Agenda Item 5

Appendix 2

2023/0406/DET

Habitats regulations appraisal

HABITATS REGULATIONS APPRAISAL

Planning reference and proposal information	2023/0406/DET
Appraised by	Karen Aldridge, Planning Ecological Advice Officer
Date	2 September 2024
Checked by	NatureScot
Date	23/09/2024

INFORMATION

European site details

Name of European site(s) potentially affected

1) **River Tay SAC**

Qualifying interest(s)

1) **River Tay SAC**

Atlantic salmon

Brook lamprey

Clear-water lakes or lochs with aquatic vegetation and poor to moderate nutrient levels

Otter

River lamprey

Sea lamprey

Conservation objectives for qualifying interests

1) **River Tay SAC**

Conservation Objective 2. To ensure that the integrity of the River Tay SAC is maintained by meeting objectives 2a, 2b and 2c for the qualifying feature

Conservation objectives for clear water lakes or lochs:

2b. Maintain the structure, function and supporting processes of clear-water lakes or lochs with aquatic vegetation and poor to moderate nutrient levels

2c. Maintain the distribution and viability of typical species of clear-water lakes or lochs with aquatic vegetation and poor to moderate nutrient levels

2a. Maintain the extent and distribution of clear-water lakes or lochs with aquatic vegetation and poor to moderate nutrient levels within the site

Conservation Objectives: sea lamprey, brook lamprey & river lamprey

2b. Maintain the distribution of the lamprey species' throughout the site

2c. Maintain the habitats supporting the lamprey species' within the site, and availability of food

2a. Maintain the population of the lamprey species' as viable components of the site

Conservation objectives: Atlantic salmon

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

Conservation Objectives: Otter

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 River Tay SAC are in favourable condition and make an appropriate contribution to achieving favourable conservation status.

APPRAISAL

STAGE 1:

What is the plan or project?

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

The proposed development includes the erection of a warehouse building, formation of an access track, parking are and associated works, including an outfall into the River Garry.

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 (LSE) on the site(s)?

1) River Tay SAC

Clear-water lakes or lochs with aquatic vegetation and poor to moderate nutrient levels: NO LSE - the nearest loch is approximately 8km downstream outside the zone of influence. It is considered unlikely that the proposed development will have any impact on this designated feature, therefore this is not considered further.

Lamprey species: Yes LSE. Although there will be no direct loss of any suitable lamprey habitats, there is potential for silt or pollution to enter the River Garry or Bruar Water during the construction process.

Atlantic salmon: Yes LSE. Although there will be no direct loss of any suitable salmon habitats, there is potential for silt or pollution to enter the River Garry or Bruar Water during the construction process.

Otter: Yes LSE - Although there will be no direct loss of any suitable otter habitats, otter have been recorded on the River Garry and Bruar Water, therefore there is the potential for temporary disturbance during construction.

STAGE 4:

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

1) **River Tay SAC**

Conservation Objective 2. To ensure that the integrity of the River Tay SAC is maintained by meeting objectives 2a, 2b and 2c for the qualifying feature

Conservation Objectives: sea lamprey, brook lamprey & river lamprey

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

The current distribution of the lamprey species would not be directly affected as the river works are limited to the outflow and will not involve the loss of any suitable lamprey habitats. However, any pollution events, such as a sediment release or chemicals entering the watercourse could indirectly cause the distribution to change due to changes in water quality and if significant volumes of sediment enter the watercourse, through the smothering of suitable spawning habitats.

Mitigation measures, such as, a site-specific pollution prevention plan (to be secured via condition) and a Construction Environmental Management Plan (CEMP) would reduce the risk of pollution so that the conservation objective would be met.

2c. Maintain the habitats supporting the lamprey species within the site, and

availability of food

The current distribution of habitats supporting the lamprey species and availability of food within the site would not be directly affected as there will be no direct loss of suitable habitat. However, as discussed above, pollution events during construction have the potential to impact on habitats and food sources through the changes in water quality or smothering of suitable habitats.

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.

2a. Maintain the population of the lamprey species' as viable components of the site

As the other conservation objectives can be met for the lamprey species with the mitigation (to be secured) the proposed development would not undermine this conservation object.

Conservation objectives: Atlantic salmon

2b. Maintain the distribution of Atlantic salmon throughout the site

As with the lamprey species, the distribution of Atlantic salmon throughout the site may be impacted upon indirectly through pollution events affected water quality or the smothering of habitats suitable for spawning or supporting juveniles.

As discussed above, site specific mitigation measures should be conditioned to reduce the risk of such pollution events during the construction process e.g. Pollution Prevent Plan & CEMP.

With the implementation of mitigation, this conservation objective would be met.

2c. Maintain the habitats supporting Atlantic salmon within the site and availability of

Food

As above, there will be no direct loss of suitable habitats. There is a risk of sediments entering the watercourses and smothering suitable spawning habitats downstream of the proposed site. With the required mitigation measures, this conservation objective would be met.

2a. Maintain the population of Atlantic salmon, including range of genetic types, as a

viable component of the site

As the other objectives would be met, this conservation objective would not be undermined by the proposed development.

Conservation Objectives: Otter

2b. Maintain the distribution of otter throughout the site.

Otter are known to use both the Bruar Water and the River Garry, with resting sites noted on the River Garry during the baseline surveying. It is not thought that the proposed development will impact upon the distribution of otter throughout the River Tay SAC, as the proposed development site is close to the existing developments at House of Bruar and is very close to the A9 crossing of the River Garry, therefore the otters which use this area are likely resilient to some level of disturbance.

With the implementation of mitigation for during construction and operation; Species Protection Plan (Otter Survey Report for the Proposed Warehouse Development at House of Bruar, dated 12 March 2024) it is considered that any disturbance will be minimised. therefore, this conservation objective will be met.

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

There will be some loss of marshy grassland habitat which may have offered suitable resting up sites, but not holts. Additionally, these habitats may offer some suitable foraging for amphibians however the loss of this area is not considered to have a significant adverse impact on the otter population. Therefore, this conservation would be met.

2a. Maintain the population of otter as a viable component of the site

As the other conservation objectives would not be undermined.

STAGE 5:

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

With the implementation of mitigation to be secured by condition, it can be ascertained that there will not be an adverse effect on the site integrity of the River Tay SAC.

1) **Construction Environmental Method Statement (CEMP) & Pollution Prevention Plan**

The pollution prevention plan must be site specific and include specific reference to preventing any silts, fuels, or other chemicals from entering the nearby watercourses. Ideally the plan will include a plan detailing locations for storing fuel, refuelling machinery, concrete wash out area etc. Other details to be included in the CEMP should include a method statement for construction of the outflow and the species protection plan for otter.

Reason – to protect the water environment & River Tay SAC from potential pollution events caused by the construction of the warehouse and associated infrastructure.