AGENDA ITEM 5 & 6

APPENDIX 4

2015/0394/DET and 2016/0060/DET

COPY OF HABITAT REGULATIONS APPRAISAL

Habitats Regulations Assessment Report

2015/0394/DET – Erection of 10 affordable houses at Beachan Court, Grantown on Spey

2016/0060/DET – Creation of 43 house and flat plots, road access, drainage and landscaping

Introduction

This is a record of the assessment under regulation 48 of the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) for the planning applications 2015/0394/DET and 2016/0060/DET made by The Highland Council and Seafield Estate respectively. The development is for the creation of 43 house and flat plots plus erection of 10 affordable units at land off Beachan Court, Grantown on Spey. This site is allocated for housing within the Cairngorms National Park Local Development Plan 2015-2020.

Background to the assessment

The principal documents which have been taken into account for this assessment are:

- 2016/0060/DET and 2015/0394/DET – Estimate of bed spaces/persons for capercaillie assessment
- 2016/0060/DET – Site Layout Plan 167132/08 (13/10/2015)
- 2015/0394/DET – Site Plan 015 (12/11/2015)

Table 1. Stages of Assessment

Stages of Assessment	
Stage 1	Decide whether proposal is subject to HRA
Stage 2	Identify Natura Sites that should be considered and gather information about the Natura Sites
Stage 3	Consultation on the method and scope of the appraisal with SNH and others. Request additional information from applicant if required.
Stage 4	Screening the proposal for likely significant effects on Natura sites including mitigation measures included within the proposal
Stage 5	Screen for "in combination effects" with other plans or projects
Stage 6	Appropriate Assessment to determine effect upon conservation objectives. Preliminary conclusion about adverse effect upon the integrity of any site.
Stage 7	Consultation with SNH (and others if considered appropriate)
Stage 8	Apply additional mitigation measures, if required, via conditions or agreements to ensure that there is no adverse effect on site integrity

Stage 9	Conclusion on Integrity test
Stage 10	Regulation 49 derogation procedures. This only applies if adverse effects remain and Competent Authority still wishes to approve the application

Stages 1-5 describing the Natura sites and Screening

The proposed development is not wholly concerned with the necessary management of a European site for nature conservation and requires planning permission and so the plans must be subject to assessment under the terms of Directive 92/43/EEC.

Stages 2: Identification of Natura Sites and gathering their details

The list below is those sites that have been taken forward to screening for likely significant effects. See Appendix 1 for details on each site and its qualifying features.

Special Area of Conservation (SAC)

River Spey SAC

Special Protection Area (SPA)

Anagach Woods SPA
Craigmore Woods SPA
Abernethy Forest SPA
Kinveachy Forest SPA
Cairngorms SPA

Stage 3: Discussions on the method and scope of the appraisal and requests for additional information

Advice has been sought from SNH as to the methodology and scope of the appraisal. A meeting was held between SNH and CNPA on the 14th of April 2016 to discuss the levels and pattern of recreation use in woods around Grantown and the potential impacts that could occur through the development.

Stage 4: Screening the proposal for likely significant effects

The effects identified were, in summary, as follows:

- Likely Significant Effect on the following Special Protection Areas: Anagach Woods, Craigmore, Kinveachy, Abernethy and Cairngorms
- Likely Significant Effect on River Spey SAC

Screening of this application considers these and any additional possible effects that would arise from the granting of planning permission for development at Beachan Court, Grantown on Spey.

Table 3. Screening for LSE from Beachan Court developments

Anagach Woods SPA					
Qualifying Feature Affected	**Possible effect of development**	**Likely significant effect**	**Duration**	**Screening assessment**	**Screening outcome**
Capercaillie	Increase in recreational use of Anagach woods SPA	Disturbance to lekking, brood rearing and feeding habitats from recreational activity.	Permanent	There is a predicted increase in the Grantown population through the development of 5%. There is likely to be an increase recreational use of Anagach woods and this could potentially result in an increased level of disturbance to capercaillie.	**Likely Significant Effect**
Abernethy Forest SPA, Kinveachy Forest SPA, Craigmore Wood SPA, Cairngorms SPA					
Qualifying Feature Affected	**Possible effect of development**	**Likely significant effect**	**Duration**	**Screening assessment**	**Screening outcome**
Capercaillie (all sites)	Increase in recreational use of these SPAs which support capercaillie. This is a **direct effect** upon these SPAs.	Disturbance to lekking, brood rearing and feeding habitats from recreational activity.	Permanent	Craigmore Wood SPA (~3.8km away) has no direct footpath link to Grantown and is only likely to be visited via car. The woodland is not promoted, it has only one path that skirts the southern section and no core paths. It is not currently heavily used for recreation compared to Anagach woods. No significant increase in recreation anticipated. Abernethy Forest (~7.6km away) receives 40,000 visitors per year. There is already adequate provision for visitors	**No Effect**

