



Cairngorms
National Park Authority

Ùghdarras Pàirc Nàiseanta a'
Mhonaidh Ruaidh

Item 5 Appendix 2 8 December 2023

Agenda item 5

Appendix 2

2021/0227/DET

Habitats regulations appraisal

HABITATS REGULATIONS APPRAISAL

Planning reference and proposal information	2021/0227/DET Erection of 7 houses, restaurant (including a micro-gin distillery) and production building, Lairig View, Grampian Road, Aviemore, PH22 1QD
Appraised by	Karen Aldridge, Planning Ecological Advice Officer
Date	29 November 2023
Checked by	NatureScot
Date	XXXX

INFORMATION
European site details
Name of European site(s) potentially affected
<ol style="list-style-type: none"> 1. Kinveachy Forest SPA¹ 2. River Spey SAC
Qualifying interest(s)
<ol style="list-style-type: none"> 1. Kinveachy Forest SPA Breeding – capercaillie and Scottish crossbill 2. River Spey SAC Atlantic salmon, fresh water pearl mussel, sea lamprey and otter
Conservation objectives for qualifying interests
<p>1. Kinveachy Forest SPA:</p> <p>To avoid deterioration of the habitats of the qualifying species 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> <ul style="list-style-type: none"> – Population of the species as a viable component of the site – Distribution of the species within site – Distribution and extent of habitats supporting the species – Structure, function and supporting processes of habitats supporting the species – No significant disturbance of the species <p>2. River Spey SAC:</p> <p>Conservation Objective 2. To ensure that the integrity of the River Spey SAC is restored by meeting objectives 2a, 2b, 2c for each qualifying feature (and 2d for freshwater pearl mussel):</p>

¹ It is recognised that effects on capercaillie at any one of the Badenoch and Strathspey capercaillie SPAs or associated woodlands shown on the map in **Annex I** has the potential to affect the wider capercaillie metapopulation of Badenoch and Strathspey. Attention has been focused in this HRA on the woods likely to be used regularly for recreation by users of the proposed development site, which in this case are Kinvechie Forest SPA and the associated Boat of Garten, Loch Garten, Glenmore and Rothiemurchus woods (woods I, J, K, L, M, N and O on the map). Other capercaillie SPAs and woods were considered during the initial phase of the assessment (see **Annex I question 3**) but detectable effects were ruled out, so they have not been included in this HRA. If however the HRA had concluded an adverse effect on site integrity, or required mitigation, then all of the capercaillie SPAs in Badenoch and Strathspey would have been reassessed in relation to potential effects on the metapopulation.

- 2b. Restore the distribution of **freshwater pearl mussel** throughout the site
- 2c. Restore the habitats supporting freshwater pearl mussel within the site and availability of food
- 2d. Restore the distribution and viability of freshwater pearl mussel host species and their supporting habitats
- 2a. Restore the population of freshwater pearl mussel as a viable component of the site
- 2b. Maintain the distribution of **sea lamprey** throughout the site
- 2c. Maintain the habitats supporting sea lamprey within the site and availability of food
- 2a. Maintain the population of sea lamprey as a viable component of the site
- 2b. Restore the distribution of **Atlantic salmon** throughout the site
- 2c. Restore the habitats supporting Atlantic salmon within the site and availability of food
- 2a. Restore the population of Atlantic salmon, including range of genetic types, as a viable component of the site
- 2b. Maintain the distribution of **otter** throughout the site
- 2c. Maintain the habitats supporting otter within the site and availability of food
- 2a. Maintain the population of otter as a viable component of the site

Conservation Objective I. To ensure that the qualifying features of the River Spey SAC are in favourable condition and make an appropriate contribution to achieving favourable conservation status

APPRAISAL

STAGE 1:

What is the plan or project?

Relevant summary details of proposal (including location, timing, methods, etc)

The proposal is for the erection of 7 houses and a restaurant building (including a micro-gin distillery within the restaurant buildings), production/storage building and parking, plus associated infrastructure. Connection to mains water and sewerage is proposed. The proposal involves built development across the majority of the site with a small proportion of space for landscape planting. The garden ground for the northern dwellings will include the 6m riparian buffer zone (the buffer recommended by SEPA for riparian buffers).

