

# **AGENDA ITEM 6**

## **APPENDIX 3**

**2020/0081/DET**

# **HABITATS REGULATIONS ASSESSMENT**

# **Cairngorms National Park Authority**

## **Habitats Regulations Assessment**

### **2020/0081/DET Badaguish Outdoor Centre**

**23/04/2020**

**This is a record that this HRA has been reappraised based on a new application to retain the 10 wigwams for a further three years. Advice was sought from RSPB on levels of disturbance to a nearby lek and effectiveness of the current Visitor Recreation Management Plan. The current advice (RSPB 22/4/20) was that the lek has remained stable for the last five years and that the current Visitor Recreation Management Plan was working. Therefore we can still conclude that there is no effect either direct or indirect on the conservation objectives and we can conclude that there will be no adverse effect on the integrity of the Cairngorms SPA.**

### **2017/0008/DET Badaguish Outdoor Centre**

**15/02/2017**

#### **Introduction**

This is a record of the assessment under regulation 48 of the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) for the planning application 2017/0008/DET at the Badaguish Outdoor Centre.

This application is an application for 10 holiday wigwams at the Badaguish Outdoor Centre. Consent has been previously given for these wigwams on the basis that they would be temporary. The original permission for the 10 wigwams\_ lapsed and a retrospective planning application was submitted in 2016 (2015/0375/DET) to extend the time period for this 10 wigwams for a further year which was approved on a temporary basis. This planning permission is due to expire on 22 February 2017 and the applicant is now seeking to retain the wigwams for a further 3 year period. These temporary wigwams are intended to be in place for 3 years or until the consented 35 wigwams (planning applications 2015/0132/DET and 2015/0133/DET) are installed, whichever is sooner. Some of the consented 35 wigwams are now in place, so that with the 10 temporary wigwams, there is currently a total of 18 wigwams across the site. There are only intended to be maximum of 35 wigwams at the site at one time. The 10 wigwams concerned by this application are currently located within the Badaguish Outdoor Centre complex, on developed land.

There are visitor statistics available for 2013, 2014 and 2016 based on the usage of the existing wigwams. It is anticipated that the proposal will lead to an increase in visitor numbers and an increase in people using trails within the outdoor centre and in the surrounding Glenmore area.

The Badaguish Outdoor Centre is used as a “hub” from which residents can access off-site activities in the surrounding area from a range of local outdoor activity operators. Because the centre does not employ instructional staff, the majority of visitors are off-site during the daytime taking part in outdoor activities away from the centre. The on-site facilities are mostly in use for low-key informal recreation in early mornings and evenings.

The exception to this rule is disabled respite care visitors who spend more time at the centre and when there are larger, organised events which utilise the trails and ground adjacent to Badaguish. FCS has to be consulted on any events in order to avoid disturbance to wildlife and habitats.

A Visitor Management Plan (VMP) was included as part of the previous applications 2015/0132/DET, 2015/0133/DET and 2015/0375/DET. The purpose of the VMP is to manage the impacts on capercaillie. The VMP includes measures such as:

- Additional signage at key access areas to alert people of sensitive wildlife and to remain on paths
- To ensure visitors entering the site from outside the centre and utilising the trails keep their dogs under control
- To discourage the creation of unauthorised trails and to remove these where necessary
- Briefing visitors on arrival of the sensitivity of wildlife around the site and encourage them to recreate responsibly

This VMP is now live as a result of the previous consented applications and the first monitoring report for the VMP was submitted on the 31<sup>st</sup> of January 2017. The monitoring report states that:

- Visitor numbers for current wigwam use are well below that anticipated when all 35 wigwams are in place – this is to be expected
- All visiting groups are being briefed to environmental sensitives (i.e. capercaillie) on arrival
- Use of FCS leaflet of promoted trails is ongoing. There are plans to supplement this with permanent interpretation displaying FCS trails
- Annual updates from FCS on sensitive sites are requested by Badaguish management to inform management of visitors
- Signage to encourage people to stay on trails and keep on dogs on leads is now in place. There is believed to be an improvement in behaviour by dog owners visiting the centre and neighbouring woods – it is believed that few dogs are observed off-lead
- There is no evidence of emerging informal trails

### **Background to the assessment**

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

- Long Term Masterplan, drawing number 3663-030 (2015/0132/DET and 2015/0133/DET)
- Long Term Masterplan, drawing number 3663-020 (wigwam relocation - 2015/0132/DET and 2015/0133/DET)
- Site Layout – “10no. temporary wigwams Badaguish Outdoor Centre” 4111/062
- The Visitor Management Plan Version 5 (November 2015)

- Supporting Information, Bracewell Stirling, submitted with application 2017/0008/DET
- Badaguish Outdoor Centre website [www.accommodationatbadaguish.org](http://www.accommodationatbadaguish.org)
- Comment on Enforcement by RSPB (letter dated 08/09/2015)
- FCS brood count and lekk data
- Confidential reports and surveys on capercaillie distribution in Rotheimurchus, Inshriach, Abernethy and Craigmore Wood. (T.Poole, FCS and RSPB 2013)\*

\* Within this report the details of locations of capercaillie and their Lekking sites is generalised and the surveys above are not within the public domain. This is to protect the birds from possible disturbance that may result from this information being widely distributed. Consultees have been given access to all information.