				at this site through managed footpaths, visitor centre and a trail warden. There is potential for a small increase in occasional use of the SPA, but given the distance from Grantown this figure would be reduced further. Therefore the effect of additional visitors from the proposal is deemed insignificant. Cairngorms SPA (~10.8km away) has adequate provision for visitors through a well-managed and promoted path network, visitor centre, and warden. There is potential for a small increase in occasional use of the SPA, but given the distance from Grantown this figure would be reduced further. Therefore the effect of additional visitors from the proposal is deemed insignificant. Kinveachy Forest (~15.1km away) has a well-developed estate path and track network which is used by walkers. Cyclists are largely kept away from the SPA by a deer fence that is crossed by stiles rather than gates. Alternative routes through Craigellachie NNR are well promoted and may present a more attractive location to potential walkers from the proposal. NCN7 runs below Kinveachy face outwith of SPA in this area. Given the distance from the proposal, and the low number of potential visitors, the effect of the proposal on this site is deemed insignificant.	
Capercaillie (all sites)	Increase in recreation in Anagach woods SPA, increased disturbance reducing productivity and subsequently a reduction in dispersal rate to	A reduced dispersal of birds from Anagach SPA into these SPAs, thus reducing the viability and productivity in these SPAs.	Permanent	Above screening for the Anagach woods SPA shows Likely Significant Effect, therefore there could be an indirect effect on these SPAs from the development.	**Likely Significant effect**

	these SPAs. **This is an indirect effect on these SPAs.**				
Scottish crossbill (Kinveachy SPA, Abernethy SPA)	Increase in recreational activity from residents of new development within the SPA	Disturbance to nesting sites and foraging habitat	Permanent	There is no evidence that this species is affected by disturbance; species does not nest on the ground. Therefore birds within SPA are not likely to be affected.	**No Effect**
Osprey (Abernethy SPA only)	Increase in recreational activity from residents of new development within the SPA	Disturbance to nesting sites	Permanent	Nest sites are well managed and monitored by RSPB. General recreation managed by RSPB to encourage recreational access to promoted paths away from nest sites. The number of visits from the residents of the development sites to Abernethy SPA is not considered to be high enough to create any likely disturbance for the birds. There are no known osprey nests near the development and no loch where osprey could feed.	**No Effect**
Golden eagle, merlin, peregrine (Cairngorms SPA only)	Increase in recreational activity from residents of new development within the SPA	Disturbance to nesting sites	Permanent	The number of visits from the residents of the development sites to the Cairngorms SPA is not considered to be high enough to create any likely disturbance for the birds. There are no known nests of these species near the development.	**No Effect**

River Spey SAC					
Qualifying Feature Affected	**Possible effect of development**	**Likely significant effect**	**Duration**	**Screening assessment**	**Screening outcome**
Otter	Pollution of watercourses through run – off during construction: siltation during ground excavation work, fuel or other chemical run-off,	Pollution from chemical leakage and siltation clouding water	Temporary	There is potential for run-off into the Kylintra burn during construction, which flows into the River Spey. The proposal seeks to create an access road crossing the Kylintra burn. Otter footprints were recorded on the Kylintra burn during a survey in April 2016, within the development site. Otters using this burn are likely to belong to the River Spey population. A pollution event in the Kylintra burn could impact on otters in the River Spey main stem.	**Likely Significant Effect**
Otter	Visual and noise disturbance during construction. Trapping and injury.	Disturbance of foraging and commuting habitat leading to displacement. Trapping of or injury to otter during construction	Temporary, during construction only	Otter have been recorded using the Kylintra burn in the latest mammal survey of the development site (2016). Any effects on otter using the Kylintra burn could impact on the otter population of the River Spey SAC.	**Likely Significant Effect**
Otter	Lighting of road at night leading to disturbance. Inability of otter to pass under road, resulting in otter crossing road.	Disturbance to foraging and commuting habitat leading to displacement. Collision of otter with cars, leading to injury and death of otter.	Permanent	Otter have been recorded using the Kylintra burn in the latest mammal survey of the development site (2016).	**Likely Significant Effect**

