

# **AGENDA ITEM 6**

## **APPENDIX 2**

**2018/0177/DET**

# **HABITATS REGULATION APPRAISAL**

## HABITATS REGULATIONS APPRAISAL PROFORMA

Cairngorms National Park Authority have undertaken this HRA as the competent authority.

### APPRAISAL IN RELATION TO REGULATION 48 OF THE CONSERVATION (NATURAL HABITATS, &C.) REGULATIONS 1994 AS AMENDED<sup>1</sup> (HABITATS REGULATIONS APPRAISAL)

#### NATURA SITE DETAILS

**Name of Natura site(s) potentially affected:**

Cairngorms SPA, Cairngorm SAC

**Name of component SSSI if relevant:**

**Natura qualifying interest(s) & whether priority/non-priority:**

SPA : Capercaillie, Dotterel, Golden Eagle, merlin, Osprey, Peregrine, Scottish Crossbill SAC:  
Qualifying habitats listed below

#### STAGE 1: WHAT IS THE PLAN OR PROJECT?

**Proposal title:**

2018/0177/DET – Ptarmigan  
restaurant

**Name of consultee:**

Highland & Islands Enterprise

**Name of competent authority:**

Cairngorms National Park Authority

**Details of proposal (inc. location, timing, methods):**

The proposal involves replacing the Ptarmigan Building at the top of Cairngorm which lies approx. 960m to the north of the boundary of the Cairngorms SPA and 830m from the Cairngorms SAC

#### STAGE 2: IS THE PLAN OR PROJECT DIRECTLY CONNECTED WITH OR NECESSARY TO SITE MANAGEMENT FOR NATURE CONSERVATION?

*The following points should be considered:*

- i) Has the effect on all qualifying interests been considered?*
- ii) Is the proposal part of a fully assessed and agreed management plan?*
- iii) Is there a clear rationale to justify the connection with the conservation objectives?*
- iv) If there is a clear connection with the conservation objectives will any benefits arising from the proposal outweigh any negative effects?*
- v) Have any alternative methods of implementing the proposal been explored to demonstrate that this is the least damaging option?*
- vi) Give a YES/NO conclusion in terms of whether the plan or project is considered directly connected with or necessary to site management for nature conservation.*

<sup>1</sup> Or, where relevant, under regulation 61 of The Conservation of Habitats and Species Regulations 2010 as amended, or regulation 25 of The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 as amended.

- If **YES** for all elements of a plan or project, for all the Natura qualifying interests (preferably as part of a fully assessed and agreed management plan), then consent can be issued. The rationale should be detailed below and no further appraisal is required (no need to proceed to stage 3 or 4).
- If **No** for all Natura qualifying interests then proceed to stage 3.
- **If a plan has multiple elements (e.g. a range of policies or management objectives)**, elements of the plan considered directly connected with or necessary to site management for nature conservation should be discussed below and a rationale given for this conclusion. No further appraisal is then required for those elements. All other elements of the plan must proceed to stage 3.

- i. **Yes**
- ii. **No**
- iii. **No**
- iv. **No**
- v. **No**
- vi. **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?

Each qualifying interest should be considered in relation to their conservation objectives. The following points should be considered:

- i) Briefly indicate which qualifying interest could be affected by the proposal and how; if none, provide a brief justification for this decision, and then proceed to v), otherwise continue;
  - ii) refer to other plans/projects with similar effects/other relevant evidence;
  - iii) consider the nature, scale, location, longevity, and reversibility of effects;
  - iv) consider whether the proposal contributes to cumulative or incremental impacts in combination with other plans or projects completed, underway or proposed;
  - v) Where the impacts of a proposal are the same for different qualifying interests these can be considered together however a clear conclusion should be given for each interest
  - vi) give Yes/No conclusion for each interest.
- **If yes, or** in cases of **doubt**, continue to stage 4.
  - **If potential significant effects can easily be avoided**, record modifications required below.
  - **If no** for **all** features, a consent or non-objection response can be given and recorded below (although if there are other features of national interest only, the effect on these should be considered separately). There is no need to then proceed to stage 4.

