



Cairngorms
National Park Authority

Ùghdarras Pàirc Nàiseanta a'
Mhonaidh Ruaidh

Item 8 Appendix 2 11 August 2023

Agenda item 8

Appendix 2

2023/0056/DET

Habitats regulations appraisal

HABITATS REGULATIONS APPRAISAL

Planning reference and proposal information	2023/0056/DET Erection of 12 houses at site of former Aviemore Primary School.
Appraised by	Karen Aldridge, Planning Ecological Officer
Date	14 July 2023
Checked by	NatureScot
Date	Date of consultation response from NatureScot

INFORMATION
European site details
Name of European site(s) potentially affected
<p>1) River Spey SAC</p> <p>2) Kinveachy Forest SPA¹</p>
Qualifying interest(s)
<p>1) River Spey SAC</p> <p>Otter</p> <p>Freshwater pearl mussel</p> <p>Sea lamprey</p> <p>Atlantic salmon</p> <p>2) Kinveachy Forest SPA</p> <p>Breeding capercaillie</p> <p>Breeding Scottish crossbill</p>
Conservation objectives for qualifying interests
<p>1) 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> <p>2b. Restore the distribution of freshwater pearl mussel throughout the site</p> <p>2c. Restore the habitats supporting freshwater pearl mussel within the site and availability of food</p> <p>2d. Restore the distribution and viability of freshwater pearl mussel host species and their supporting habitats</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 III** 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 Kinveachy 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.

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

2) Kinveachy Forest 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:

- 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

APPRAISAL

STAGE 1:

What is the plan or project?

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

The proposal is for a mix of cottage flats and semi-detached houses (up to 12 no.). The works are proposed within the construction footprint of the former primary school and it is currently a mix of hardstanding with early successional vegetation in places. The Aviemore Burn runs along the west of the site boundary - approximately 25m from the boundary. The Aviemore Burn flows into the River Spey SAC approximately 600m downstream of the site.

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 Aviemore Burn feeds directly into the River Spey SAC and runs close to the boundary of 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 been recorded on the Aviemore Burn, although no resting sites were identified, there is potential for resting otter. Construction noise could lead to the disturbance of otter (short term) and there is also the potential of any pollution events impacting upon otter habitats/food sources.

2) Kinveachy Forest SPA

Breeding capercaillie – Yes LSE: There is potential disturbance during operation of the site through increased human activity by the addition of the occupants from the proposed development to the already existing population within Aviemore (See Annex 1)

Breeding Scottish crossbill – NO LSE. There is no suitable habitat for supporting breeding crossbill within the site and although the woodland to the west is likely to supporting breeding crossbill, construction activities are not considered likely to adversely impact on any crossbill breeding or behaviours.

STAGE 4:

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

I. 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 Aviemore Burn therefore the risk of pollution can be managed onsite. A site specific Pollution Prevention Plan (to be secured by condition) mean that the risk of pollution can be reduced to a minimal level, so that the conservation objective could still be met. The pollution prevention plan should include detailed measures to protect Aviemore Burn from the release of sediments or other pollutants and adhere to good practice guidance measures². If the mitigation is agreed and fully implemented before construction commences, 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 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

² [Guidance for Pollution Prevention \(GPP\) documents | NetRegs | Environmental guidance for your business in Northern Ireland & Scotland](#)

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, a site-specific PPP 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 smother 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 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

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. 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.

STAGE 5:

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

1) River Spey SAC

A Pollution Prevention Plan (PPP) should be secured by condition. The PPP should be produced and agreed with the CNPA prior to any works commencing on site and then fully implemented during construction. The conservation objectives will be met and therefore there will not be an adverse effect on site integrity for the River Spey SAC.

Reason - to protect the water environment (& River Spey SAC) from pollution events caused during the construction of the 12 houses.