The site comprises land with two dwellings (a stone-built house and a wooden chalet) and associated outbuildings, now with prior approval for demolition. The ground around the buildings includes mature trees, a watercourse that connects to the River Spey SAC to the east, rough grassland and wetland habitat.

STAGE 2:

Is the plan or project directly connected with or necessary for the management of the European site for nature conservation?

No.

STAGE 3:

Is the plan or project (either alone or in-combination with other plans or projects) likely to have a significant effect on the site(s)?

1. Kinveachy Forest SPA

Capercaillie – there is a risk of LSE from the potential long-term disturbance through increased human activity by the addition of the occupants of the proposed development – as explained within **Annex I**.

Scottish crossbill – none of their habitat will be affected therefore there will be no LSE. Scottish crossbill are therefore not considered further in this assessment.

2. River Spey SAC

There is potential for LSE on all qualifying interests due to change in water quality, due potential for pollution during construction activity from sediment run off, particularly during the re-profiling works in close proximity to the watercourse.

In addition, disturbance to otter could occur during construction and occupation through human activity.

STAGE 4:

Undertake an Appropriate Assessment of the implications for the site(s) in view of the(ir) conservation objectives

1. Kinveachy Forest SPA

Distribution of the species within the site:

The distribution of capercaillie within the site will not be affected as additional use of woods (described in **Annex I**) is not likely to result in additional off path activity, therefore this conservation objective will be met.

Distribution and extent of habitats supporting the species; Structure, function and supporting processes of habitats supporting the species:

There will be no effect on the structure, function or supporting processes of the habitats supporting capercaillie as a result of the proposed development, therefore this conservation objective will be met.

No significant disturbance of the species

See **Annexes I-III** for detailed assessment. In summary, there would not be additional disturbance to capercaillie over and above what is already occurring through use of existing routes in woods I, J, K, L, M, N and O. Therefore this conservation objective can be met.

Population of the species as a viable component of the site:

As the other conservation objectives can be met, the population of capercaillie should not be affected and so this conservation objective will be met.

In conclusion, all conservation objectives can be met.

2. River Spey SAC

FWPM, Atlantic Salmon & Sea Lamprey

2b. Restore/Maintain the distribution throughout the site

No works are proposed within the River Spey SAC, so there will be no direct impacts upon the distribution of these species within the designated site. Indirect impacts may arise from construction activities leading to pollution events e.g. sediments or chemicals reaching the SAC impacting upon the current distribution of FWPM, salmon or lamprey.

A CMS (submitted July 2022) details methods for managing silt produced during construction operations and also details storage of oil and fuel. Providing the CMS is adhered to during the entirety of construction, the risk of pollution events should be minimised. It should be noted that no works should take place within the 6m buffer to the watercourse, which should include the storage of materials. **All construction activities should adhere to standard good practice documents (GPP5, GPP8, GPP21 & GPP22 as a minimum).**

2c. Restore/Maintain the habitats supporting freshwater pearl mussel within the site and availability of food

The current and potential distribution of habitats supporting Atlantic salmon, lamprey and FWPM within the

SAC would not be directly affected as no development will occur within the SAC.

However, pollution from construction activities upstream, could potentially affect supporting habitats if significant amounts of sediment reach the SAC and cause smothering, reducing the distribution and extent of habitat suitable for spawning and juvenile salmon and habitats suitable for supporting FWPM/lamprey (long term).

However, mitigation measures identified for 2b above would reduce the risk of pollution reaching the watercourse to a minimal level and so this conservation objective would be met.

2d. Restore the distribution and viability of freshwater pearl mussel host species and their supporting habitats

The distribution and viability of FWPM host species (Atlantic salmon & sea trout) would not be directly affected as there are no works in stream therefore no barriers being created by the potential development (although the burn is likely to offer little suitable habitat for FWPM).

As discussed in 2b & 2c, there is potential for pollution from construction activities to indirectly affect the habitats supporting these species which may in turn lead to a change in distribution or in change in health of the supporting species. However, with the implementation of the mitigation mentioned in 2b the risk of pollution events therefore the development would not hinder the distribution or vitality of the host species.

2a. Restore/Maintain the population of Atlantic salmon (including range of genetic types), Freshwater Pearl Mussel and Sea Lamprey, as a viable component of the site

As the other conservation objectives can be met with mitigation, the proposed development would not hinder or prevent the restoration or maintained of the qualifying species as a viable component of the site. Therefore, this conservation objective would be met.

