

AGENDA ITEM 6

APPENDIX 2

2021/0407/DET

HABITATS REGULATIONS APPRAISAL

HABITATS REGULATIONS APPRAISAL

Planning reference and proposal information	2021/0407/DET, Change of use of land to form 3 staff (replacement) farmhouses including associated access, drainage, landscape, ground works, services and the demolition of Lynvoan Cottage and outbuildings, near Lynchat, Kingussie
Appraised by	Nina Caudrey, Planning Officer (Development Planning and Environmental Advice)
Date	26 April 2022
Checked by	Hayley Wiswell
Date	27 April 2022

INFORMATION

European site details

Name of European site(s) potentially affected

1. Insh Marshes Special Area of Conservation (SAC)
2. River Spey SAC
3. River Spey – Insh Marshes Special Protection Area (SPA)
4. River Spey – Insh Marshes Ramsar site

Qualifying interest(s)

1. Insh Marshes SAC

Alder wood floodplains

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

Very wet mires often identified by unstable quaking surface

Otter

2. River Spey SAC

Otter

Freshwater pearl mussel

Sea lamprey

Atlantic salmon

3. River Spey – Insh Marshes SPA

Non-breeding: hen harrier, whooper swan

Breeding: osprey, spotted crake, wigeon, wood sandpiper

4. River Spey – Insh Marshes Ramsar site

Flood plain fen

Invertebrate assemblage

Mesotrophic loch

Vascular plant assemblage

Wet woodland

Breeding: osprey, spotted crake, wigeon, wood sandpiper

Non-breeding: whooper swan

Conservation objectives for qualifying interests

I. Insh Marshes SAC

Habitats:

Conservation Objective 2. To ensure that the integrity of Insh Marshes is restored by meeting objectives 2a, 2b and 2c for each qualifying feature.

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

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 **very wet mires often identified by an unstable 'quaking' surface** within the site

2b. Maintain the structure, function and supporting processes of very wet mires often identified by an unstable 'quaking' surface

2c. Maintain the distribution and viability of typical species of very wet mires often identified by an unstable 'quaking' surface

2a. Maintain the extent and distribution of **alder woodland on floodplains** within the site

2b. Restore the structure, function and supporting processes of alder woodland on floodplains

2c. Maintain the distribution and viability of typical species of alder woodland on floodplains

Conservation Objective 1: To ensure that the qualifying features of Insh Marshes SAC are in favourable condition and make an appropriate contribution to achieving favourable conservation status.

Species:

Conservation Objective 2: To ensure that the integrity of Insh Marshes is restored by meeting objectives 2a, 2b and 2c for the qualifying feature.

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 feature of Insh Marshes SAC is in favourable condition and makes an appropriate contribution to achieving favourable conservation status.

2. River Spey SAC

Conservation Objective 2. To ensure that the integrity of the River Spey 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 freshwater pearl mussel within the site and availability of food

2d. Restore 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 **sea lamprey** throughout the site

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

2a. Maintain the population of sea lamprey as a viable component of the site

2b. Restore the distribution of **Atlantic salmon** throughout the site

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

2a. Restore 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 Spey SAC are in favourable condition and make an appropriate contribution to achieving favourable conservation status.

3. River Spey – Insh Marshes 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. River Spey – Insh Marshes Ramsar site

There are no conservation objectives for Ramsar sites, however it is considered that by meeting the objectives for the overlapping SPA and SACs, then the integrity of the Ramsar site would also be conserved. Therefore the assessments for the SPA and SACs are deemed a surrogate for an assessment of the Ramsar site.

APPRAISAL

STAGE 1:

What is the plan or project?

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

Demolition of existing Lynvoan farmhouse to the north of Lynchat and the A9 near Kingussie. Creation of 3 new dwellings, with a mounded private waste water treatment plant and connection to public freshwater supply, and access track. Creation of a SUDS pond to deal with run off from the proposed houses and associated track, as well as run off from a future alteration to the separate (consented) application for the relocated farm (planning application reference 2020/0077/MS).

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. Insh Marshes SAC

2. River Spey SAC

3. River Spey – Insh Marshes SPA

YES – there is potential for a likely significant effect on the qualifying habitats / the habitats relied upon by the qualifying species of all of the above European sites and/or their food caused by pollution from sediment release affecting water quality and smothering habitats during creation of the SUDS pond and also during construction of the houses and access track. (See the final page of this assessment for a map showing the largely undergrounded watercourse connectivity between the proposed development and the European sites.)

There will however not be a likely significant effect on any of the qualifying species from disturbance, due to the distance away and intervening infrastructure and landscape features, so this aspect is not considered further.

There would also not be a likely significant effect from the proposed waste water treatment system, as based on NatureScot general advice on waste water treatment systems, this is sufficiently far away from the European sites for there to be no risk of nutrients reaching them, so this aspect is not considered further.

STAGE 4:

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

The revised proposed SUDS pond location has been moved to the north east, out of the area of wet birch woodland and associated watercourses proposed in the original submission. (See the final page of this assessment for a map showing the largely undergrounded watercourse connectivity between the proposed development and the European sites.)