Sea Lamprey	Pollution of watercourses through run – off during construction: siltation during ground excavation work, fuel or other chemical run-off,	Pollution from chemical leakage and siltation clouding water	Temporary, during construction only	There are no records of sea lamprey in the Kylintra burn, though brook/river lamprey have been recorded. There is potential for run-off into the Kylintra burn during construction. A pollution event in the Kylintra burn could impact on the sea lamprey population of the River Spey SAC.	**Likely Significant Effect**
Fresh water pearl mussel	Pollution of watercourses through run – off during construction: siltation during ground excavation work, fuel or other chemical run-off,	Pollution from chemical leakage and siltation clouding water	Temporary, during construction only	There are no records of fresh water pearl mussel in the Kylintra burn (Pete Cosgrove pers. comm.). There is potential for run-off into the Kylintra burn during construction. A pollution event in the Kylintra burn could impact on the fresh water pearl mussel in the River Spey SAC.	**Likely Significant Effect**
Atlantic Salmon	Pollution of watercourses through run – off during construction: siltation during ground excavation work, fuel or other chemical run-off,	Pollution from chemical leakage and siltation clouding water	Temporary, during construction only	There are no records of Atlantic salmon in the Kylintra burn. However, there is potential for run-off into the Kylintra burn during construction. A pollution event in the Kylintra burn could impact on the Atlantic salmon population of the River Spey SAC.	**Likely Significant Effect**

Stage 5: In-combination effects

As part of the assessment, any Likely Insignificant Effects (Minor Residual Effects) identified must be tested for in-combination effects with Minor Residual Effects from other projects.

No Minor Residual Effects were identified during the Appropriate Assessment or screening of the proposal, therefore there are no possible in-combination effects.

Stages 6–10 Assessment and Conclusions

Stage 6: Appropriate Assessment

The proposals have been screened in Stages 4 and 5. It was found that for some Natura sites there were likely significant effects upon the qualifying interests. As such an Appropriate Assessment was deemed necessary. The affected sites identified are:

- Anagach Woods SPA
- Kinveachy Forest SPA
- Abernethy Forest SPA
- Craigmore Wood SPA
- Cairngorms SPA
- River Spey SAC

Anagach Woods SPA
Qualifying species and conservation status Capercaillie. SNH SCM report (SNH Site Link as of 29/04/2015) Unfavourable, Declining
Conservation objectives To avoid deterioration of the habitats of the qualifying species (listed above) 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 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 • Population of the species as a viable component of the site

Will the development adversely affect the site's conservation objectives?

Capercaillie: Likely Significant Effect

In this assessment, the implications of the planning application for the site's conservation objectives are assessed in order to answer the question: "Can it be ascertained that the proposal will not adversely affect the integrity of the site?"

The over-arching conservation objective of SPAs is to avoid deterioration of the habitats of the qualifying species, or significant disturbance to the qualifying species, thus ensuring that the integrity of the sites is maintained. This over-arching conservation objective can be broken down into the following detailed elements:

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

1. No significant disturbance of the species

2. Distribution and extent of habitats supporting the species

   Structure, function and supporting processes of habitats supporting the species

3. Population of the species as a viable component of the sites

   Distribution of the species within sites

In-combination effects

No in-combination effects have been identified at State 5 (screening).

Assessment against the Conservation Objectives

A Likely Significant Effect on the SPA was identified due to the predicted increase in recreational use of the woods. Lek and brood rearing habitat exists within the SPA which are within walking distance from the development (longer walk) and driving distance (shorter walk). Additional use of the woods for recreation could increase recreational disturbance to habitat used by capercaillie for breeding and rearing young.

Capercaillie (direct effect)

1. No significant disturbance of capercaillie

The proposal will not disturb capercaillie during construction or create disturbance directly from the site once the houses are occupied. The distance of 840m from the site and woods used by capercaillie is too far to cause direct disturbance.