**Table I. Stages of Assessment**

<b>Stages of Assessment</b>	
<b>Stage 1</b>	Decide whether proposal is subject to HRA
<b>Stage 2</b>	Identify Natura Sites that should be considered and gather information about the Natura Sites
<b>Stage 3</b>	Consultation on the method and scope of the appraisal with SNH and others. Request additional information from applicant if required.
<b>Stage 4</b>	Screening the proposal for likely significant effects on Natura sites including mitigation measures included within the proposal
<b>Stage 5</b>	Screen for “in combination effects” with other plans or projects
<b>Stage 6</b>	Appropriate Assessment to determine effect upon conservation objectives. Preliminary conclusion about adverse effect upon the integrity of any site.
<b>Stage 7</b>	Consultation with SNH (and others if considered appropriate)
<b>Stage 8</b>	Apply additional mitigation measures, if required, via conditions or agreements to ensure that there is no adverse effect on site integrity
<b>Stage 9</b>	Conclusion on Integrity test
<b>Stage 10</b>	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 I for details on each site and its qualifying features.

Other sites were considered but have not been taken forward. For example, the River Spey SAC and Cairngorms SAC. There is no route to an effect for these sites through the construction and operational phase of the proposal and as such they have been ruled out of the assessment.

### **Special Protection Area (SPA)**

Cairngorms SPA  
Abernethy SPA  
Kinveachy SPA  
Craigmore SPA  
Anagach SPA

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

SNH commented on the VMP associated with the previous application for 35 wigwams. SNH requested additional detail on mitigation measures. This request was supported by the CNPA National Heritage and Access teams. Forestry Commission Scotland are the landowners and have agreed to the measures outlined in the VMP.

SNH have provided advice on the scope of the HRA.

Additional information was required in the form of brood count data from the FCS data set for Glenmore.

### **Stage 4: Screening the proposal for likely significant effects**

The effects identified as discussed in Table 3.

**Table 3. Screening for LSE from Badaguish Outdoor Centre (additional wigwams, camping area and bike trails)**

<b>Cairngorms SPA</b>					
<b>Qualifying Feature Affected</b>	<b>Possible effect of development</b>	<b>Likely significant effect</b>	<b>Duration</b>	<b>Screening assessment</b>	<b>Screening outcome</b>
Capercaillie	Increase in recreational activity in the form of <b>walkers</b> within Cairngorm SPA from users of new development. <b>This is a direct effect.</b>	Disturbance to lekking, brood rearing and feeding habitats from informal recreational activity.	Temporary	<p>A small increase in use of the SPA which lies 300m from the site.</p> <p>The 10 existing wigwams have been in place for 6 years within an already well developed visitor area. The majority of visitors will be using organised outdoor activities off-site and outside of the SPAs. Visitors that remain on site during the day are specific groups using the site's facilities and present no risk (i.e. disabled groups).</p> <p>There is a lek within the SPA 1km from the Badaguish Centre. The nearest brood rearing area within the SPA lies approximately 970m from the Badaguish centre in woodland off-track.</p> <p>The numbers of people recreating in mornings/afternoons/evenings predicted to low relative to the total number of visitors using the other facilities on site. However due to the close proximity of the SPA from the visitor centre there is a risk that some visitors could recreate within the SPA and cause disturbance to capercaillie.</p>	<b>Likely Significant Effect</b>
	Increase in recreational activity in	Disturbance to lekking, brood rearing and feeding	Temporary	Pets are not allowed at the Badaguish Outdoor Centre site (camping or wigwams) Therefore there is	<b>No effect</b>