Otter

A survey was carried out for a 100m buffer of the proposed development site, which does not meet the requirements of NatureScot guidance (<https://www.nature.scot/species-planning-advice-otters>) which states that 200m up and downstream should be surveyed. However, based on the habitat, size of watercourse, proximity to existing residential housing along with the A9 and the Aviemore orbital footpath (which is well used by people including for dog walking), professional judgement is that the habitat is suboptimal for breeding, although it may be used by foraging otter. Therefore, further survey work for otter covering the small area between the surveyed area and the A9 to the west is not required on this occasion.

2b. Maintain the distribution of otter throughout the site

The survey did not identify any signs of otter using the Milton Burn, however it is likely to support otter from the River Spey SAC, with good terrestrial habitats surrounding the burn for supporting otter prey species (e.g. amphibians). Given the proximity of the burn to the A9 and residential properties, it is considered likely that otter using the burn are habituated to some levels of noise and disturbance.

The CMS (submitted July 2022) details an otter protection plan, which would limit disturbance to otter therefore the current distribution of otter within the SAC, should not be negatively impacted upon, meeting

this conservation objective.

2c. Maintain the habitats supporting otter within the site and availability of food

The distribution of habitats supporting otter would not be directly affected. The pollution issues identified for the other freshwater species mentioned, could affect otter prey species, however the mitigation measures would reduce the risk of this occurring to a minimal level and so the conservation objective would be met.

2a. Maintain the population of otter as a viable component of the site

As the other conservation objectives can be met for otter with the mitigation included in the proposal, the proposed development would not hinder or prevent the maintenance of the population of otter as a viable component of site, therefore this conservation objective would be met.

Conservation Objective 1. To ensure that the qualifying features of the River Spey SAC are in favourable condition and make an appropriate contribution to achieving favourable conservation status

As all the other conservation objectives would be met, the proposed development would not prevent or hinder the condition or conservation status of the qualifying interests of the SAC, and so this conservation objective would be met.

STAGE 5:

Can it be ascertained that there will not be an adverse effect on site integrity?

1. Kinveachy Forest SPA

Yes, as all conservation objectives are met it is possible to conclude that there will not be an adverse effect on site integrity.

2. River Spey SAC

Yes, providing the following are conditioned, it is possible to conclude that there will not be an adverse effect on site integrity:

- The CMS (submitted July 2022) should be implemented in full - which includes the provision on an Ecological/Environmental Clerk of Works to oversee all elements of construction.
- The Otter Protection Plan (within CMS) should be implemented in full - which includes a preconstruction survey for otter, to cover all suitable habitats within 200m and restrictions on construction times.

