

AGENDA ITEM 6

APPENDIX 2

2019/0005/DET

&

2019/0018/LBC

HABITATS REGULATIONS 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 AMENDED¹ (HABITATS REGULATIONS APPRAISAL)

NATURA SITE DETAILS

Name of Natura site(s) potentially affected:

River Spey SAC

Name of component SSSI if relevant:

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

River Spey SAC : Atlantic salmon, sea lamprey, otter and freshwater pearl mussel

STAGE 1: WHAT IS THE PLAN OR PROJECT?

Proposal title:

**2019/0005/DET
Restoration and repair of mill
buildings including formation of
access paths and one car parking
space at Scaln North and South
Mill, Chapelton, Ballindalloch**

Name of consultee:

Crown Estate (Tomintoul & Glenlivet Landscape Partnership)

Name of competent authority:

Cairngorms National Park Authority

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

The proposal involves the upgrading of two historic mill buildings which are part of the complex at the Scaln seminary. It is proposed to reinstate a historic mill lade which is used to supply water to a waterwheel. It will be used to power batteries for lighting. The wheel will be re-instated and only be operated during occasional demonstrations. The lade has become overgrown and sediment filled and been unused for around 10 years. The sluice will be re-instated and the lade dug out by hand to allow water to flow through again. The works will be undertaken during June to September to minimise risk to any fish using the water channels and as these are the driest months it will reduce likelihood of sedimentation or silt releases downstream.

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?

¹ 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.

- 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.
 - 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

River Spey SAC

The works are proposed for a site close to and draining into the Crombie Burn, part of the Spey SAC

Qualifying Species:

- Freshwater Pearl Mussel
- Sea lamprey

- Otter
- Atlantic Salmon

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

- ⌚ Population of the species, including range of genetic types for salmon, 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
- ⌚ Distribution and viability of freshwater pearl mussel host species
- ⌚ Structure, function and supporting processes of habitats supporting freshwater pearl mussel host species

Freshwater Pearl Mussel

There are no freshwater pearl mussel in this part of the catchment and therefore they could not be negatively impacted on by any polluted run-off from the site or direct impact from works at the Scalan site.

Conclusion: Freshwater pearl mussels will not be impacted on directly or indirectly as a result of this proposal.

Therefore, *No Likely Significant Effect.*

Sea lamprey

There are no sea lamprey in this part of the catchment and therefore they could not be negatively impacted on by any polluted run-off from the site or direct impact from works at the Scalan site.

Conclusion: Sea lamprey will not be impacted on directly or indirectly as a result of this proposal.

Therefore, *No Likely Significant Effect.*

Atlantic Salmon

The proposal could cause direct harm to salmon spawning gravels from: the impacts of sediment laden run-off reaching the Crombie Burn. Young salmonids could reach the lade and come to harm in the water wheel during operation

Conclusion: Atlantic Salmon Spawning beds will be at risk from sediment laden run-off and young salmonids at risk of death from the water wheel.

Therefore, *Likely Significant Effect.*

Otter

Otter spraint were noted on a site visit with CNPA staff, SNH and Direct Ecology staff (March 2019), the site is not suitable for holts or couches. Works undertaken have the potential to release silts and sediments which could disrupt feeding otters. The proposal could cause in-direct harm to otters from disturbance during the construction phase.

Conclusion: *Otter will be at risk from disturbance or harm from re-instatement and operation of this site. 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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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.*