The development is predicted to increase the levels of recreation in the local area. There are several ways in which the proposal could impact on recreation in woods around Grantown:

a) Increase the recreational use of paths in Beachan and Dulicht woods close to the proposal. These are most likely to be used by residents of the development for day to day short to medium routes and dog walking. Capercaillie do not use this woodland, therefore there is

no effect on capercaillie.

b) There are non-SPA plantation woodlands around Grantown which support capercaillie. These woodlands are not promoted and are considered to be little used. In addition they are not within easy reach of the development. Recreation in these woodlands is considered to remain low post development with no significant increase in use predicted.

c) Increase in the level of off-path recreational use, potential for new "desire lines" in Beachan and Dulicht woods – no effect on capercaillie.

d) Increase in the use of paths in Anagach woods due to an increase in the number of residents through the proposal. Recreational use is predicted to follow existing patterns and types of activity relating to residents.

It is anticipated that most residents from the development will use Beachan and Dulicht woods primarily, as these are directly adjacent to the development and provide a range of short and medium walks in attractive and easily accessible woodland. The application includes the provision of footpaths from the development directly into the Beachan wood area to encourage residents to use these areas.

Even so, an increase in use of Anagach Woods is predicted. Recreation is likely to occur along promoted tracks which are already popular and avoided by capercaillie (Moss et al, 2014). The nearest lek to the proposal is within Anagach, appoximately 500m from a forest track. This distance is further than the median alert distance (Ruddock & Whitfield 2006) and the 75m exclusion of human activity at known leks (Marshall 2005). Birds are primarily focussed in boggy habitat which is undesirable for recreation, or on the northern side of Anagach which is furthest from the core recreation area beside the Forest Road car park.

It is considered that an increase in use in existing promoted paths in Anagach Woods by a predicted 5% (due to the proposal) will not lead to increased disturbance to capercaillie above existing levels. The proposal is not predicted to change existing spatial and temporal recreational patterns in Anagach Woods. It is therefore concluded that an increase in recreation from the proposal will not have an adverse effect on capercaillie.

Conclusion

It is concluded that there will be no increased disturbance to capercaillie from the proposal, therefore no adverse impact on capercaillie and this conservation objective will be met.

2. Population of the capercaillie as a viable component of the sites and distribution of the capercaillie within the Special Protection Areas

Based on figures provided by the applicant (Colin Armstrong Associates 2016) the development is predicted to increase the population of Grantown by 9% (approximately 221 extra people across both developments, if all the beds in all the houses are fully occupied). The National Records of Scotland predicted that the average household size in 2012 was 2.15. This figure is predicted to decline over the next 25 years. If the mean occupancy of the development is 2.15, this gives only a 5% increase and an estimated number of residences of 114. This is likely to be a more realistic estimate of occupancy for the site.

Anagach is 840m from the development, taking the shortest route. Residents of the new development could use Anagach for longer walks, as a longer mountain bike route, or may drive to

Anagach from the development.

Capercaillie avoid a 125m buffer zone either side of a footpath. Increased recreational disturbance could render the habitat in Anagach Woods unsuitable for capercaillie, thus reducing the population of capercaillie in this area. Increased disturbance may also have an effect on productivity by reducing either breeding or brood rearing success.

Capercaillie exist as a meta-population and move from site to site, often covering large distances. The Strathspey metapopulation consists of designated sites (Abernethy Forest, Kinveachy Forest, Anagach Woods, Craigmore Woods and Cairngorms) and non-designated woodland. The distance between Anagach and the other designated sites is within the normal dispersal distance of capercaillie. Anagach Woods (plus non-designated woodland around Grantown) has potential to provide a population of birds if the population of another wood nearby was lost. It is important to maintain populations at each site in order to create a more robust meta-population.

Conclusion

There is potential for an effect on the population of capercaillie as a viable component of the SPAs, and distribution of capercaillie within the SPAs, if the Grantown population were to be adversely affected by the proposal. If the Grantown population (including that within Anagach) can continue to live and breed, the wider SPA population would be unaffected. The assessment above considers that there will be no increase in disturbance to capercaillie from the proposal and there conservation objective "no disturbance on capercaillie" will be met. Therefore, with no adverse impact on capercaillie in Anagach Woods SPA, an effect on the population as a viable component of the neighbouring SPAs is not possible.

It is concluded that there will be no adverse effect upon this conservation objective.