	the form of <b>walkers with dogs</b> within Cairngorm SPA from residents of new development. <b>This is a direct effect.</b>	habitats from recreational activity.		no effect from walkers with dogs as part of the proposal.	
	Increase in recreational activity in the form of <b>Mountain bikers</b> within the Cairngorm SPA from residents of new development. <b>This is a direct effect.</b>	Disturbance to lekking, brood rearing and feeding habitats from informal recreational activity in afternoon/evenings.	Temporary	<p>A small increase in use of the SPA which lies 300m from the site.</p> <p>The 10 existing wigwams have been in place for 6 years within an already well developed visitor area. The majority of visitors will be using organised outdoor activities off-site and outside of the SPAs. Visitors that remain on site during the day are specific groups using the site's facilities and present no risk (i.e. disabled groups).</p> <p>There is a lek within the SPA 1km from the Badaguish Centre. The nearest brood rearing area within the SPA lies approximately 970m from the Badaguish centre in woodland off-track.</p> <p>The numbers of people recreating in mornings/afternoons/evenings predicted to low relative to the total number of visitors using the other facilities on site. However due to the close proximity of the SPA from the visitor centre there is a risk that some visitors could recreate within the SPA and cause disturbance to capercaillie.</p>	<b>Likely Significant Effect</b>
	Increase in recreation (walkers, walkers with dogs, mountain bikers) in other SPAs that support capercaillie.	A reduction in productivity in neighbouring SPAs, reducing the viability of the meta population through decreased migration and increased habitat	Temporary	Abernethy Forest (5km away) – potential small increase in occasional use of this SPA. Abernethy already experiences 40,000 visitors per year. The proposal of retaining the 10 wigwams for a further 3 years (or until the capacity of 35 wigwams is reached – whichever is sooner) would present a very small	<b>No effect</b>

	<p><b>This is an indirect effect.</b></p>	<p>fragmentation. This could have an effect upon the Cairngorms SPA.</p>		<p>addition to this figure. Given the distance from Badaguish this figure would be reduced further. There is already adequate provision for visitors at this site through managed footpaths, visitor centre and a trail warden. Therefore the effect of additional visitors from the proposal is deemed insignificant.</p> <p>Anagach Woods (20km away) – Given the distance of the proposal from this site and that it is not a promoted place to visit from Glenmore area, it is unlikely to be a destination for visitors at Badaguish. The effect of the proposal on this site is deemed insignificant.</p> <p>Craigmore Wood (12km away) - this SPA is not a popular destination with only one promoted path which skirts southern edge and no core paths. The proposal is unlikely to generate significant increase in users to paths; distance from development means it is unlikely to be a significant target destination. RSPB management strategy is to keep numbers low by promoting other less sensitive areas and not promoting access and car parking. The effect of the proposal on this site is deemed insignificant.</p> <p>Kinveachy Forest (8km away) – There is a well-developed estate path and track network which is used by walkers. Cyclists are largely kept away from the SPA from Aviemore side because of large deer fence that is crossed by stiles rather than gates. Alternative routes through Craigellachie NNR are well promoted and may ‘intercept’ significant proportion of 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</p>	
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				number of potential visitors, the effect of the proposal on this site is deemed insignificant.	
	Increase in recreation by <b>walkers, dog walkers and mountain bikers</b> within Non-SPA woodland supporting capercaillie <b>This is an indirect effect.</b>	Reduction in productivity of population reducing the viability of meta-population though decreased migration and in effect increased habitat fragmentation.	Temporary	<p>The Sluggan track leads from Badaguish to Pityoulish. Recent inspection of Pityoulish shows no evidence of use of these woods by capercaillie. Infrequent migratory use may occur.</p> <p>There is a lek approximately 1km from Badaguish outdoor centre. This has been increasing in size and is now at its peak of 8 lekking males.</p> <p>There is a smaller lekk in non-SPA woodland at a similar distance from the Badaguish outdoor centre. This lekk is thought to be a remnant and is likely to be related to other large lekk above.</p> <p>The area surrounding Badaguish is also known to support hens with brood. There are two records, one which lies adjacent to a forest track approximately 600m from the Badaguish centre. The other lies approximately 970m from the Badaguish centre in woodland off-track.</p> <p>Proposal has potential to increase number of visitors using woodland surrounding Badaguish for recreation in afternoons/evenings, thus increasing risk of disturbance, particularly to capercaillie hens with brood.</p> <p>Pets are not allowed at the Badaguish Outdoor Centre site (camping or wigwams) Therefore there is no effect from walkers with dogs as part of the proposal.</p>	<b>Likely significant effect (walkers and mountain bikers only)</b>