<p>Otter</p> <p>Conservation Objectives for Spey SAC</p> <p>1 Distribution of the species within site</p> <p>2 Distribution and extent of habitats supporting the species</p> <p>3 Structure, function and supporting processes of habitats supporting the species</p> <p>4 No significant disturbance of the species</p> <p>1. Distribution of the species within the site</p> <ul style="list-style-type: none"> • Otters are active on the burns within the site. • Lighting of the burn corridor might prevent otter's from using this route to access feeding grounds higher up and lower down in the catchment <p>2. Distribution and extent of habitats supporting the species</p> <ul style="list-style-type: none"> • The proposal will not significantly reduce habitat supporting the species <p>3. Structure, function and supporting processes of habitats supporting the species</p> <ul style="list-style-type: none"> • Otter require clear water to find their prey, the release of silts and sediments from the works to reopen the lade and reinstate the mill wheel have the potential to cause a downstream release and disrupt feeding <p>4. No significant disturbance of the species</p> <ul style="list-style-type: none"> • Otters are active on the burns in the area which currently has low visitation • There are works proposed to the lade and buildings which could mean contractors on site for long days as they have a limited timeframe to complete the works <p>Mitigation</p> <p>A Species Protection Plan must be produced, which will detail measures to reduce the outlined impact on otter. The measures within the protection plan will include but not be limited to:</p> <ul style="list-style-type: none"> • Appointment of a Suitability Qualified Ecologist (SQE) as an Ecological Clerk of Works (ECoW).
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- A Pollution Prevention Plan will be produced. Adherence to Scottish Environment Protection Agency (SEPA) Pollution Prevention Guidance (PPG) especially PPG5 Works and maintenance in or near water, PPG6 Working at construction and demolition sites, DEFRA Code of Practice for Using Plant Protection Products, PPG 21 Pollution incident response planning and PPG22 Incident response – dealing with spills.
- Avoidance of unnecessary disturbance to habitats within the site by minimising the extent of ground clearance to the lade and sluice, this work will be undertaken by hand no machinery will be used.
- Works compounds and storage sites will avoid, as far as practicable, areas of ecological value as identified by the ECoW.
- No works will be undertaken outwith daylight hours.
- All site lighting (if required) will be directed away from the watercourses to reduce disturbance.
- Ecological toolbox talks will be given to all new site personnel as part of the site induction process on the potential presence of protected species and any measures that need to be undertaken should such species be discovered during construction activities. Where required, the ECoW will present additional talks where it is considered necessary to re-enforce the requirements of this SPP.
 - **The mitigation proposals described above will ensure no disturbance to otter. There will be no impact on the distribution of otter within the site. The mitigation proposals described above will ensure habitat is retained. There will be no impact on the distribution of and extent of habitats supporting otter or structure, function and supporting processes of habitats supporting the species.**
 - **Conclusion: Therefore, the conservation objectives for otter can be met and we can conclude no adverse effect on otter.**

Atlantic Salmon

- 1 Population of the species, including range of genetic types for salmon, 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, including range of genetic types for salmon, as a viable component of the site; and 2 Distribution of the species within the site

- The proposal could lead to entrapment of salmonids in the mill lade or death or injury resulting from the mill wheel. A fish screen on the intake sluice will prevent access.
- The sluice and lade has not functioned for a number of years and reinstatement will result in an off-take from a small tributary of the Crombie Burn which will lower water levels, it is not proposed to have the mill wheel functioning continuously but to use it for occasional demonstration purposes only and as such it will result in negligible changes in water level within the Crombie Burn.

3 Distribution and extent of habitats supporting the species and, 4 Structure, function and supporting processes of habitats supporting the species

- The proposal involves the reinstatement of a historic lade, there is potential for silt laden run-off and pollutants reaching the Crombie Burn and smothering salmon spawning habitat.

Mitigation

- Appointment of a Suitability Qualified Ecologist (SQE) as an Ecological Clerk of Works (ECoW).

- A fish screen will be installed on the sluice to prevent salmonids entering the mill lade.
- A Pollution Prevention Plan will be produced. Adherence to Scottish Environment Protection Agency (SEPA) Pollution Prevention Guidance (PPG) especially PPG5 Works and maintenance in or near water, PPG6 Working at construction and demolition sites, DEFRA Code of Practice for Using Plant Protection Products, PPG 21 Pollution incident response planning and PPG22 Incident response – dealing with spills.
- Avoidance of unnecessary disturbance to habitats within the site by minimising the extent of ground clearance to the lade and sluice, this work will be undertaken by hand no machinery will be used.
- Works compounds and storage sites will avoid, as far as practicable, areas of ecological value as identified by the ECoW.
- The reinstated mill wheel will be used for demonstration purposes only and will not run continuously therefore having negligible impact on Crombie Burn water levels (Abstraction will be less than 10m³/day under GBR).
- Ecological toolbox talks will be given to all new site personnel as part of the site induction process on the potential presence of protected species and any measures that need to be undertaken should such species be discovered during construction activities. Where required, the ECoW will present additional talks where it is considered necessary to re-enforce the requirements of this SPP.
 - **The mitigation proposals described above will ensure no disturbance to salmon. There will be no impact on the distribution of salmon within the site. The mitigation proposals described above will ensure habitat is retained. There will be no impact on the distribution of and extent of habitats supporting salmon or structure, function and supporting processes of habitats supporting the species.**
 - **Conclusion: Therefore, the conservation objectives for Atlantic salmon can be met and we can conclude no adverse effect on AS.**

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 Spey SAC resulting from this proposal.***

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

<p><i>Mitigation:</i> A Species Protection Plan for otter</p> <p>A Pollution Prevention Plan for re-instatement of the sluice and lade</p>	<p><i>Reason:</i> To ensure no disturbance or injury</p> <p>To ensure no pollutant laden run-off reaches the Crombie Burn</p>
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ADVICE SOUGHT

SNH Advice 21/3/19
SEPA Advice 21/3/19

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