3. Distribution and extent of habitats supporting capercaillie and structure, function and supporting processes of habitat supporting capercaillie

The proposal area lies out with the SPA and comprises of open farmland and is not suitable for capercaillie. Therefore there is no loss of supporting habitat through the proposal.

We conclude that there will be no adverse effect upon this conservation objective.

Additional mitigation

None required.

Likely insignificant effects

No MRE

Conclusion on site integrity

There will not be an adverse effect upon the integrity of Anagach Woods SPA.

Kinveachy Forest SPA, Abernethy Forest SPA, Craigmore Wood SPA, Cairngorms SPA

Qualifying species and conservation status

Capercaillie (all sites): Likely Significant Effect
SNH SCM report (SNH Site Link as of 30/05/2016) Unfavourable, Declining

Scottish crossbill (Kinveachy and Abernethy only): Screened out at Stage 5 above
Osprey (Abernethy only): Screened out at Stage 5 above
Golden eagle, merlin, peregrine (Cairngorms only): Screened out at Stage 5 above

Conservation objectives

To avoid deterioration of the habitats of the qualifying species (listed above) 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 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
- Population of the species as a viable component of the site

Will the development adversely affect the site's conservation objectives?

In this assessment, the implications of the planning application for the site's conservation objectives are assessed in order to answer the question: "Can it be ascertained that the proposal will not adversely affect the integrity of the site?"

The over-arching conservation objective of SPAs is to avoid deterioration of the habitats of the qualifying species, or significant disturbance to the qualifying species, thus ensuring that the integrity of the sites is maintained. This over-arching conservation objective can be broken down into the following detailed elements:

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

1. Population of the species as a viable component of the sites

Distribution of the species within sites

2. Distribution and extent of habitats supporting the species

Structure, function and supporting processes of habitats supporting the species

3. No significant disturbance of the species

In-combination effects

No in-combination effects have been identified at State 5 (screening).

Assessment against the Conservation Objectives

A Likely Significant Effect was found during screening on the SPAs above indirectly, via a Likely Significant Effect on Anagach Woods SPA. A direct Likely Significant Effect on the above SPAs was not found during screening.

Capercaillie (direct effect)

1. **Population of the capercaillie as a viable component of the sites and distribution of the capercaillie within the Special Protection Areas**

Capercaillie exist as a meta-population and birds frequently move from site to site. A Likely Significant Effect was identified on Anagach Woods SPA at screening (stage 5). However when considered within the appropriate assessment above it was concluded that there was no LSE at this SPA. Consequently an indirect effect on the other SPAs cannot happen.

Conclusion

2. **Distribution and extent of habitats supporting capercaillie and structure, function and supporting processes of habitat supporting capercaillie**

The proposal area lies out with the SPA and comprises of open farmland and is not suitable for capercaillie. Therefore there is no loss of supporting habitat through the proposal.

We conclude that there will be no adverse effect upon this conservation objective.

3. **No significant disturbance of capercaillie**

This would be a direct effect of disturbance of the birds within these SPAs by the residents of the proposal. This was screened out at Stage 4 above.

Conclusion

We conclude that there will be no adverse effect upon this conservation objective.

Additional mitigation

None required.

Likely insignificant effects

No MRE

Conclusion on site integrity

There will not be an adverse effect upon the integrity of Anagach Woods SPA.

River Spey SAC

Qualifying species and conservation status

Sea lamprey (*Petromyzon marinus*) Favourable Maintained

Otter (*Lutra lutra*) Favourable Maintained

Atlantic salmon (*Salmo salar*) Unfavourable Recovering

Freshwater pearl mussel (*Margaritifera margaritifera*) Unfavourable Declining

Conservation objectives

To avoid deterioration of the habitats of the qualifying species (listed above) 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 processes of habitats supporting the species and their hosts where relevant
- No significant disturbance of the species

Is the operation likely to have a significant effect on the qualifying interest? Consider each qualifying interest in relation to the conservation objectives

Sea lamprey: Likely Significant Effect (pollution)
Otter: Likely Significant Effect (disturbance, pollution)
Atlantic salmon: Likely Significant Effect (pollution)
Freshwater pearl mussel: Likely Significant Effect (pollution)

Will the development adversely affect the site's conservation objectives?

In this assessment, the implications of the planning application for the site's conservation objectives are assessed in order to answer the question: "Can it be ascertained that the proposal will not adversely affect the integrity of the site?"