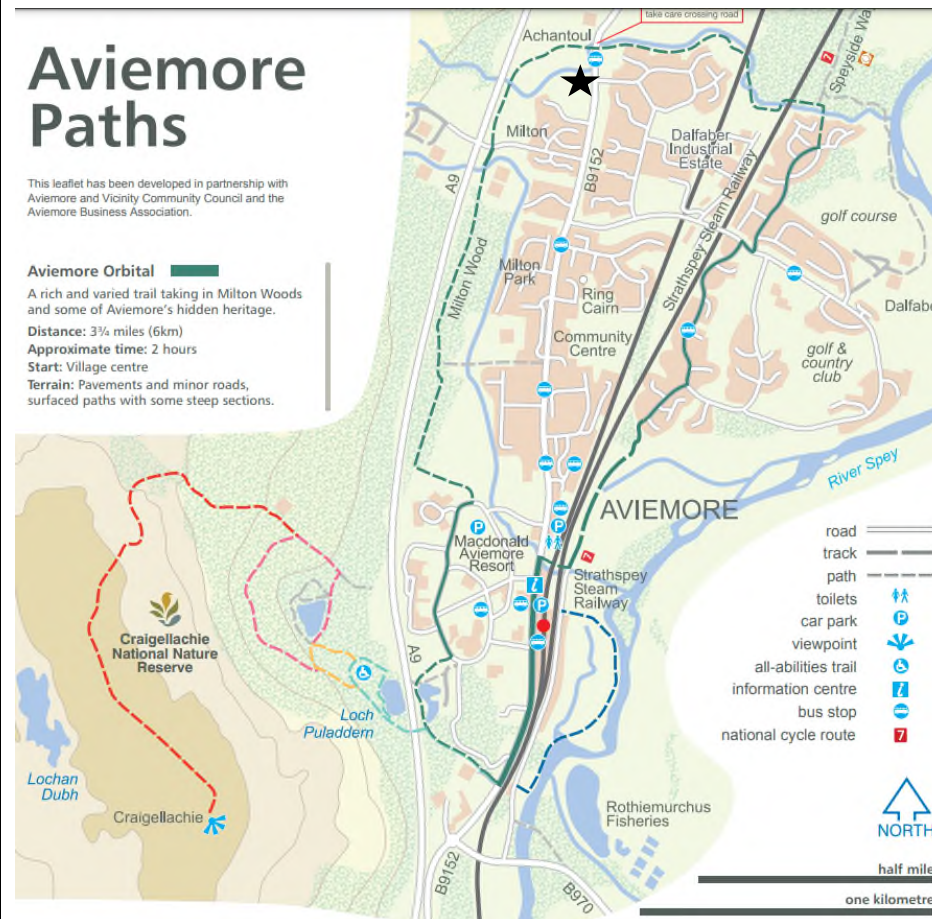
Annex I

2021/0227/DET: Erection of 7 houses, restaurant (including a micro-gin distillery) and production building, Lairig View, Grampian Road, Aviemore, PH22 1QD

<p>Q1. Is the proposed development likely to change levels of human activity or patterns of recreation around the proposed development/associated settlement?</p> <p><i>Q1: This and Q2 are included as screening questions to filter out any developments that aren't likely to have changed levels or patterns of recreation.</i></p>	<p>Yes, there would be an increase in the level of human activity (but not patterns of recreation).</p> <p>Using the 2.07 occupancy rate applied for the LDP (in the absence of a robust alternative), the proposed development of 7 dwellings could result in an additional 15 people staying at the proposed development.</p> <p>-----</p> <p>The <u>existing</u> population of Aviemore was estimated to be around 3,800 people in 2020 (based on National Records of Scotland 2019 mid-year estimate of the population).</p> <p>In the planning system, there is consent for additional residential units, as listed in Annex II. Using the 2.07 occupancy rate applied for the LDP (in the absence of a robust alternative), this would amount to an additional 609 people, giving a <u>potential</u> population of around 4,410.</p> <p>-----</p> <p>Adding an additional 15 people to the <u>existing</u> Aviemore population would increase the <u>current</u> population* by around 0.4%. This would be a moderate increase in the potential number of people using existing paths and routes, should all the residents use them (which not all residents will). This is not a significant increase.</p> <p>*based on occupancy of existing properties, not including consented but not yet built</p> <p>-----</p> <p>The <u>potential</u> population of Aviemore (ie baseline existing population plus consented but not yet built) would increase the baseline existing population by around 16% to 4,410 people. Adding 15 people from the proposed development to this would result in an increase in the potential population of a further 0.3%. Again, this is not a significant increase.</p> <p>Consideration needs to be given as to whether the addition of the proposed development on top of the potential population is likely to result in changes in the levels or patterns of human activity and recreation.</p> <p>-----</p>
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There are a number of existing promoted and well used paths and routes in Aviemore and the surrounding area, as seen in the figure below (taken from the Aviemore Paths leaflet https://www.visitaviemore.com/wp-content/uploads/2013/09/CNPA.Paper_.1911.Aviemore-Paths.pdf). There are also informal un-promoted but well used routes that connect with formal paths and roads. Residents of the proposed development (marked by the black star in the below figure) are likely to use the promoted paths, due to information being available about them.

There is no reason to believe that people staying at the proposed development would undertake a different pattern of recreation to existing users of paths and routes in Aviemore and the surrounding area.



