Agenda item 6

Appendix 2

2022/0270/DET

Habitats regulations appraisal

HABITATS REGULATIONS APPRAISAL

Planning reference and proposal information	2022/0270/DET – Erection of 19 houses - change of 10 consented properties - see description below. A previous HRA was conducted for 2015/0394/DET - 10 affordable houses & 2016/0060/DET - 43 house and flat plots.
Appraised by	Karen Aldridge – Planning Ecological Advice Officer
Date	19 April 2023
Checked by	NatureScot
Date	Date of consultation response from NatureScot

INFORMATION

European site details

Name of European site(s) potentially affected

1) River Spey SAC

2) Anagach Woods SPA[1]

Qualifying interest(s)

1) River Spey SAC

Otter

Freshwater pearl mussel

Sea lamprey

Atlantic salmon

2) Anagach Woods SPA

Capercaillie – breeding

Conservation objectives for qualifying interests

1) River Spey SAC

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):

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

[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 II** 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 Anagach SPA. 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.

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 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

2) Anagach Woods SPA

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

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

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

APPRAISAL

STAGE 1:

What is the plan or project?

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

Construction of 19 semi-detached and link-detached houses in a change to the previously consented 10 large, detached houses. Construction is currently ongoing on site and the site has been cleared. The proposals include the re-design of a SuDS (which has still to be agreed). The River Spey SAC is approximately 2km downstream and is connected through the Kylintra Burn, which runs through the site. Anagach Wood SPA is approximately 1 km east of the site.

The previous HRA conducted in July 2016 concluded that the there was no adverse impacts on the River Spey SAC or Anagach Woods SPA. As there have been several changes (increase in occupancy, change of SuDS location) to the development since the production of the HRA, a further assessment has been conducted to assess the impacts of these changes on the designated sites.

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) River Spey SAC

Atlantic salmon, sea lamprey, freshwater pearl mussel: YES LSE.

The Kylintra Burn, feeds directly into the River Spey SAC and runs through the site. Any pollution events involving the burn could result in negative impacts for the designated species from short term effects such as sediment released entering the watercourse and causing pollution changing the water quality.

Otter: Yes LSE. Evidence of otter has previously been recorded along the Kylintra Burn, suggesting that the watercourse is used by commuting/foraging otters. No suitable resting sites were identified. There is potential for the ongoing construction to disturb otter (short term) and potential for long term disturbance from activity during occupation of the houses (e.g. from humans and pets particularly dogs moving around the area).

2) Anagach SPA

Capercaillie – Yes potential LSE: from increased human activity by the addition of the occupants from the proposed development.

STAGE 4:

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

1) River Spey SAC

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):

Atlantic Salmon & Freshwater Pearl Mussel

2b. Restore the distribution of Atlantic salmon/Freshwater Pearl Mussel throughout the site

The current and potential distribution of Atlantic salmon or FWPM within the site would not be directly affected as no development will occur in the watercourse. However, pollution from construction activities (e.g. sediment, fuels or oils) could indirectly cause the distribution to change due to changes in water quality (temporary) and, if significant amounts of sediment reach the watercourse, through smothering of habitats which are used by salmon for spawning/juveniles and habitats suitable for supporting FWPM (long term).

However, no construction elements are proposed within 10 m of the Kylintra therefore the risk of pollution can be managed onsite. The current site is operating under a Construction Method Statement (approved under 2016/0060/DET) which includes pollution prevention plans, as long as the site continues to operate under this approved document this conservation objective would be met.

2c. Restore the habitats supporting Atlantic salmon & Freshwater Pearl Mussel within the site and availability of food

The current and potential restoration of the distribution of habitats supporting Atlantic salmon and FWPM within the site would not be directly affected as no development will occur in the watercourse.

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

However, mitigation measures 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 no development will occur within the watercourse.

However 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 the population of Atlantic salmon (including range of genetic types) and Freshwater Pearl Mussel, as a viable component of the site

As the other conservation objectives can be met for Atlantic salmon and FWPM with mitigation, the proposed development would not hinder or prevent the restoration of the population of Atlantic salmon as a viable component of site. Therefore, this conservation objective would be met.