#### Conservation Objectives

##### Cairngorms SPA

The works are proposed for a site 960m to the north of the Cairngorms SPA boundary

##### Qualifying Species:

- Capercaillie (*Tetrao urogallus*)
- Dotterel (*Charadrius morinellus*)
- Golden eagle (*Aquila chrysaetos*)
- Merlin (*Falco columbarius*)
- Osprey (*Pandion haliaetus*)
- Peregrine (*Falco peregrinus*)
- Scottish crossbill (*Loxia scotica*)

**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:

- ⓪ Population of the species as a viable component of the site
- ⓪ Distribution of the species within site
- ⓪ Distribution and extent of habitats supporting the species
- ⓪ Structure, function and supporting processes of habitats supporting the species
- ⓪ No significant disturbance of the species

**Capercaillie & Scottish crossbill**

- There is no suitable habitat to support these species in the vicinity of the existing/proposed new restaurant building.
- **Conclusion: Capercaillie & Scottish Crossbill will not be impacted on directly or indirectly as a result of this proposal. Therefore no conceivable likely significant effect.**

**Golden Eagle, Merlin, Osprey & Peregrine**

- Recent data suggests that these species are not present within the vicinity of the existing/proposed new restaurant building.
- **Conclusion: Golden Eagle, Merlin, Osprey & Peregrine will not be impacted on directly or indirectly as a result of this proposal. Therefore no conceivable likely significant effect.**

**Dotterel**

**Collision & Disturbance risk**

- Dotterel are present in the vicinity of the Ptarmigan building between late April and early August and they breed on either side of the SPA boundary which lies close to the summit of Cairn Gorm. They also move freely across the boundary of the SPA and can nest within sight of the Ptarmigan building. Adults with chicks can occasionally be found close to the building. The area can also be used by non-breeding/passage dotterel at different times of the season.

**Conclusion: Dotterel could be at risk of collision with the glazing on the proposed new building and at risk from disturbance from demolition of the old building and construction of the new building. Therefore, Likely Significant Effect.**

**Mitigation or modifications required to avoid a likely significant effect & reasons for these:**

<i>Mitigation:</i>	<i>Reason:</i>
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## Cairngorms SPA

The works are proposed for a site 960m to the north of the Cairngorms SPA boundary

### Cairngorms SAC

**To avoid deterioration of the qualifying habitats (listed below) thus ensure the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each qualifying feature; and**

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

- ⌚ Extent of the habitat on site
- ⌚ Distribution of the habitat within site
- ⌚ Structure and function of the habitat
- ⌚ Processes supporting the habitat
- ⌚ Distribution of typical species of the habitat
- ⌚ Viability of typical species as components of the habitat
- ⌚ No significant disturbance of typical species of the habitat

#### **Qualifying Habitats:**

- Acid peat-stained lakes and ponds
- Acidic scree
- Alpine and subalpine heaths
- Blanket bog\*
- Bog woodland\*
- Caledonian forest\*
- Clear-water lakes or lochs with aquatic vegetation and poor to moderate nutrient levels
- Dry grasslands and scrublands on chalk or limestone
- Dry heaths
- Hard-water springs depositing lime\* • High-altitude plant communities associated with areas of water seepage\* • Juniper on heaths or calcareous grasslands
- Montane acid grasslands
- Mountain willow scrub
- Plants in crevices on acidic rocks
- Plants in crevices on base-rich rocks
- Species-rich grassland with mat-grass
- Tall herb communities
- Very wet mires often identified as blanket bog
- Wet heathland with cross-leaved heath

The proposal is unlikely to have a significant effect on any qualifying interests either directly or indirectly as the proposal lies over 830m outside of the site boundary.

- **Conclusion: Qualifying habitats will not be impacted on directly or indirectly as a result of this proposal.  
Therefore no conceivable likely significant effect on the Cairngorms SAC.**

**STAGE 4: UNDERTAKE AN APPROPRIATE ASSESSMENT OF THE IMPLICATIONS FOR THE SITE IN VIEW OF ITS CONSERVATION OBJECTIVES**

(It is the responsibility of the competent authority to carry out the appropriate assessment. The competent authority must consult SNH for the purposes of carrying out the appropriate assessment. SNH can provide advice on what issues should be considered in the appropriate assessment, what information is required to carry out the assessment, in some circumstances carry out an appraisal to inform an appropriate assessment and/or provide comments on an assessment carried out. Where we are providing advice to a competent authority our appraisal of the proposal should be recorded here.)