	Increased participation in organised events held at Badaguish, using woodland surrounding the centre (SPA and non-SPA). <b>Direct and indirect effects.</b>	Reduction in productivity within Glenmore forest population reducing the viability of meta-population though decreased migration and in effect increased habitat fragmentation.  Disturbance to lekking, brood rearing and feeding habitats from recreational activity in the SPA.	Temporary	Large organised events are held annually from Badaguish Outdoor Centre.  The Aviemore Half Marathon finishes at Badaguish. The Aviemore Triathlon starts and finishes at Badaguish and utilises woodland around the Badaguish centre.  The majority of participants will be staying off-site. The scale of the proposal is unlikely to make a significant contribution to the numbers of participants attending these events.  The applicant already has to have detailed consultation with the landowner, Forestry Commission Scotland, when arranging these events. Events already take into consideration the locations of areas important for capercaillie and take place outside of the breeding season.	<b>No effect</b>
	Loss of trees within the proposal area	Disruption to woodland connectivity within non-SPA woodland	Temporary	The wigwams are existing and no removal of habitat is required to retain them.	<b>No effect</b>
	Construction activity	Disturbance construction of the site and installation of facilities	Temporary	The wigwams are existing and no further construction works are required.	<b>No effect</b>
Scottish Crossbill	Increase in recreational activity from residents of new development within the SPA	Disturbance to nesting sites and foraging habitat	Temporary	There is no evidence that species affected by disturbance; species does not nest on the ground. Therefore birds within SPA are not likely to be affected.	<b>No effect</b>
Osprey	Increase in recreational activity from residents of new	Disturbance to nesting sites	Temporary	Nest sites are well managed and monitored by Rothiemurchus Estate. General recreation managed by	<b>No effect</b>

	development within the SPA			FCS and Rothiemurchus to encourage recreational access to promoted paths away from nest sites.	
Dotterel	Increase in recreational activity from residents of new development within the SPA	Increase disturbance to nesting from more visitors to relevant habitats in the SPA	Temporary	Nest sites are in remote uplands. The number of visits generated by the development is not likely to have an effect.	<b>No effect</b>
Golden eagle	Increase in recreational activity from residents of new development within the SPA	Increase disturbance to nesting from more visitors to relevant habitats in the SPA	Temporary	Nest sites are in remote uplands. The number of visits generated by new development to the SPA is likely to be very small and restricted to walkers and a few cyclists. Eagle nests are already in view of footpaths so some habituation is likely. The number of visits generated by the development is not likely to have an effect.	<b>No effect</b>
Merlin	Increase in recreational activity from residents of new development within the SPA	Increased disturbance to nesting sites	Temporary	Nest sites are in remote upland sites in heather moorland. The number of visits from the development is not likely to have an effect.	<b>No effect</b>
Peregrine	Increase in recreational activity from residents of new development within the SPA	Increased disturbance to nesting sites	Temporary	Nest sites are usually on inaccessible cliff faces away from footpaths, though sometimes within sight. Tolerance to people varies between individual birds but habituation is significant in other sites near to Aviemore. The number of visits generated by the new development is not likely to have an effect.	<b>No effect</b>

<b>Kinveachy Forest SPA, Abernethy Forest SPA, Craigmore Wood SPA, Anagach Woods SPA</b>					
<b>Qualifying Feature Affected</b>	<b>Possible effect of development</b>	<b>Likely significant effect</b>	<b>Duration</b>	<b>Screening assessment</b>	<b>Screening outcome</b>
Capercaillie (all sites)	Increase in recreation (walkers, walkers with dogs, mountain bikers) in these SPAs which support capercaillie. <b>This is direct effect on these SPAs.</b>	A reduction in productivity in neighbouring SPAs, reducing the viability of the meta population through decreased migration and increased habitat fragmentation. This could have an effect upon the Cairngorms SPA	Temporary	<p>Abernethy Forest (5km away) – potential small increase in occasional use SPA. Abernethy already experiences 40,000 visitors per year. The proposal of retaining 10 wigwams for a further 3 years (or until the capacity of 35 wigwams is reached – whichever is sooner) would present a very small addition to this figure. Given the distance from Badaguish this figure would be reduced further. There is already adequate provision for visitors at this site through managed footpaths, visitor centre and a trail warden. Therefore the effect of additional visitors from the proposal is deemed insignificant.</p> <p>Anagach Woods (20km away) – The distance of the proposal from this site, and given that it is not a promoted place to visit from Glenmore area, it is unlikely to be a destination for visitors at Badaguish. The effect of the proposal on this site is deemed insignificant.</p> <p>Craigmore Wood (12km away) - this SPA is not a popular destination with only one promoted path which skirts southern edge and no core paths. The proposal is unlikely to generate significant increase in users to paths; distance from development means it is unlikely to be a significant target destination. RSPB management strategy is to keep numbers low by</p>	<b>No effect</b>

				<p>promoting other less sensitive areas and not promoting access and car parking. The effect of the proposal on this site is deemed insignificant.</p> <p>Kinveachy Forest (8km away) – There is a well-developed estate path and track network which is used by walkers. Cyclists are largely kept away from the SPA from Aviemore side because of large deer fence that is crossed by stiles rather than gates. Alternative routes through Craigellachie NNR are well promoted and may ‘intercept’ significant proportion of 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.</p>	
Capercaillie (all sites)	Increase in recreation in Cairngorm SPA and non-SPA woodland, increased disturbance reducing productivity and subsequently a reduction in dispersal rate to these SPAs. <b>This is an indirect effect on these SPAs.</b>	A reduced dispersal of birds from Cairngorm SPA into these SPAs, thus reducing the viability and productivity in these SPAs.	Temporary	Above screening for the Cairngorms SPA shows Likely Significant Effect, therefore there could be an indirect effect on these SPAs from the development.	<b>Likely Significant effect</b>
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	Temporary	There is no evidence that species affected by disturbance; species does not nest on the ground. Therefore birds within SPA are not likely to be affected.	<b>No effect</b>
Osprey (Abernethy SPA only)	Increase in recreational activity from residents of new development within the SPA	Disturbance to nesting sites	Temporary	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.	<b>No effect</b>