<p>Q2. Are capercaillie woods significantly more accessible from this development site than from other parts of the associated settlement?</p> <p><i>Q2: This is included to ensure the effect of otherwise small-scale development sites particularly close to capercaillie woods are adequately considered. Evidence from settlements in Strathspey where houses are adjacent to woodlands indicates that networks of informal paths and trails have developed within the woods linking back gardens with formal path networks and other popular local destinations (eg primary schools). Such paths are likely to be used by visitors.</i></p>	<p>No. The closest entry point to a known capercaillie wood (Kinveachy Forest, wood I on the Badenoch and Strathspey capercaillie woodlands map in Annex III, part of the Kinveachy Forest SPA for capercaillie and Scottish crossbill) is approximately 1km from the proposed development along either public roads/footpaths or the Aviemore Orbital route and then public roads/footpaths through Milton of Burnside (some of which are relatively steep). As this is a reasonable distance from the proposed development, and makes use of existing routes, the proposed development site is not considered to be more accessible than from other parts of Aviemore.</p>
<p>If Q1 & Q2 = No, conclusion is no significant disturbance to capercaillie and assessment ends here</p> <p>If Q1 or Q2 = Yes, continue to Q3</p>	
<p>Q3. Which capercaillie woods are likely to be used regularly for recreation by users of the development site at detectable levels? (list all)</p> <p><i>Q3: This is included to identify which capercaillie woods are likely to be used for recreation by users of non-housing development sites at levels that would be detectable. The answer will be assessed using professional judgement based on knowledge of existing patterns of recreation around settlements and in the local area, the relative appeal of the capercaillie woods concerned compared to other recreational opportunities in the area, the volume of recreational visits likely to be generated by the development site, and informed by national survey data (eg on the distances people travel for recreational visits).</i></p>	<p>None at detectable levels.</p> <p>The closest entry point to a known capercaillie wood (Kinveachy Forest, wood I on the map in Annex III and part of the Kinveachy Forest SPA) is approximately 1km from the proposed development, up a relatively steep route located at Milton of Burnside as described in question 2. The tracks and paths in Kinveachy are well used by residents of Burnside for recreation including dog walking, as well as by other residents of Aviemore and other people from the wider area.</p> <p>Due to the distance between the proposed development and the entry point to Kinveachy, it is unlikely that a significant proportion of visitors staying at the proposed development would recreate in Kinveachy on a regular basis, as they are more likely to use other flatter, closer and promoted routes such as the Aviemore orbital, and/or visit other promoted visitor locations in the area surrounding Aviemore, such as Glenmore, Loch Garten and Rothiemurchus.</p> <p>In recent years Kinveachy has become known for downhill biking, with illicit route creation causing disturbance in sensitive capercaillie areas. However, the proportion of people staying at the proposed development who might visit Kinveachy and who would be equipped, inclined and capable of doing the downhill biking routes that are causing existing disturbance issues in the wood would be very small.</p> <p>It is reasonable to expect people staying at the proposed development to also visit other areas</p>

	<p>popular for recreation/with visitor amenities, such as Boat of Garten, Loch Garten, and Glenmore and Rothiemurchus – all of which are also locations of capercaillie woods (woods J, K, L, M, N and O in Annex III, which are part of Garten Woods SPA and Abernethy Forest SPA).</p> <p>However, it is very unlikely that all the people staying at the proposed development would go to the same place at the same time – they are more likely to disperse spatially and also temporally. These areas are already well used and so the level of additional activity caused by people visiting from the proposed development would be undetectable compared to existing levels of use.</p> <p>Therefore any additional disturbance in capercaillie woods from people staying at the proposed development would be minimal (compared to existing levels of use), on existing paths and routes, and in well used areas of existing disturbance. Therefore the additional use of the woods by people staying at the proposed development as identified above would not be at detectable levels.</p>
Continue to Q4	
<p>Q4. Are residents / users of this development site predicted to undertake any off path recreational activities in any of the woods identified at Q3 at detectable levels?</p> <p><i>Q4: This is included because any off path recreational use in capercaillie woods will result in significant disturbance and require mitigation.</i></p>	<p>No. There is no reason to believe that people staying in the proposed development would not follow existing patterns of behaviour and use existing paths and tracks for recreation and dog walking.</p>
<p>If Q4 = No for any woods, continue to Q5</p> <p>If Q4 = Yes for any woods, mitigation is needed. Note and continue to Q5.</p>	
<p>Q5: Are each of the woods identified at Q3 already established locations for recreation?</p> <p><i>Q5: This is included because if users of the development site are likely to access previously infrequently-visited capercaillie woods, or parts of these woods, for recreation, significant disturbance is likely and mitigation is needed. This will be answered on the basis of professional knowledge.</i></p>	<p>Yes. See answers to questions 1, 2 and 3.</p>

If Q5 = No for any woods, mitigation is needed. Note and continue to Q6.

