

AGENDA ITEM 6

APPENDIX 2

2021/0166/DET

HABITATS REGULATIONS APPRAISAL

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Planning reference and proposal information	2021/0166/DET, erection of 15 dwellinghouses (55 bedspaces) and associated infrastructure, site at Kindrochit Court, Mar Road, Braemar
Appraised by	Nina Caudrey, Planning Officer (Development Planning and Environmental Advice)
Date	3 May 2022
Checked by	NatureScot
Date	9 May 2022

INFORMATION

European site details

Name of European site(s) potentially affected

1) River Dee SAC

2) Ballochbuie SPA

3) Glen Tanar SPA

4) Cairngorms SPA

Note: The above SPAs have been ruled in as being potentially affected due to the potential for disturbance to capercaillie, which requires further consideration. Other European sites overlapping with the SPAs were ruled out of having potential connectivity due to no conceivable effects on qualifying habitats or species.

Qualifying interest(s)

1) River Dee SAC

Atlantic salmon

otter

freshwater pearl mussel

2) Ballochbuie SPA

Breeding: capercaillie

Scottish crossbill

3) Glen Tanar SPA

Breeding: capercaillie

osprey

hen harrier

Scottish crossbill

4) Cairngorms SPA

Breeding: capercaillie

dotterel

golden eagle

merlin

osprey

peregrine

Scottish crossbill

Conservation objectives for qualifying interests

1) River Dee SAC

Conservation Objective 2. To ensure that the integrity of the River Dee 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 the freshwater pearl mussel within the site and availability of food
- 2d. Maintain 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 **Atlantic salmon** throughout the site
- 2c. Maintain the habitats supporting Atlantic salmon within the site and availability of food
- 2a. Maintain 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 Dee SAC are in favourable condition and make an appropriate contribution to achieving favourable conservation status.

2) Ballochbuie 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

3) Glen Tanar 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

4) Cairngorms 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)

Demolition of existing agricultural buildings, tree felling to accommodate development, erection of 15 dwellinghouses (55 bedspaces) and associated infrastructure, at Kindrochit Court, Mar Road, Braemar. Connecting to public waste and fresh water (Scottish Water have confirmed capacity for both). Surface water drainage to soakaways. There are several existing informal paths that connect the proposed development site with the surrounding area (as shown in the landscape plan).

The proposed housing is approximately 150m east of the closest part of the Clunie Water, part of the River Dee SAC. There is intervening woodland habitat, roads and buildings between the proposed development site and the SAC. A new road will be created off Cluniebank Road/Old Military Road that will be approximately 10m from Clunie Water, with the existing Cluniebank Road/Old Military Road, disused mill lade and a riparian strip including trees between the closest part of the new road and the watercourse. Based on the ecology report, there is wetland habitat near the proposed new road, which may host prey species for otter, although no otter signs were recorded in the ecological survey.

Ballochbuie SPA is approximately 1.5km to the east. Glen Tanar SPA is approximately 30km to the east. The closest part of the Cairngorms SPA is approximately 2.5km to the north west. The settlement of Braemar, farmland, forestry and several main roads fall between the proposed development site and these SPAs. The three SPAs are being considered due to their capercaillie qualifying interests, and the potential for capercaillie to move between the SPAs meaning an effect on one could affect the others.

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 Dee SAC

Potential for likely significant effects in relation to water quality for all interests: no direct connectivity and intervening vegetation, public road and further vegetated area between the proposed housing site and the SAC means there should not be a risk of sediment released during construction or use of the houses reaching the river indirectly. However the new road junction with Cluniebank Road/Old Military Road is in very close proximity to the SAC, which increases the risk of sediment released during construction of the road reaching the SAC,

particularly during wet weather.

No likely significant effects on water quality or quantity in relation to water supply and waste water proposals: The proposed development site is identified as H3 in 2021 LDP, which identifies that a drainage impact assessment is required, and confirmation from Scottish Water that proposals will not exceed licensed capacity for abstraction. Scottish Water have been consulted and confirmed that there is capacity for both fresh water supply and sewerage connections.

Potential for likely significant effects through potential for entrapment during construction of the site for otter: Although the ecological survey found no evidence of otter use of the site, it did identify potential habitat for prey species around the proposed new road junction with Cluniebank Road/Old Military Road. Due to the proximity with the SAC, there is potential for foraging otter to use the area. Therefore there is a risk of entrapment in pipes and excavations during construction. However there should not be a risk of disturbance, due to the existing path network through the site and surrounding area, existing road, houses and other buildings, meaning that otter will be habituated to human activity in this location.

2) Ballochbuie SPA

Breeding capercaillie – no likely significant effect for the reasons set out in Annex I.

Breeding Scottish crossbill – no likely significant effect as the SPA habitats used by these species are not directly affected by the proposed development. There would also not be LSE through disturbance during use of the proposed development site as crossbill are a tree canopy nesting species so would not be disturbed by people visiting the SPA on existing core and promoted paths where there is an existing level of human activity occurring.

As there is no LSE for either species, the SPA is therefore not considered further in this appraisal.

3) Glen Tanar SPA

Breeding capercaillie – no likely significant effect for the reasons set out in Annex I.

Breeding Scottish crossbill, osprey, hen harrier – no likely significant effect as the SPA habitats used by these species are not directly affected by the proposed development. No disturbance is likely due to the intervening topography, busy roads and existing development reducing the attractiveness of accessing the SPA from the proposed development or adjoining areas of Braemar, in addition to the low likelihood of the species breeding near existing routes used for recreation.

As there is no LSE for either species, the SPA is therefore not considered further in this appraisal.

4) Cairngorms Massif SPA

Breeding capercaillie – no likely significant effect for the reasons set out in Annex I.