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## Stage 5: In-combination effects

No relevant Likely Insignificant Effects (Minor Residual Effects) identified during screening in the following plans:

- Local Development Plan 2015-2020
- An Camas Mor
- Boat of Garten housing
- A9 dualling

Minor Residual Effects were identified during Appropriate Assessment of the following projects:

- Planning applications 2015/0132/DET and 2015/0133/DET to erect 35 wigwams at the Badaguish Outdoor Centre. This MRE was identified on the conservation objective “No significant disturbance to capercaillie” for the Cairngorms SPA. This occurred both directly, and indirectly, through disturbance in surrounding non-SPA woodland
- The same MRE was identified in the application 2015/0375/DET to retain 10 temporary wigwams at the Badaguish Outdoor Centre

The same Minor Residual Effects has been identified during the Appropriate Assessment of the proposal (2017/0008/DET):

- MRE on the conservation objective “No significant disturbance to capercaillie” for the Cairngorms SPA. This occurred both directly, and indirectly, through disturbance in surrounding non-SPA woodland.

The MRE relates to the same project across all three applications and still stands.

No MREs were identified in other projects/plans, therefore there are no incombination 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 there were likely significant effects upon the qualifying interests of Nature sites. As such, an Appropriate Assessment was deemed necessary.

#### Cairngorms SPA

##### Qualifying species and conservation status

Capercaillie: Favourable Maintained  
Peregrine: Favourable Maintained

Dotterel: Unfavourable Declining  
Golden eagle: Favourable Maintained  
Osprey: Favourable Maintained

From SNH Site Link, 20/05/2015

### **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 process of habitats supporting the species
- No significant disturbance of the species

### **Is the operation likely to have a significant effect on the qualifying interest?**

Capercaillie: Likely Significant Effect  
Peregrine: No Effect  
Dotterel: No Effect  
Golden Eagle: No Effect  
Osprey: No Effect

### **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:

- 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.

## **Assessment against the Conservation Objectives**

### ***Capercaillie (direct effects)***

#### **1. Population of the capercaillie as a viable component of the sites**

A Likely Significant Effect has been identified on the Cairngorms SPA by visitors to the proposal recreating in woodland within the SPA. A lek site and brood rearing areas within the SPA are within walking distance of the Badaguish Centre and there is potential for increased recreational disturbance in these areas.

Increased recreational disturbance could render this habitat unsuitable for capercaillie, thus reducing the population of capercaillie in this area and disturbance may also have an effect on productivity by reducing either breeding or brood rearing success.

The VMP contains measures to specifically target the effect of residents on the surrounding woodlands. These measures include:

- A no dogs policy in the wigwam and camping areas
- Planting along woodland edge that will provide screening of the northern part of the site and help minimise disturbance, as well as providing a natural barrier to movement off-path
- Signs at key access points advising visitors to stay on designated tracks and avoid disturbance to wildlife
- Briefing of all visitors on arrival by a resident warden

Woodland surrounding the Badaguish centre comprises dense, semi-mature stands of commercial spruce and pine on rough ploughed ground with open drains which will deter those wandering off-path.

Despite the increase in number of users to the site, these measures will be applicable to the whole of the site and so not only will they be sufficient to mitigate the effect of the new development but it is considered that there will be a change in the behaviour of users on the existing development that will benefit the birds.

**We have considered the evidence and advice offered by SNH and others and concluded that the measures outlined in the VMP to manage visitors will avoid significant disturbance to capercaillie within the Cairngorms SPA. Consequently there will be no adverse effect on this conservation objective.**

#### **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 is not a woodland site – being situated within the already developed area of the outdoor centre. 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**

There are three ways in which the proposal could cause increased disturbance to capercaillie in the Cairngorms SPA:

- An increase in walkers recreating in the Cairngorms SPA
- An increase in mountain bikers recreating in the Cairngorms SPA
- Either of the above using unauthorised trails which could increase the area of disturbance in the Cairngorms SPA

*An increase in walkers and mountain bikers and use of unauthorised trails*

Although the provision of additional wigwams through the proposal means that an increase in visitors to the site is expected; due to the nature of activities on the site, the majority of visitors are on organised outdoor activities away from the site during the daytime in areas away from the Cairngorms SPA. Visitors may recreate around the site and in woodland surrounding Badaguish (including the SPA) in the mornings and evenings, but this is likely to be a small proportion of the overall visitor numbers.

