors, before season starts on 1st April.
 - early morning birders continuing to turn up early pre-opening, even after Caper-watch has ended (late May) trying to see CP.
8. We have also had:
 - One incident of person wandering right close to the capercaillie lek, picked up on CCTV camera.
 - One incident of family walking (probably in error) through from Speyside Way, behind the osprey nest.
9. Disturbance of osprey and capercaillie within the ASP can have wider ramifications, as lack of disturbance within the ASP enables public viewing to take place there, thus reducing disturbance impacts away from the ASP.
10. In practical terms, potential disturbance has generally been avoided without the need for enforcement, through tactful engagement with the public by RSPB staff and volunteers on the ground. However, experience tells us that this process has been greatly helped

by knowing that there is a robust measure to back up requests that access rights are exercised responsibly.

Loch Garten as a wildlife tourism destination

11. Whilst the Scottish osprey population now exceeds 200 breeding pairs, Loch Garten is known to birdwatchers and nature tourists as the place to come and see ospreys without risk of disturbance, and in a setting with high quality interpretation.
12. Since 1954, more than 2 million people have visited to view ospreys at the Loch Garten Osprey Centre, within the ASP.
13. This provides a significant benefit to the local economy (£1.89m to the Strathspey economy at 2004 prices¹).
14. The site also helps relieve visitor pressure from other SPAs and SSSIs, designated for osprey and capercaillie, throughout Strathspey.
15. There are fewer than 2,000 capercaillie remaining in Scotland. Around 60% of these occur in Strathspey, with Abernethy being the single most important site.
16. The ASP designation has fulfilled an important nature conservation function in relation to Abernethy Forest SSSI and SPA. It has also been an invaluable management tool for this iconic wildlife tourism site.

The removal of ASP protection

17. In 2010, the Scottish Government's consultation paper on a proposed Wildlife and Natural Environment (WANE) Bill, suggested that ASPs be annulled and s.3 of the Wildlife and Countryside Act 1981 be repealed. In response, RSPB Scotland indicated some concern with this proposal. The concern did not relate to the principle – as the protective provisions of the ASP could be replicated by other measures, but rather with the practicality – that the protective measures, especially at Loch Garten, would be duplicated by other measures.
18. In gathering evidence for the Bill, the Rural Affairs and Environment Committee visited Loch Garten in September 2010, their main conclusion² was ... *there is no threat to the site at Loch Garten by removing the ASP status, and that powers contained in other legislation would provide equitable levels of protection.*

Benefits of the Loch Garten Area of Special Protection (ASP) Designation

19. The ASP is the only nature conservation designation that may specifically include restrictions on public access as part of the designation itself. In the case of Loch Garten, the designation has been used to manage public access in a way that allows people to come and see ospreys and capercaillie without fear of causing disturbance or breaking the law. Using Loch Garten as the “honeypot” for visitors has wider benefits for the conservation of both ospreys and capercaillie. It also prevents problems between

¹ http://www.rspb.org.uk/Images/watchedlikeneverbefore_tcm9-133081.pdf

² <http://www.scottish.parliament.uk/s3/committees/rae/reports-10/rur10-08-00.htm>

birdwatchers actively seeking capercaillie and occupiers of other land where the species occurs, including SSSIs and SPAs for which it is a notified or qualifying feature.

Proposed alternative to an ASP

20. In RSPB's evidence to the committee we proposed three possible options to replace the ASP:

- a) byelaws made by the access authority (Cairngorms National Park Authority) under s12 of the Land Reform (Scotland) Act 2003;
- b) byelaws made by SNH under s20 of the Nature Conservation (Scotland) Act 2004;
- c) a Nature Conservation Order made by Scottish Ministers, advised by SNH, under s23 of the Nature Conservation (Scotland) Act.

21. However, both SNH and CNPA reached the conclusive view that current provisions under the Wildlife and Countryside act 1981, the EU Birds Directive, and the Land Reform (Scotland) Act 2003 will adequately safeguard the interests at Loch Garten.

A way forward

22. RSPB is seeking guidance and advice from the Cairngorms LOAF, specifically:

- Are there any issues outlined in the paper that the Forum would like to explore further?
- To maintain awareness of the site's sensitivities and the opportunities for sensitive viewing that is offered by the Centre, the RSPB will continue to:
 - Outline the sensitivities during relevant talks and presentations;
 - erect signage encouraging responsible behaviour;
 - use staff and volunteers to engage face-to-face with those who venture onto the site, against guidance.

Can the LOAF suggest any additional measures that the RSPB should adopt to achieve awareness and understanding?

- The RSPB will record incidents and irresponsible behaviour and, if the LOAF wishes, provide a report at the end of the 2011 visitor season. Would this be of value to the LOAF?

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Annex I: Map showing location of the Loch Garten ASP, the osprey nest, capercaillie lek area & facility for which visitors are charged.