*The following points should be considered:*

*i) Describe for each qualifying interest the potential impacts of the proposal detailing which aspects or effects of the proposal could impact upon them and their conservation objectives.*

*ii) Evaluate the potential impacts, e.g. whether short/long term, reversible or irreversible, and in relation to the proportion/importance of the interest affected, and the overall effect on the site's conservation objectives. This should be in sufficient detail to ensure all impacts have been considered and sufficiently appraised. Record if additional survey information or specialist advice has been obtained.*

*iii) Each conservation objective should be considered and a decision reached as to whether the proposal will affect achievement of this objective i.e. whether the conservation objective will still be met if the proposal is consented to.*

## **Dotterel**

### **Conservation Objectives for Cairngorms SPA**

1. Population of the species as a viable component of the site
2. Distribution of the species within site
3. Distribution and extent of habitats supporting the species
4. Structure, function and supporting processes of habitats supporting the species
5. No significant disturbance of the species

#### **1. Population of the species as a viable component of the site**

- Dotterel are present in the vicinity of the Ptarmigan building between late April and early August and they breed on either side of the SPA boundary which lies close to the summit of Cairn Gorm. They also move freely across the boundary of the SPA and can nest within sight of the Ptarmigan building. Adults with chicks can occasionally be found close to the building. The area can also be used by non-breeding/passage dotterel at different times of the season.
- Dotterel can be active at any time throughout day and night, including crepuscular periods. The Ptarmigan building is subject to variable weather conditions, particularly low cloud due to its altitude (1097m asl). This means that dotterel can be active in the vicinity of the building during periods of poor visibility. The building is used during the hours of darkness meaning that windows are lit up which in itself can attract birds.
- This proposal involves installing an additional extent of glazed windows on the building, orientated at a different angle which could affect its visibility to birds, could result in an increased risk of dotterel mortality through collisions with glass, particularly if/when they reflect the surrounding habitat, are lit up at night and/or their visibility is poor.
- However, there are no records of any bird species colliding with windows on the existing building to date. In addition, and in support of their proposal the applicant submitted further information in the form of the Gavia Report, which appraised the findings from research into bird strikes against glazed windows and made recommendations for this development proposal in light of the research, and based on a precautionary approach.

#### **2. Distribution of the species within the site**

- The proposal will not significantly reduce habitat supporting the species

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

There will be no impact on the habitat supporting dotterel

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

- There will be no impact on the habitat supporting dotterel

**5. No significant disturbance of the species**

- Dotterel are not likely to be disturbed by construction or operational activity as they are relatively resilient to disturbance and continue to use areas near the building despite the noise, vehicle movements and presence of skiers and walkers. There was no evidence that Dotterel were disturbed during construction of the current building.

**Mitigation**

A Species Protection Plan must be produced, which will detail measures to reduce the outlined impact on Dotterel. The measures within the protection plan must include but not be limited to:

1. Reduce the area of reflective and transparent glass by the type of glazing specification and by adding manifestation patterning of the types recommended in para 4.3.4 of the Gavia report.;
2. Corners where panes join will all be heavily framed;
3. A combination of blinds and curtains will be used to keep artificial light within the building during internal events held in the building in evenings and during periods of low level external natural light;
4. During construction newly erected glazed areas will be covered until agreed manifestation measures have been added to the glass;
5. Undertake post construction monitoring once construction is complete according to the submitted Gavia report – monitoring once a day is sufficient and three times a day is not required
6. Should there be any dotterel collisions, CNPA and SNH must be notified within 2 working days and higher density manifestation patterning added to the windows affected within five working days.

- **The mitigation proposals described above will reduce risk of collision to Dotterel. The mitigation proposals described above will ensure habitat is retained. There will be no impact on the distribution of and extent of habitats supporting dotterel or structure, function and supporting processes of habitats supporting the species.**

- **Conclusion: Therefore, No Likely Significant Effect on the conservation objectives of the Cairngorms SPA**

**STAGE 5: CAN IT BE ASCERTAINED THAT THE PROPOSAL WILL NOT ADVERSELY AFFECT THE INTEGRITY OF THE SITE?**

*In the light of the appraisal, ascertain whether the proposal will not adversely affect the integrity of the site for the qualifying interests. Conclusions should be reached beyond reasonable scientific doubt. If more than one SAC and/or SPA is involved, give separate conclusions. If mitigation or modifications are required, detail these below.*

- ***It can be concluded that there will be no adverse effect on the site integrity of the Cairngorms SPA resulting from this proposal.***

**Mitigation or modifications required to ensure adverse effects are avoided, & reasons for these.**

<i>Mitigation:</i> <i>A Reduce glazing area, use patterns</i>  <i>Reduce artificial light</i>	<i>Reason:</i> <i>To reduce area of transparent and reflective glass</i>  <i>To reduce disturbance risk</i>
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**ADVICE SOUGHT**

SNH Advice 5/3/19
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