A Visitor Management Plan has been provided as part of the application which includes the following measures which are currently active on the site:

- Planting along woodland edge to screen the northern part of the site and help minimise disturbance, as well as providing a natural barrier to movement off-path
- Signs at key access points advising visitors to stay on designated tracks and avoid disturbance to wildlife
- Briefing of all visitors on arrival by a resident warden

There is potential that visitors, particularly mountain bikers, could develop and use informal, unauthorised trails which could increase the area of disturbance.

The Visitor Management Plan will prevent the establishment of new unauthorised trails and close existing unauthorised trails where necessary.

Even with these measures in place, a Likely Significant Effect caused by disturbance to capercaillie through visitors disturbing a lek site or hens with brood cannot be ruled out entirely. There is still a chance that one person may wander off-path and disturb a lek site, but it not likely to be at a frequency to have an adverse effect.

The VMP details how the Badaguish Outdoor Centre and Forestry Commission Scotland (FCS) – the landowner – will work closely to monitor visitor behaviour and identify potential management issues which have potential to impact capercaillie. FCS update the Badaguish Outdoor Centre annually with details of leks and brood rearing areas so that these areas can be avoided. It is proposed that a 6 monthly meeting between the two parties takes place to provide updates on visitor behaviour/numbers and propose action where necessary.

Appropriate action will be taken if monitoring finds that Badaguish visitors are having an impact, before this becomes an adverse effect (i.e. the relocation of a lek or failure of brood).

**We have considered the evidence and advice offered by SNH and others and concluded that the proposal will have a Minor Residual Effect (Likely Insignificant Effect) to capercaillie within the Cairngorms SPA. The measures outlined in the VMP**

will ensure that there will be no adverse effect directly upon this conservation objective.

## ***Capercaillie (indirect effects)***

### **1. Population of the capercaillie as a viable component of the sites**

The Capercaillie within Badenoch and Strathspey exist as a meta-population and birds frequently move from site to site. The non-SPA woodland around Glenmore is adjacent to that within the Cairngorms SPA and birds are able to flow freely between these areas.

A Likely Significant Effect has been identified on the non-SPA woodland surrounding Badaguish which could have a knock-on effect on the Cairngorms SPA.

Increased recreational disturbance within non-SPA woodland surrounding Badaguish could render this habitat unsuitable for capercaillie. Connectivity between this non-SPA woodland and the Cairngorms SPA may be impaired and the “meta-population” could suffer as a result.

Increased recreational disturbance could render this habitat unsuitable for capercaillie, thus reducing the population of capercaillie in this area and disturbance may also have an effect on productivity by reducing either breeding or rearing success and direct mortality of the birds.

The VMP contains measures to specifically target the effect of residents on the surrounding woodlands which includes the following measures which are currently active on the site:

- A no dogs policy in the wigwam and camping areas
- Planting along woodland edges to screen the northern part of the site and help minimise disturbance, as well as providing a natural barrier to movement off-path
- Signs at key access points advising visitors to stay on designated tracks and avoid disturbance to wildlife
- Briefing of all visitors on arrival by a resident warden

Woodland surrounding the Badaguish centre is dense, semi mature stands of commercial spruce and pine on rough ploughed ground with open drains which will deter those wandering off-path.

Despite the increase in number of users to the camp site, these measures will be applicable to the whole of the site and so not only will they be sufficient to mitigate the effect of the new development but it is considered that there will be a change in the behaviour of users on the existing development that will benefit the birds.

**We have considered the evidence and advice offered by SNH and others and concluded that the measures outlined in the VMP to manage visitors will avoid significant disturbance to capercaillie within and outwith the Cairngorms SPA. Consequently there will be no adverse effect indirectly upon this conservation objective.**

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

The proposal lies within the already developed area of the outdoor centre and will not result in any additional woodland loss or fragmentation of habitat.

**We conclude therefore that there is no adverse effect on this conservation objective.**

### **3.No significant disturbance of capercaillie**

There are several ways in which the proposal could cause increased disturbance to capercaillie:

- An increase in walkers recreating in woodland around Badaguish
- An increase in mountain bikers recreating in woodland around Badaguish
- Either of the above using unauthorised trails which could increase the area of disturbance

#### *Disturbance during construction/installation*

It was concluded during screening that there is no effect from this source, for the reasons stated above in table 3.

#### *An increase in walkers and mountain bikers and use of unauthorised trails*

Although the provision of additional wigwams through the proposal means that an increase in visitors to the site is expected; due to the nature of activities on the site, the majority of visitors are on organised outdoor activities away from the site during the daytime in areas away from the Cairngorms SPA and neighbouring SPAs (see table 3). Visitors may recreate around the site and in woodland surrounding Badaguish in the evenings, but this is likely to be a small proportion of the overall visitor numbers.