Annex I Capercaillie Assessment: 2023/0056/DET - Erection of 12no. Houses

<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>The proposed development includes 12 properties of a mixture of cottage flats and semi-detached houses resulting in space for approximately 44 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 697 people, giving a <u>potential</u> population of around 4,497.</p> <p>-----</p> <p>Adding an additional 44 people to the <u>existing</u> Aviemore population would increase the <u>current</u> population* by around 1%. This would be a slight increase in the potential number of people using existing paths and routes.</p> <p>*based on occupancy of existing properties, not including consented but not yet built</p>
<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.</p> <p>From the proposed development site, 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) is approximately 1.5km from the proposed development along either public roads/footpaths or the Aviemore Orbital route. As this is some distance from the proposed development, and makes use of existing routes, the proposed development site is not more accessible than from other parts of Aviemore.</p>

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).

None at detectable levels.

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 1.5km from the proposed development, located at Milton of Burnside. 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.

Due to the distance between the proposed development and the entry point to Kinveachy, it is considered unlikely that a significant proportion of the occupants staying at the proposed development would recreate in Kinveachy. There are other closer and promoted routes, such as the routes within Craigellachie SSSI or the orbital path.

In recent years Kinveachy has become known for downhill biking, with illicit route creation causing disturbance in sensitive capercaillie areas. However, management is ongoing around these issues, so it is considered unlikely that the small number of extra residents within the town of Aviemore would lead to a significant change in current recreation use.

Therefore, any additional disturbance in capercaillie woods from additional residents would be minimal (compared to existing levels of use), on existing paths and routes and in well used areas of existing disturbance. Therefore it is considered that the use of the woods by the additional residents at the proposed development would not be at detectable levels.

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.

No. There is no reason to believe that the residents from the proposed development would not follow existing patterns of behaviour and use existing paths and tracks for recreation and dog walking.

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 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.

Yes. See answers to questions 1, 2 and 3.

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

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

walking.	
<p>If Q6 = yes for any woods, mitigation is needed. Note and continue to Q7</p> <p>If Q6 = No for any woods, continue to Q7</p>	
<p>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?</p> <p><i>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%.</i></p>	<p>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).</p>
<p>If Q4-7 = No for all woods, conclusion is no significant disturbance to capercaillie and assessment ends here</p> <p>If Q4, 5, 6 and/or 7 = Yes for any woods, mitigation is needed</p>	
<p>Conclusion: Is mitigation needed as a consequence of this development site in relation to each wood listed at Q3?</p>	<p>None required.</p>
<p>Reasons mitigation needed:</p>	<p>n/a</p>