The over-arching conservation objective of SACs is to avoid deterioration of the habitats of the qualifying species, or significant disturbance to the qualifying species, thus ensuring that the integrity of the sites is maintained. This over-arching conservation objective can be broken down into the following detailed elements:

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

- Population of the species as a viable component of the sites
- Distribution of the species within sites
- Distribution and extent of habitats supporting the species

- Structure, function and supporting processes of habitats supporting the species
- No significant disturbance of the species

In-combination effects

As described at Stage 5 (screening); no in-combination effects have been identified for this Natura site.

Assessment against the Conservation Objectives

1. **Population of the species as a viable component of the sites**

Atlantic salmon, otter, Atlantic salmon, freshwater pearl mussel – Catastrophic accidental chemical pollution or sedimentation arising during construction may affect the population of the species locally due to toxic effects on individuals. These affects can be fully mitigated for through appropriate preventative measures.

Disturbance to otter during construction, leading to displacement of individuals from the Kylintra burn. The mammal survey carried out in 2016 revealed otter footprints on the Kylintra burn, at most one individual. It is likely that this individual is part of the River Spey population and the Kylintra burn is part of this otter's territory and forms a foraging source, or commuting route to a foraging source. As a worst case scenario, the disturbance to, or loss of a single otter using the Kylintra burn, would not have an adverse effect on the population of otter using the River Spey.

2. **Distribution of the species within sites**

Atlantic salmon, otter, sea lamprey, freshwater pearl mussel - Accidental chemical pollution or sedimentation arising during construction may affect the distribution of the species through effects upon food source and supporting habitats. These affects can be fully mitigated for through appropriate preventative measures.

Disturbance to otter during construction, leading to displacement of individuals from the Kylintra burn. The mammal survey carried out in 2016 revealed otter footprints on the Kylintra burn, at most one individual. It is likely that this individual is part of the River Spey population and the Kylintra burn is part of this otter's territory and forms a foraging source, or commuting route to a foraging source. The Kylintra burn is not designated as part of the River Spey SAC. As a worst case scenario, the disturbance to, or loss of a single otter using the Kylintra burn, would not have an adverse effect on the distribution of otter using the River Spey.

3. **Distribution and extent of habitats supporting the species**

Atlantic salmon, otter, sea lamprey, freshwater pearl mussel - Accidental chemical pollution or sedimentation arising during construction may affect the distribution of the species through effects upon food source and supporting habitats.

The Kylintra burn is not designated as part of the River Spey SAC, but has connectivity with the River Spey (the burn flows directly into it). An accidental, catastrophic pollution event in the Kylintra burn could damage habitats and food sources for the above species.

The above affects can be fully mitigated for through appropriate preventative measures.

4. **Structure, function and supporting processes of habitats supporting the species**

Atlantic salmon, otter, sea lamprey, freshwater pearl mussel - Accidental chemical pollution or sedimentation arising during construction may affect the quality of habitat supporting these species.

The above affects can be fully mitigated for through appropriate preventative measures.

5. <u>No significant disturbance of the species</u>

Otter have recently been recorded (i.e. footprints) using the Kylintra burn in the section of the burn where the access road crosses the burn and a SUDS scheme is proposed. Construction traffic and disturbance to habitat could disturb otter using the Kylintra burn and also potentially cause harm by inadvertently trapping otter or causing injury.

The Kylintra burn is not designated as part of the River Spey SAC. As a worst case scenario, the disturbance to a single otter using the Kylintra burn, would not have an adverse effect on the distribution of otter using the River Spey.

It is concluded that there could be an effect upon these conservation objectives (1-4) and therefore additional mitigation needs to be considered.

Additional mitigation

Mitigation is required for the above effects.

1. Construction method statement

   A condition must be applied to a permission that requires a site specific construction method statement (CMS) to be agreed with the CNPA prior to the starting construction of the access road which is proposed to cross the Kylintra burn. The CMS must clearly demonstrate that risks to watercourses are eliminated through application of good site management in accordance with accepted best practice guidelines. This must be in accordance with SEPA PPG 5 "Working on or near a watercourse". It should be noted that a CARR licence may also be required from SEPA for the construction of the access track to be carried out.

   This is a well-practised approach that is applied to many construction projects and it will effectively manage these risks.