Breeding dotterel, golden eagle, merlin, osprey, peregrine – no likely significant effect as the SPA habitats used by these species are not directly affected by the proposed development. No disturbance is likely due to the intervening topography, busy roads and existing development reducing the attractiveness of accessing the SPA from the proposed

development or adjoining areas of Braemar, in addition to the low likelihood of the species breeding near existing routes used for recreation.

As there is no LSE for any of the qualifying interests, the SPA is therefore not considered further in this appraisal.

STAGE 4:

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

I. River Dee SAC

There is a risk of sediment release during construction works for the new road around the junction with Cluniebank Road/Old Military Road entering the nearby watercourse.

However, the risk could be significantly reduced by **employing standard pollution prevention and control measures** (detailed in a CMS agreed with CNPA in writing prior to works starting), **the risk of sediment release would be minimised and the conservation objectives could be met for the SAC.**

STAGE 5:

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

I. River Dee SAC

Provided the below condition is applied to planning permission (should permission be granted), then the conservation objectives will be met and there will not be an adverse effect on site integrity:

Condition: A Construction Method Statement setting out pollution prevention and control measures to prevent sediment entering the Clunie Water (particularly to the east of the proposed new road junction with Cluniebank Road/Old Military Road) during ground preparation, excavation and construction works, must be agreed in writing with CNPA prior to any works commencing on site, and thereafter implemented in full.

Reason: To ensure pollution does not reach the River Spey SAC and so avoid an adverse effect on site integrity.

Annex I – capercaillie questions

<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>No: There are a number of formal and informal existing tracks and footpaths connecting the proposed development site to other parts of Braemar and the wider area (including the SPAs), a number of which are promoted paths (https://www.walkhighlands.co.uk/cairngorms/braemar.shtml) and https://cairngorms.co.uk/discover-explore/things-to-do/walking-trails/braemar-community-paths/) and core paths (https://cairngorms.co.uk/working-together/authority/national-park-strategies/core-paths-plan/). There is no reason to believe that the residents of the proposed development would have different patterns of activity compared to those already using existing paths.</p> <p>Nor would the addition of the residents of the proposed development cause a detectable change in the levels of human activity. Using the occupancy factor used for the LDP (in the absence of a robust alternative), the proposed development would introduce an additional 31 people to the population of Braemar and vicinity. The population of the datazone in which Braemar sits is around 600 people¹. (This does not include significant numbers of tourists who also visit the area.) The addition of 31 people is unlikely to change the levels of existing human activity or patterns of recreation around the proposed development or Braemar and vicinity, particularly as it is highly unlikely that they would all go to the same place at the same time. Even using full capacity of 55 bed spaces given in the application, resulting in 55 rather than 31 people, this remains valid.</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: The proposed development is located in the centre of Braemar. Glen Tanar SPA is approximately 30km to the east as the crow flies, with Ballochbuie SPA approximately 1.5km to the east, and Cairngorms SPA approximately 2.5km to the north west at their closest points to the proposed development.</p> <p>Intervening topography, busy roads and existing development reduces the attractiveness of accessing Cairngorm or Glen Tanar SPA from the proposed development or adjoining areas of Braemar.</p> <p>There is however direct connectivity to Ballochbuie SPA via core and promoted paths from within Braemar. The routes may be appealing to residents of the proposed development looking for slightly longer (compared to those within Braemar) routes straight from home. However the paths connected to the SPA are already well used by people for recreation. They are no more accessible from the proposed development site than from adjoining areas of Braemar.</p>
<p>If Q1 & Q2 = No, conclusion is no significant disturbance to capercaillie and assessment ends here</p>	

¹ According to 2019 population estimates for the datazone, from <http://statistics.gov.scot/data/population-estimates-young-and-old>

Annex I – capercaillie questions

If Q1 or Q2 = Yes, continue to Q3	
<p>Q3. Which capercaillie woods are likely to be used regularly for recreation by users of the development site at detectable levels? (list all)</p> <p><i>Q3: This is included to identify which capercaillie woods are likely to be used for recreation by users of non-housing development sites at levels that would be detectable. The answer will be assessed using professional judgement based on knowledge of existing patterns of recreation around settlements and in the local area, the relative appeal of the capercaillie woods concerned compared to other recreational opportunities in the area, the volume of recreational visits likely to be generated by the development site, and informed by national survey data (eg on the distances people travel for recreational visits).</i></p>	n/a
Continue to Q4	
<p>Q4. Are residents / users of this development site predicted to undertake any off path recreational activities in any of the woods identified at Q3 at detectable levels?</p> <p><i>Q4: This is included because any off path recreational use in capercaillie woods will result in significant disturbance and require mitigation.</i></p>	n/a
<p>If Q4 = No for any woods, continue to Q5</p> <p>If Q4 = Yes for any woods, mitigation is needed. Note and continue to Q5.</p>	
<p>Q5: Are each of the woods identified at Q3 already established locations for recreation?</p>	n/a

Annex I – capercaillie questions

<p><i>Q5: This is included because if users of the development site are likely to access previously infrequently-visited capercaillie woods, or parts of these woods, for recreation, significant disturbance is likely and mitigation is needed. This will be answered on the basis of professional knowledge.</i></p>	
<p>If Q5 = No for any woods, mitigation is needed. Note and continue to Q6. If Q5 = Yes for any woods, continue to Q6</p>	
<p>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)</p> <p><i>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.</i></p>	<p>n/a</p>
<p>If Q6 = yes for any woods, mitigation is needed. Note and continue to Q7 If Q6 = No for any woods, continue to Q7</p>	

Annex I – capercaillie questions

<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>n/a</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>n/a</p>
<p>Reasons mitigation needed:</p>	<p>n/a</p>