Although the proposed SUDS pond has been moved, **there is still a risk of sediment release during excavation and construction works 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 European sites.**

STAGE 5:

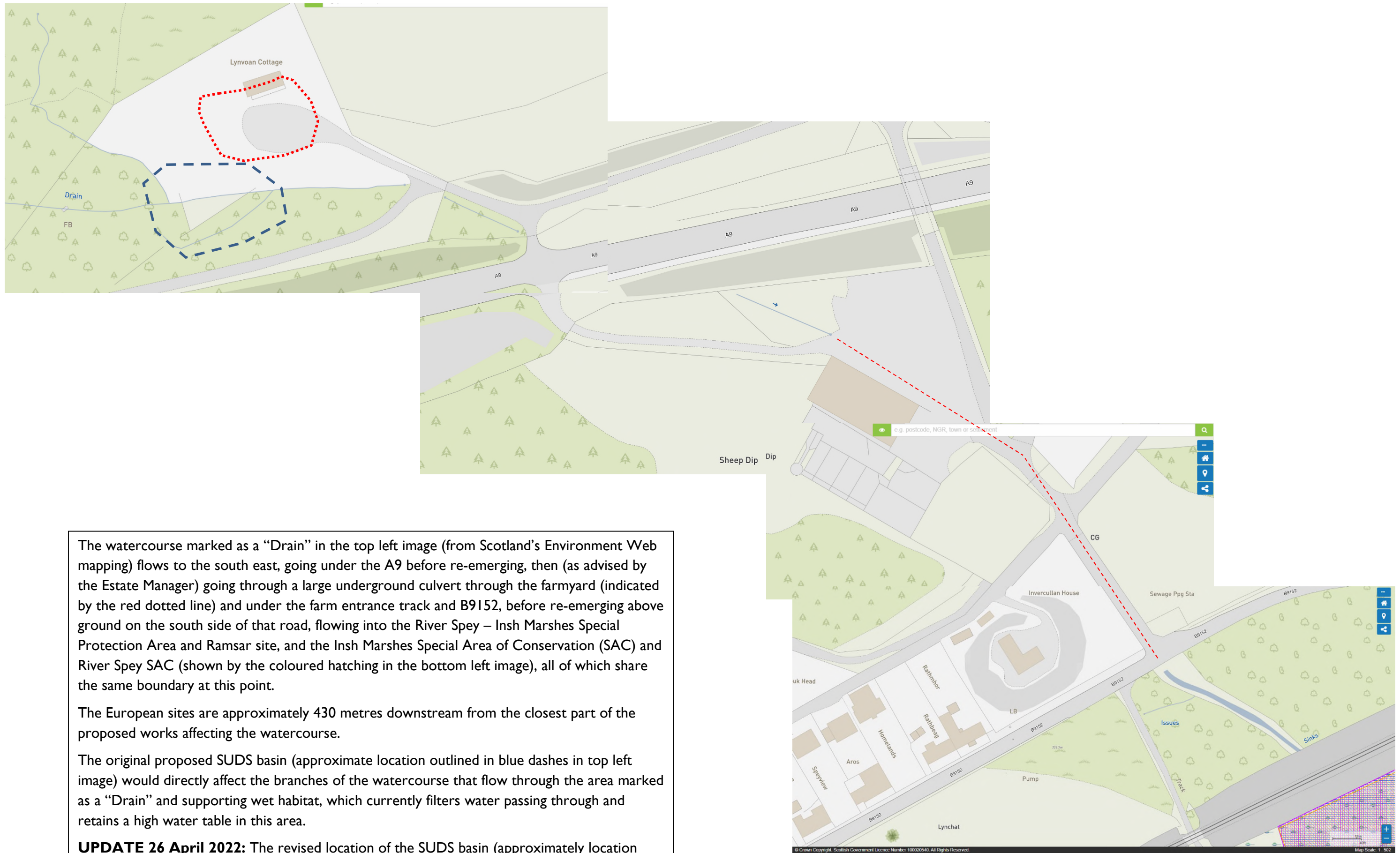
Can it be ascertained that there will not be an adverse effect on site integrity?

- 1. Insh Marshes SAC**
- 2. River Spey SAC**
- 3. River Spey – Insh Marshes SPA**

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, including pollution prevention and control measures to prevent sediment entering the watercourse to the south of the proposed SUDS pond 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 Insh Marshes SAC, River Spey SAC and River Spey – Insh Marshes SPA, and so avoid an adverse effect on these sites integrity.



The watercourse marked as a “Drain” in the top left image (from Scotland’s Environment Web mapping) flows to the south east, going under the A9 before re-emerging, then (as advised by the Estate Manager) going through a large underground culvert through the farmyard (indicated by the red dotted line) and under the farm entrance track and B9152, before re-emerging above ground on the south side of that road, flowing into the River Spey – Insh Marshes Special Protection Area and Ramsar site, and the Insh Marshes Special Area of Conservation (SAC) and River Spey SAC (shown by the coloured hatching in the bottom left image), all of which share the same boundary at this point.

The European sites are approximately 430 metres downstream from the closest part of the proposed works affecting the watercourse.

The original proposed SUDS basin (approximate location outlined in blue dashes in top left image) would directly affect the branches of the watercourse that flow through the area marked as a “Drain” and supporting wet habitat, which currently filters water passing through and retains a high water table in this area.

UPDATE 26 April 2022: The revised location of the SUDS basin (approximately location outlined in red dots in the top left image) would avoid the direct effects on the watercourse branches and supporting wet habitat described above.