   This would resolve the following likely significant effects:

   - Pollution and siltation of Kylintra burn and ultimately the River Spey during construction through site run-off, affecting the following qualifying features as detailed above: Atlantic salmon, otter, sea lamprey and freshwater pearl mussel, and conservation objectives for the River Spey SAC 1-4 above.

Likely insignificant effects

No residual effects.

Conclusion on site integrity

If the mitigation stated above is followed, there will not be an adverse effect upon the

integrity of the River Spey SAC.

Stage 7: Consultation

Regulation 48(3) requires the authority to consult with the appropriate conservation body and to have regard to their representations. This is in such cases where a LSE is identified and an appropriate assessment is undertaken. In Scotland SNH is the appropriate conservation body.

Wider consultation of the draft report is at the discretion of the competent authority. In this case a detailed consultation with SNH was made to determine the possible effects from the development.

Stage 8: Additional mitigation

The Appropriate Assessment details a number of mitigation measures which are summarised below:

- Production of a Construction Method Statement for the construction of the access road over the Kylintra burn, to contain measures to avoid pollution and run-off whilst working in this watercourse.

Stage 9: Conclusion on the integrity test

This assessment based upon the best available scientific evidence and advice offered from SNH and others has shown that, with the mitigation measures provided, that there are no adverse impacts on the conservation objectives from the proposed development upon the qualifying features or the conservation objectives for the following Natura sites:

- Anagach Woods SPA
- Kinveachy Forest SPA
- Abernethy Forest SPA
- Craigmore Wood SPA
- Cairngorms SPA
- River Spey SAC

We therefore conclude that the proposed development, subject to the mitigation measures identified in this appropriate assessment and applied to any consent, will not adversely affect the integrity of any of these sites.

Stage 10: Section 49 (derogation)

The conclusion that there is no adverse effect upon the integrity of any of the Natura sites covered in this report means that regulation 49 is not relevant.

Summary of residual effects

No Minor Residual Effects have been identified.

References

Research papers

Marshall, K. (2005) Capercaillie and recreational disturbance study. Unpublished report for CNPA, FCS and SNH

Moss, R., Lekie, F., Biggins, A., Poole, T., Baines, D. & Kortland, K. (2014) Impacts of human disturbance on capercaillie (Tetrao urogallus) distribution and demography in Scottish woodland. Wildlife Biology, 20 (1): 1-18

Ruddock, M., & Whitfield, D. P. (2007) A review of disturbance distances in selected bird species. A report from Natural Research (Projects) Ltd to SNH

Habitat Regulations process

Council Directive 92/43/EEC "the Habitats Directive" EEC adopted 1992

Managing Natura 2000 sites – EU communities 2000

Guidance document on Article 6(4) of the 'Habitats Directive' 92/43/EEC - EC 2007

The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended)

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Appendix 1

Details of Natura 2000 sites within, or adjacent to, the proposed development site

Name of European Site	Anagach Woods
Site Type	**Special Protection Area**
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	Capercaillie
Site Condition	Unfavourable, Declining. SNH SCM report (SNH Site Link as of 30/05/2016)
Factors currently influencing site	In terms of development, none at present
Vulnerabilities to change/potential effects of the Plan	Recreational disturbance from neighbouring development. Relevant settlements: An Camas Mor, Boat of Garten. Also the development of, or extension to existing recreational facilities.

Name of European Site	Craigmore Wood
Site Type	**Special Protection Area**
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	Capercaillie
Site Condition	Capercaillie: Unfavourable, Declining

	From SNH SCM Report (SNH Site Link as of 30/05/2016)
Factors currently influencing site	In terms of development, none at present
Vulnerabilities to change/potential effects of the Plan	Recreational disturbance to species from neighbouring development Relevant settlements: An Camus Mòr, Boat of Garten – also developing of, or extension of existing, recreational facilities.

Name of European Site	Abernethy Forest
Site Type	**Special Protection Area**
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	Capercaillie, Scottish crossbill, Osprey.
Site Condition	 Capercaillie: Favourable Maintained Osprey: Favourable Maintained Scottish Crossbill: Favourable Maintained From SNH SCM Report (SNH SiteLink 30/05/2016)
Factors currently influencing site	In terms of development, none at present
Vulnerabilities to change/potential effects of the Plan	Recreational disturbance to species from neighbouring development Relevant settlements: An Camus Mòr, Boat of Garten – also developing of, or extension of existing, recreational facilities.