A Visitor Management Plan has been provided which includes:

- Planting along woodland edges to screen the northern part of the site and help minimise disturbance, as well as providing a natural barrier to movement off-path
- Signs at key access points advising visitors to stay on designated tracks and avoid disturbance to wildlife
- Briefing of all visitors on arrival by a resident warden

There is potential that visitors, particularly mountain bikers, could develop and use informal, unauthorised trails which could increase the area of disturbance. There are already informal paths around the Sluggan Pass for example.

The Visitor Management Plan will prevent the establishment of new unauthorised trails and close existing unauthorised trails where necessary. Since the implementation of the VMP no new informal trails have been developed and this will continue to be monitored.

Even with these measures in place, a Likely Significant Effect caused by disturbance to capercaillie through visitors disturbing a lek site or hens with brood cannot be ruled out entirely. There is still a chance that one person may wander off-path and disturb a lek site, but it not likely to be at a frequency to have an adverse effect.

The VMP details how the Badaguish Outdoor Centre and Forestry Commission Scotland (FCS) – the landowner – will work closely to monitor visitor behaviour and identify potential management issues which have potential to impact capercaillie. FCS update the Badaguish Outdoor Centre annually with details of leks and brood rearing areas so that these areas can be avoided. It is

proposed that a 6 monthly meeting between the two parties takes place to provide updates on visitor behaviour/numbers and where change may be necessary.

Appropriate action will be taken if monitoring finds that Badaguish visitors are having an impact, before this becomes an adverse effect (i.e. the relocation of a lek or failure of brood).

**We have considered the evidence and advice offered by SNH and others and concluded that the proposal will have a Minor Residual Effect (Likely Insignificant Effect) to capercaillie within the Cairngorms SPA. The measures contained in the VMP will ensure that there will be no adverse effect directly upon this conservation objective.**

#### **Additional mitigation**

No further mitigation is required.

#### **Likely insignificant effects**

There are none.

#### **Conclusion on site integrity**

**We have assessed the impact of the development and found there to be no effect on any of the conservation objectives. Therefore we conclude that there will be no adverse effect on the integrity of the Cairngorms SPA.**

### **Abernethy SPA, Anagach Woods SPA, Craigmore Woods SPA, Kinveachy SPA**

#### **Qualifying species - Is the operation likely to have a significant effect on the qualifying interest?**

Scottish Crossbill (Abernethy SPA, Kinveachy SPA): No effect  
Osprey (Abernethy SPA only): no effect  
Capercaillie (all sites): Like Significant Effect

#### **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 process of habitats supporting the species

- No significant disturbance of the species

### **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**

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

### **Assessment against the Conservation Objectives**

A Likely Significant Effect was found during screening on the SPAs above indirectly, via a Likely Significant Effect on the Cairngorms SPA and on capercaillie populations within non designated woodland. A direct Likely Significant Effect on the above SPAs was not found during screening.

### ***Capercaillie (indirect effect)***

#### **1. Population of the capercaillie as a viable component of the sites**

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

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

#### **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 is not a woodland site – being situated within the developed area of the outdoor centre. Therefore there is no loss of supporting habitat through the proposal.

**We have considered the impact of the proposal and concluded that the measures outlined in the VMP to manage visitors will avoid significant disturbance to capercaillie within the Badaguish area. Consequently there will be no adverse effect directly upon this conservation objective for the Abernethy Forest SPA, Anagach Woods SPA, Kinveachy SPA and Craigmore SPA.**

### **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.

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

### **Additional mitigation**

No further mitigation is required.

### **Likely insignificant effects**

There are none.

### **Conclusion on site integrity**

**We have assessed the impact of the proposal and found there to be no effect on any of the conservation objectives for these SPAs. Therefore we conclude that there will be no adverse effect on the integrity of the Abernethy Forest SPA, Anagach Woods SPA, Kinveachy Forest SPA and Craigmore Woods SPA.**

## **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. This draft report and its conclusion were subject to such consultation.

Wider consultation of the draft report is at the discretion of the competent authority. In this case no direct consultation was made because information relating to capercaillie was provided by the RSPB and Forestry Commission as part of the Habitat Regulations Appraisal for applications 2015/0132/DET and 2015/0133/DET which form part of the wider Badaguish development. It was decided that no additional information was needed to make the assessment.

## **Stage 8: Additional mitigation**

The conclusion of the Appropriate Assessment within this report shows that there are no likely significant effects and no in-combination effects, as such no additional mitigation is deemed necessary.