If Q5 = Yes for any woods, continue to Q6

Q6: For each of the woods identified at Q3, are users of the development site predicted to have different temporal patterns of recreational use to any existing visitors, or to undertake a different profile of activities? (eg. more dog walking, or early morning use)

Q6: This is included because some types of recreation are particularly disturbing to capercaillie; and increased levels of these types of recreation will cause significant disturbance and require mitigation. This will be answered on the basis of professional knowledge on existing patterns of recreational use and whether each location is sufficiently close and/or convenient in relation to the development site and patterns of travel from there, to be used by users of the development for different recreational activities or at different times of day. For example, capercaillie woods with safe routes for dogs that are located close to development sites are likely to be used for early morning &/or after work dog walking.

No. The woods are all already well used at a variety of times of day for walking, running and cycling, as well as dog walking, by both residents and visitors to Aviemore and the wider area. People staying at the proposed development are unlikely to undertake a different temporal pattern or profile of activities compared to existing use.

If Q6 = yes for any woods, mitigation is needed. Note and continue to Q7

If Q6 = No for any woods, continue to Q7

Q7: For each of the woods identified at Q3, could the predicted level of use by residents / users of the development site significantly increase overall levels of recreational use?

Q7: This is included because a significant increase in recreational use could result in significant disturbance to capercaillie, even in situations where the capercaillie

No. There would not be a detectable or significant increase in human activity in **Kinveachy Forest** or the capercaillie woodlands associated with Boat of Garten, Loch Garten, and Glenmore and Rothiemurchus (**woods I, J, K, L, M, N and O in Annex III**).

wood is already popular for recreation, and no changes to current recreational patterns / activities or off path activities are predicted. The answer was assessed on the basis of professional judgement of current levels of use and whether the increase is likely to be more than approximately 10%.

If Q4-7 = No for all woods, conclusion is no significant disturbance to capercaillie and assessment ends here
If Q4, 5, 6 and/or 7 = Yes for any woods, mitigation is needed

Conclusion: Is mitigation needed as a consequence of this development site in relation to each wood listed at Q3?

None required.

Reasons mitigation needed:

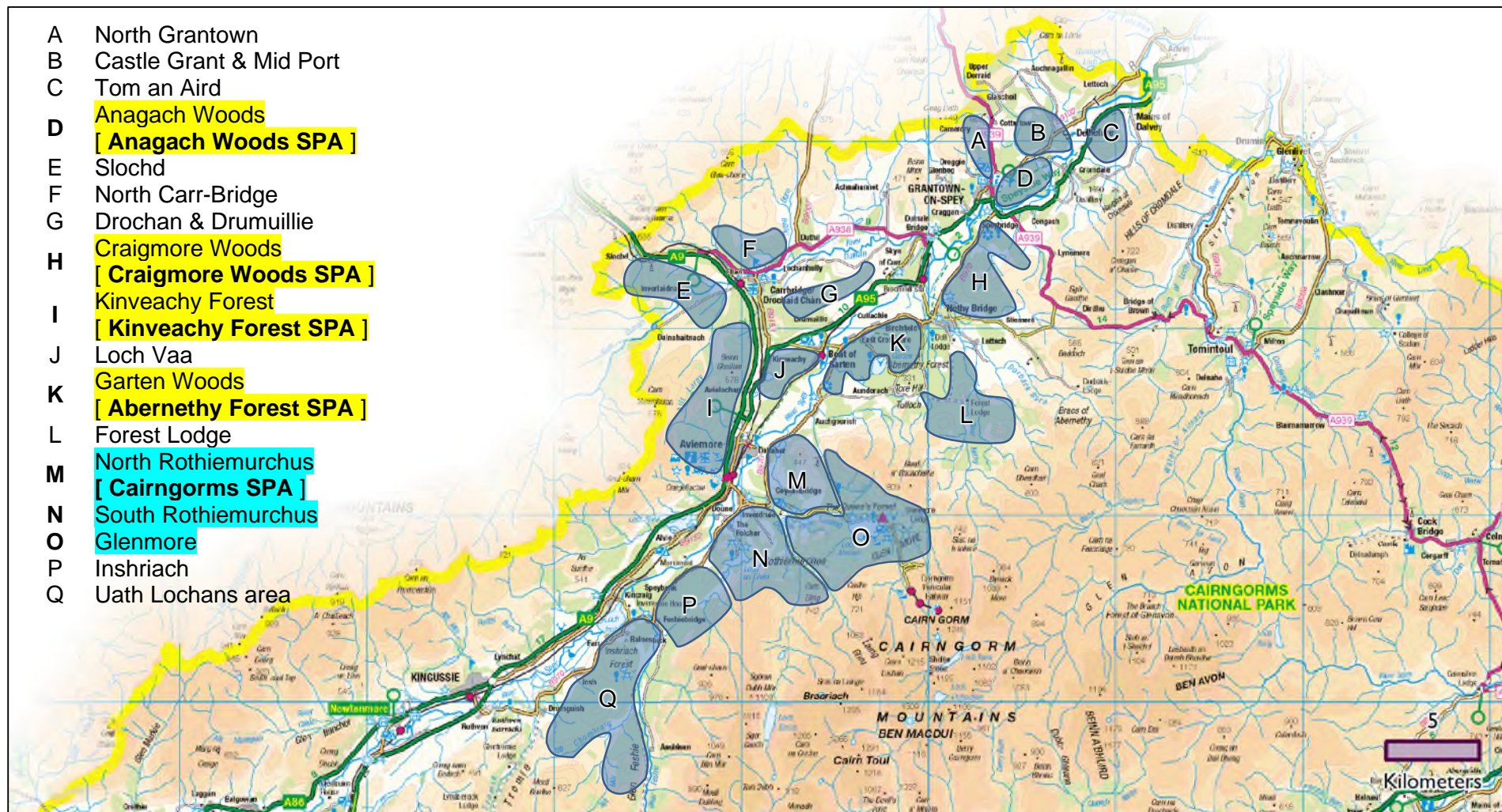
n/a

Annex II – information on planning applications with consent but not yet built

The number of people per application site has, unless otherwise stated, been calculated using the 2.07 person occupancy figure used for the LDP assessment as explained in the answer to question 1 of this document:

- **GRAMPIAN ROAD NEAR ACHANTOUL 3 people based on number of guest beds per the approved floor plan:** 20/03708/FUL Conversion of garage annex to form guest bedroom accommodation, Carn Mhor Guest House, The Sheiling, Aviemore, PH22 IQD
- **INVERDRUIE 13 people:** 2016/0158/DET Erection of 6 dwellings, upgrade current access point and a new access track formed; private drainage (shared treatment plant and soakaway), Land 175M SE Of Heatherbank, Rothiemurchus, Aviemore
- **SOUTH END OUTSIDE AVIEMORE 2 people:** 20/04360/FUL Demolition of garage and replacement with double garage with granny flat, Kinmundy, Grampian Road, Aviemore, PH22 IRH
- **SOUTH END OF AVIEMORE LA TAVERNA 8 people based on 4 double beds in each unit as per the approved floor plan:** 19/00846/FUL Construction of 4no. units for holiday letting, High Range Motel, 19 Grampian Road, Aviemore, PH22 IPT
- **NEXT TO HAPPY HAGGIS 56 people:** 2019/0363/DET, Erection of three blocks of flats (27 units) with associated parking and access, Development Site On Former Filling Station Grampian Road Aviemore Highland
- **NEAR HOSPITAL 34 people:** 2019/0298/DET, Spey House Phase 2 - Development of 14 no dwellings including 6no terraced houses, 4no bungalows and 4no cottage flats, Land 20M South East of Spey House, Cairngorm Technology Park, Dalfaber Drive, Aviemore
- **Part of H1 in LDP: 193 people:** Applications associated with 2018/0184/MSC Satisfy the Conditions of Planning Permission PPA-270-2126 for residential units, Land North West Of Dalfaber Farm, Dalfaber Drive, Aviemore
- **PART OF H2 in LDP: 79 people:** 2016/0224/DET Proposed 30 flats and 8 terraced units, Land 30M West Of 31 Allt Mor, Aviemore
- **PART OF AHR MI in LDP:** 33 units of the 140 already built, so for the remaining units it will be **221 people:** 05/306/CP Erection of 140 dwellings, construction of roads and services and landscaping, Horse Field (Land North Of Scandinavian Village), Aviemore
- **SEAFIELD PLACE –22/04334/FUL-** Conversion of a garage into a one bedroom self contained flat. **2 people.**

Annex III – Badenoch and Strathspey capercaillie woods map



Capercaillie woodland in Badenoch and Strathspey.

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