Name of European Site	Kinveachy Forest
Site Type	**Special Protection Area**
Conservation	To avoid deterioration of the habitats of the qualifying species (listed

Objectives	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	Capercaillie, Scottish crossbill
Site Condition	 Capercaillie: Favourable Maintained Scottish Crossbill: Favourable Maintained From SNH SCM Report (SNH SiteLink 30/05/2016)
Factors currently influencing site	In terms of development, none at present
Vulnerabilities to change/potential effects of the Plan	Recreational disturbance to species from neighbouring development Relevant settlements: An Camus Mòr, Boat of Garten – also developing of, or extension of existing, recreational facilities.

Name of European Site	Cairngorms
Site Type	**Special Protection Area**
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	Capercaillie, Scottish crossbill, Peregrine, Dotterel, Merlin Golden eagle, Osprey.
Site Condition	 Capercaillie: Favourable Maintained Peregrine: Favourable Maintained Dotterel: Unfavourable Declining Golden eagle: Favourable Maintained

	Osprey: Favourable Maintained From SNH SCM Report (SNH SiteLink 30/05/2016)
Factors currently influencing site	In terms of development, none at present
Vulnerabilities to change/potential effects of the Plan	Recreational disturbance to species from neighbouring development Relevant settlements: An Camus Mòr, Boat of Garten – also developing of, or extension of existing, recreational facilities Wind farms could impact on young golden eagles, given their mobility

Name of European Site	River Spey
Site Type	**Special Area of Conservation**
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	Sea lamprey (*Petromyzon marinus*) Otter (*Lutra lutra*) Atlantic salmon (*Salmo salar*) Freshwater pearl mussel (*Margaritifera margaritifera*)
Site Condition	Sea lamprey (*Petromyzon marinus*) Favourable Maintained Otter (*Lutra lutra*) Favourable Maintained Atlantic salmon (*Salmo salar*) Unfavourable Recovering Freshwater pearl mussel (*Margaritifera margaritifera*) Unfavourable Declining From SNH SCM Report (SNH SiteLink 30/05/2016)
Factors currently influencing site	In terms of development, none at present
Vulnerabilities to change/potential effects of the Plan	• Effects on water quality including sewerage treatment, release of minerals, contamination or other pollution and waste • Functioning of flood plains and the river system • Abstraction of water Relevant settlements: Dalwhinnie, Newtonmore, Kingussie, An Camus Mòr, Aviemore, Inverdruie, Kincraig, Insh, Boat of Garten, Carr-Bridge, Dulnain Bridge, Nethy Bridge, Grantown-on-Spey, Cromdale

Appendix 2

Glossary of terms and abbreviations

Appropriate Assessment (AA)	The part of the Habitats Regulations Assessment process that considers the effects of an aspect of a plan upon the conservation objectives for a Natura site.
CNPA	Cairngorms National Park Authority
CNAP	Cairngorms Nature Action Plan
Competent Authority	The decision making body required under the Habitats Directive to undertake HRA. This includes Scottish Government, National Park Authorities, SNH , SEPA or Local Authorities.
CPP	Core Paths Plan
Habitats Regulation Assessment (HRA)	The whole appraisal process for determining effects upon Natura Sites. It includes Appropriate Assessments. It is a requirement by the Habitats Directive that competent authorities carry out HRAs where a plan or project affects a Natura site.
CLDP	Draft Cairngorms National Park Local Development Plan
Likely Significant Effect	An adverse effect of the development upon a qualifying interest or conservation objective that is considered to be potentially severe enough as to threaten the integrity of the Natura site itself.
Natura Sites	Collective term for Special Protection Areas and Special Areas of Conservation
Ramsar sites	Ramsar sites are wetlands of international importance designated under the Ramsar Convention 1971. Not technically Natura sites they are however usually also SPAs. They are included within the HRA process by policy.
Special Area of Conservation (SAC)	An area designated for the protection of habitats and species. Authorised under Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (commonly called the "Habitats Directive"). One of three designation to be considered in a HRA
Special Protection Area (SPA)	An area designation for the protection of birds. Authorised by the Directive 2009/147/EC of the European Parliament and of the Council (commonly called the "Birds Directive"). One of three designation to be considered in a HRA