Sea Lamprey

2b. Maintain the distribution of sea lamprey throughout the site

The current distribution of sea lamprey would not be directly impacted upon by the development proposals as no works will take place within the watercourse. However, there is potential for pollution from construction activities which could indirectly impact upon spawning substrates (long term) and water quality (temporary) which may alter the distribution of sea lamprey.

As detailed within 2b for Atlantic salmon & freshwater pearl mussel, maintaining a buffer from the watercourse and ALL construction activities would allow this conservation objective to be met.

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

The current suitable habitats for supporting sea lamprey will not be directly impacted upon as no works will take place within the watercourse. However, there is potential for pollution, such as sediment to enter the watercourse and smoother the suitable spawning grounds (long term) making it difficult for the sea lamprey to find suitable habitat. Changes to water quality through suspended solids or chemicals (temporary) may lead to a reduction in food availability through negatively impacting the distribution of fish species.

The implementation of standard pollution prevention measures will reduce the risk of pollution entering the watercourse therefore this conservation objective would be met.

2a. Maintain the population of sea lamprey as a viable component of the site

As the other conservation objectives for sea lamprey can be met through the implementation of mitigation, the proposed development would not negatively impact on the current population of sea lamprey within the SAC, 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.

2) Anagach 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-II**) 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 **Annex I-II** for detailed assessment. In summary, there would be no additional disturbance to capercaillie over and above what is already occurring through use of existing routes in capercaillie woods A, B, D & H. 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.

STAGE 5:

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

Provided the mitigation measures included in planning application 2016/0060/DET & 2019/0353/DET are continued for the construction of 2022/0270/DET and a minimum buffer of 10 m is maintained during ALL construction activities - then the conservation objectives for the River Spey SAC will be met.

ANNEX 1 Capercaillie Assessment.

2022/0270/DET Construction of 19 houses.

Q1. Is the proposed development likely to change levels of human activity or patterns of recreation around the proposed development/associated settlement? *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.*	**No.** The current proposal is for the removal of 10 large plots - originally thought to support 50 people and the construction of 19 houses, which will, assuming full occupancy, support 74 occupants. The whole development once completed will support 245 people, an approximate increase of 24 occupants from the previously assessed design. The current estimated population of Grantown on Spey is 2,437 (based on 2020 estimates[2]), this is excluding the Dulicht court development. The additional 245 people equates to around a 10% increase in the population. However, as discussed within the previous assessments, the development is approximately 800 m from Anagach SPA and it is not considered likely that the occupants of these properties would adopt significantly different patterns of recreation than the existing population.
Q2. Are capercaillie woods significantly more accessible from this development site than from other parts of the associated settlement? *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.*	**No** – Anagach SPA is approximately 800 m from the development and the woods are easily accessible from the majority of Grantown on Spey.