### **Stage 9: Conclusion on the integrity test**

This assessment based upon the best available scientific evidence and advice offered from SNH and has shown that there are no likely significant effects from the proposed development upon the qualifying features or the conservation objectives for the following Natura sites:

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

**We therefore conclude that the proposed development 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.

## **References**

### **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)

Welsh Assembly Government TAN 5: Nature Conservation and Planning - 2009

Habitat Regulations Appraisal of Plans – Guidance for Plan Making Bodies in Scotland SNH/DTA August 2012 (Version 2.0)

### **Other sources**

Cairngorms National Park Core Paths Plan 2010 – CNAP – 2010



CRAGG Visitor, visitor infrastructure and tourism Audit. Robinson 2013

Cairngorms Outdoor Access Strategy 2007-2012 – CNPA 2007

Scottish Recreation Survey, Annual Summary report 2011. CR No. 535 SNH 2012

## Appendix I

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

Name of European Site	Cairngorms Special Protection Area
<b>Site Type</b>	
Conservation Objectives	<p>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</p> <p>To ensure for the qualifying species that the following are maintained in the long-term:</p> <p>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</p>
Qualifying Species	Capercaillie, Scottish crossbill, Peregrine, Dotterel, Merlin Golden eagle, Osprey.
Site Condition	<p>Capercaillie: Favourable Maintained          Peregrine: Favourable Maintained          Dotterel: Unfavourable Declining          Golden eagle: Favourable Maintained          Osprey: Favourable Maintained</p> <p>From SNH SiteLink, 20/05/2015</p>
Factors currently influencing site	In terms of development, none at present
Vulnerabilities to change/potential effects of the Plan	<p>Recreational disturbance to species from neighbouring development</p> <p>Relevant settlements: An Camus Mòr, Boat of Garten – also developing of, or extension of existing, recreational facilities</p> <p>Wind farms could impact on young golden eagles, given their mobility</p>

Name of European Site	Kinveachy Forest Special Protection Area
<b>Site Type</b>	
Conservation Objectives	<p>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</p> <p>To ensure for the qualifying species that the following are maintained in the long-term:</p> <p>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</p>
Qualifying Species	Capercaillie, Scottish crossbill
Site Condition	<p>Capercaillie: Favourable Maintained</p> <p>From SNH SiteLink, 03/06/2015</p>
Factors currently influencing site	In terms of development, none at present
Vulnerabilities to change/potential effects of the Plan	<p>Recreational disturbance to species from neighbouring development</p> <p>Relevant settlements: An Camus Mòr, Boat of Garten – also developing of, or extension of existing, recreational facilities.</p>

Name of European Site	Abernethy Forest Special Protection Area
<b>Site Type</b>	
Conservation Objectives	To avoid deterioration of the habitats of the qualifying species (listed below) or significant disturbance to the qualifying

	<p>species, thus ensuring that the integrity of the site is maintained; and</p> <p>To ensure for the qualifying species that the following are maintained in the long-term:</p> <p>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</p>
Qualifying Species	Capercaillie, Scottish crossbill, Osprey.
Site Condition	<p>Capercaillie: Favourable Maintained  Osprey: Favourable Maintained</p> <p>From SNH SiteLink, 03/06/2015</p>
Factors currently influencing site	In terms of development, none at present
Vulnerabilities to change/potential effects of the Plan	<p>Recreational disturbance to species from neighbouring development</p> <p>Relevant settlements: An Camus Mòr, Boat of Garten – also developing of, or extension of existing, recreational facilities.</p>

Name of European Site	Craigmore Wood Special Protection Area
<b>Site Type</b>	
Conservation Objectives	<p>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</p> <p>To ensure for the qualifying species that the following are maintained in the long-term:</p> <p>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</p>

Qualifying Species	Capercaillie
Site Condition	Capercaillie: Unfavourable No change  From SNH SiteLink, 03/06/2015
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	Anagach Woods Special Protection Area
<b>Site Type</b>	
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: Favourable Maintained  From SNH SiteLink, 03/06/2015
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.

## Appendix 2

### Glossary of terms and abbreviations

<b>Appropriate Assessment (AA)</b>	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.
<b>CNPA</b>	Cairngorms National Park Authority
<b>CNAP</b>	Cairngorms Nature Action Plan
<b>Competent Authority</b>	The decision making body required under the Habitats Directive to undertake HRA. This includes Scottish Government, National Park Authorities, SNH , SEPA or Local Authorities.
<b>CPP</b>	Core Paths Plan
<b>Habitats Regulation Assessment (HRA)</b>	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.
<b>CLDP</b>	Draft Cairngorms National Park Local Development Plan
<b>Likely Significant Effect</b>	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.
<b>Natura Sites</b>	Collective term for Special Protection Areas and Special Areas of Conservation
<b>Ramsar sites</b>	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.
<b>Special Area of Conservation (SAC)</b>	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
<b>Special Protection Area (SPA)</b>	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