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

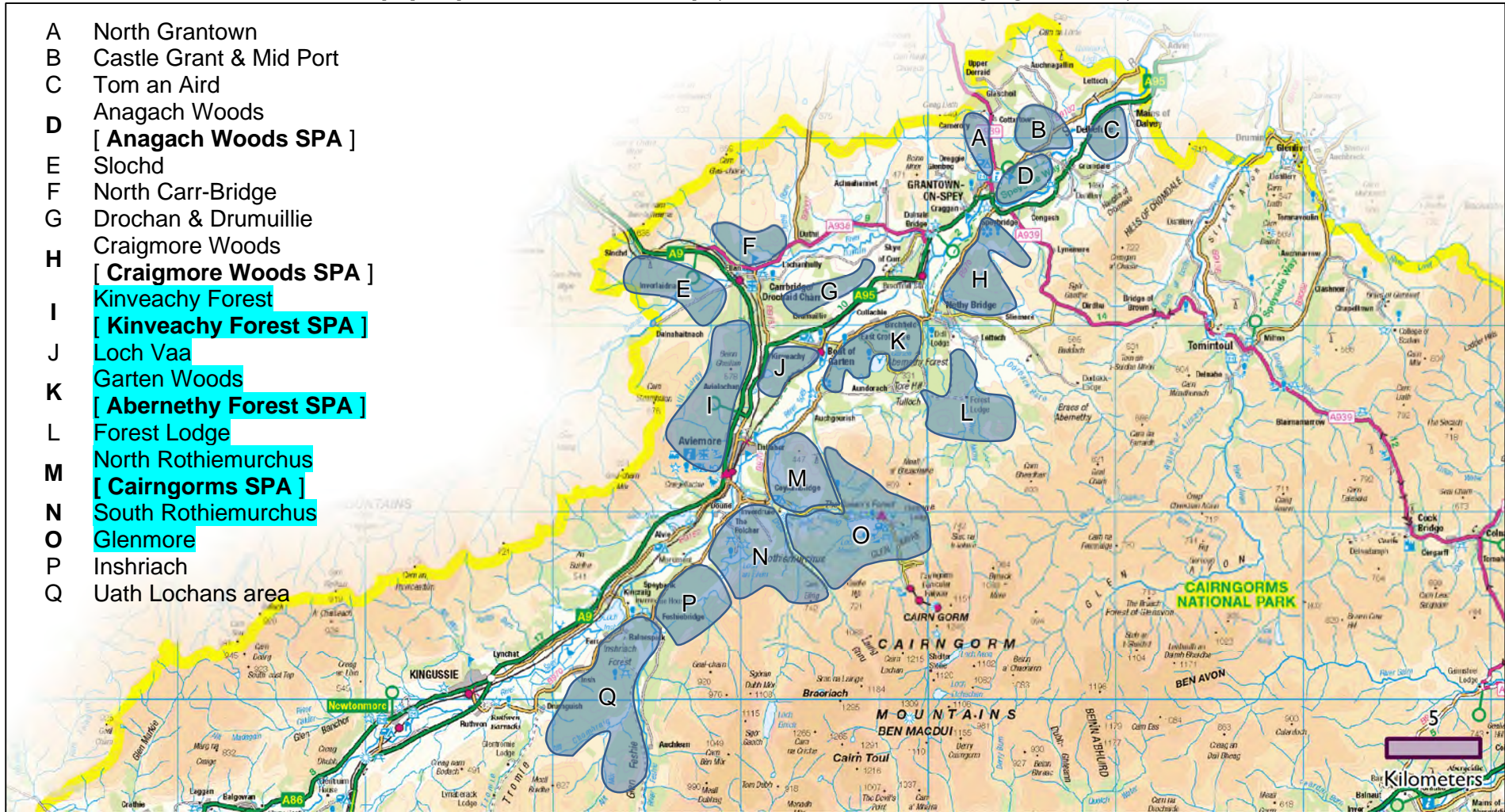
The number of people per application site has, unless otherwise stated fully in application, been calculated using the 2.07 person occupancy figure used for the LDP assessment as explained in the answer to question 1 of this document:

- **GRAMPIAN ROAD, 2 people:** 21/01746/FUL, Change of use from office space to 2 bedroom flat, 85 Grampian Road, Aviemore, PH22 1RH
- **PINE BANK CHALETS – no change,** replacement of one large cabin with two smaller cabins: 21/01221/FUL, Demolition of holiday units, erection of 2 new units, Pine Bank Chalets, Dalfaber Road, Aviemore, PH22 1PX

- **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 (considered woodlands highlighted blue)

- A North Granttown
- B Castle Grant & Mid Port
- C Tom an Aird
- D Anagach Woods
[**Anagach Woods SPA**]
- E Slochd
- F North Carr-Bridge
- G Drochan & Drumuillie
- H Craigmore Woods
[**Craigmore Woods SPA**]
- I Kinveachy Forest
[**Kinveachy Forest SPA**]
- J Loch Vaa
- K Garten Woods
[**Abernethy Forest SPA**]
- L Forest Lodge
- M North Rothiemurchus
[**Cairngorms SPA**]
- N South Rothiemurchus
- O Glenmore
- P Inshriach
- Q Uath Lochans area



Capercaillie woodland in Badenoch and Strathspey.

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