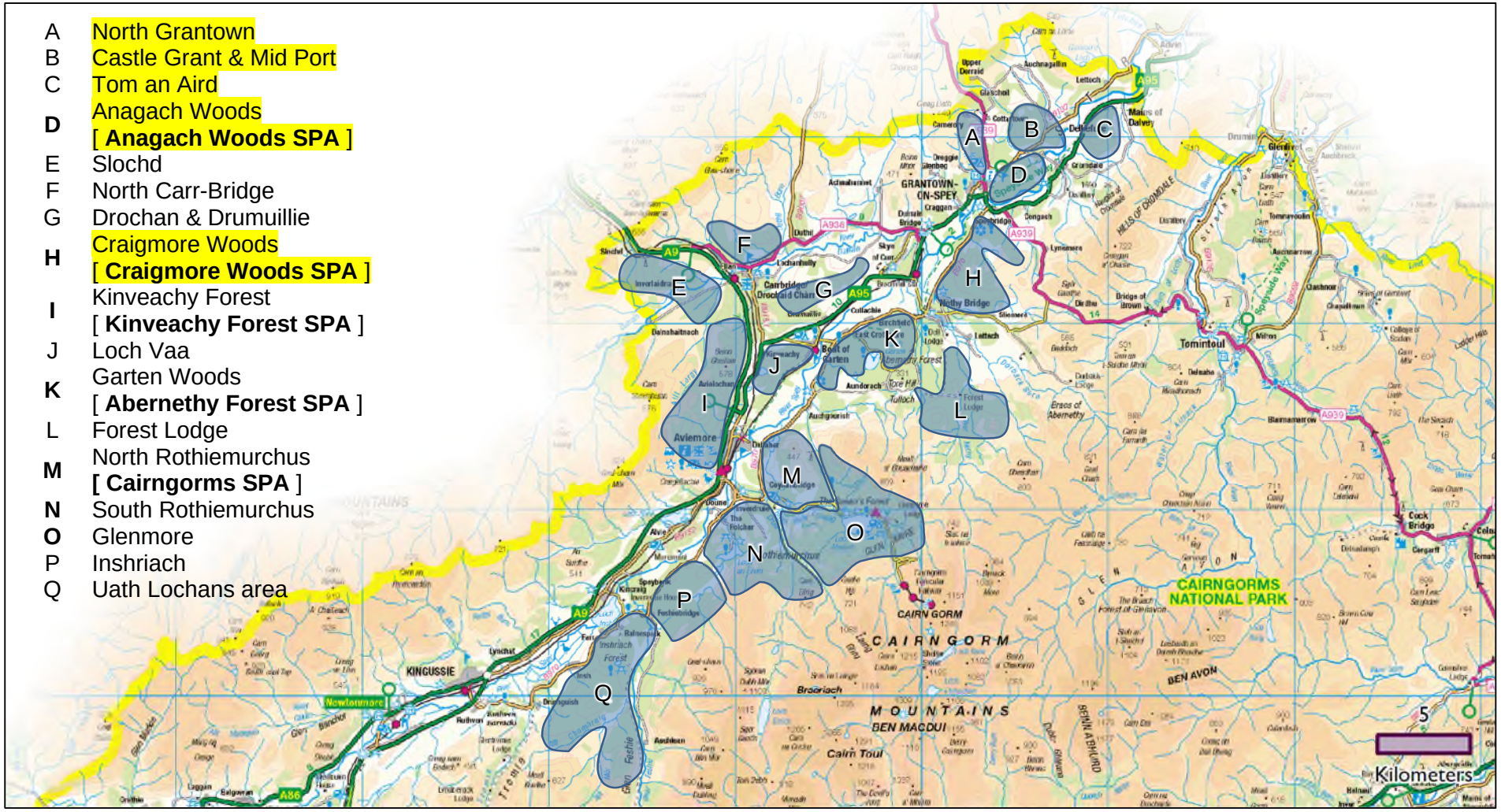
[2] statistics.gov.scot : Population Estimates Detailed (Current Geographic Boundaries)

If Q1 & Q2 = No, conclusion is no significant disturbance to capercaillie and assessment ends here If Q1 or Q2 = Yes, continue to Q3	
Q3. Which capercaillie woods are likely to be used regularly for recreation by users of the development site at detectable levels? (list all) *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).*	N/a as conclusion for questions 1 and 2 is that there is no significant disturbance and so no need for further assessment.
Continue to Q4	
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? *Q4: This is included because any off path recreational use in capercaillie woods will result in significant disturbance and require mitigation.*	N/a as conclusion for questions 1 and 2 is that there is no significant disturbance and so no need for further assessment.
If Q4 = No for any woods, continue to Q5 If Q4 = Yes for any woods, mitigation is needed. Note and continue to Q5.	
Q5: Are each of the woods identified at Q3	N/a as conclusion for questions 1 and 2 is that there is no significant disturbance and so no need

already established locations for recreation? *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.*	for further assessment.
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.*	N/a as conclusion for questions 1 and 2 is that there is no significant disturbance and so no need for further assessment.
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 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%.*	N/a as conclusion for questions 1 and 2 is that there is no significant disturbance and so no need for further assessment.
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?	As conclusion for questions 1 and 2 is that there is no significant disturbance, there is no need for mitigation.
Reasons mitigation needed:	N/a as no mitigation required.

Annex II: Badenoch and Strathspey capercaillie woods map



Capercaillie woodland in Badenoch and Strathspey.