Agenda item 6

Appendix 2

2022/0421/DET

Habitats regulations appraisal

HABITATS REGULATIONS APPRAISAL

Planning reference and proposal information	2022/0421/DET – Construction of 4.83km of forestry track, formation of passing places & renewal of bridge.
Appraised by	Karen Aldridge, Planning Ecological Advice Officer
Date	22 March 2023
Checked by	NatureScot
Date	Date of consultation response from NatureScot

INFORMATION

European site details

Name of European site(s) potentially affected

1) **River Spey SAC**

2) **Monadhliath SAC**

River Spey – Insh Marshes SPA is within 2km of the site, however none of the qualifying species were recorded on site and the site offers limited habitats to support qualifying species. The Insh Marshes SAC is also within 2km however effects on otter will be assessed through the River Spey SAC.

Qualifying interest(s)

1) **River Spey SAC**

Otter

Freshwater pearl mussel

Sea lamprey

Atlantic salmon

2) **Monadhliath SAC**

Blanket bog

Conservation objectives for qualifying interests

1) **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

2) Monadhliath SAC

Conservation Objective 2: To ensure that the integrity is restored by meeting objectives 2a, 2b, 2c :

2a) Maintain the extent and distribution of blanket bog within the site

2b) Restore the structure, function and supporting processes of the habitat

2c) Restore the distribution and viability of typical species of the habitat.

Conservation Objective 1: To ensure that the qualifying feature of the Monadhliath SAC is in favourable condition and makes 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)

Construction of a 4.83 km track for facilitating forestry operations to the north-northwest of Newtonmore. The new track crosses over estate and common grazing lands from Glen Road and to the east. The works will be phased to avoid disturbance to sensitive black grouse leks (no activity an hour before dawn and up to two hours after) and the track has been designed to avoid areas of deep peat.

A new bridge is proposed over the Allt a Chaorainn which is part of the River Spey SAC.

STAGE 2:

Is the plan or project directly connected with or necessary for the management of the European site for nature conservation?

No

STAGE 3:

Is the plan or project (either alone or in-combination with other plans or projects) likely to have a significant effect on the site(s)?

1) River Spey SAC

Atlantic salmon, sea lamprey & freshwater pearl mussel: YES LSE, from short term effects arising during construction, especially at the site of the new bridge. Effects such as accidental sediment release entering the Allt a Chaorainn, changing the water quality and potentially changing habitats and the potential for fuels/oils to enter the watercourse.

Otter: YES LSE from short term disturbance during construction activity.

2) Monadhliath SAC

Blanket bog – NO LSE. No works will take place within the SAC and the SAC is located approximately 300 m from the closest point of the development. The proposed development is downstream of the SAC therefore construction is not considered likely to impact on the hydrology of the upstream site. The herbivore impact assessment submitted with the application suggests that the active deer management within the area is working on reducing deer numbers therefore it is not considered that the works would create significant changes in red deer behaviour (e.g. leading to more activity of deer with the SAC due to disturbance). Monadhliath SAC is therefore not considered further.

STAGE 4:

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

1) 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):

Atlantic Salmon & Freshwater Pearl Mussel

2b. Restore the distribution of Atlantic salmon/Freshwater Pearl Mussel throughout the site

The designs for the new bridge do not include in-stream works so there will be no direct loss of any of the stream bed. As no development will occur within the watercourse, the current and potential distribution of these species would not be directly impacted upon.

However, there is potential for indirect impacts from construction activities, e.g., sediment or fuels entering the watercourse due to the proximity of the works to the river. These potential pollution events could indirectly cause the distribution to change due to changes in water quality (temporary) and, if significant amounts of sediment reach the watercourse, through smothering of habitats which are used by salmon for spawning/juveniles and habitats suitable for supporting FWPM (long term).

The risk of pollution events can be mitigated against through the implementation of a robust Pollution Prevention Plan and timing of the works. Due to the potential of spawning salmon in this watercourse (downstream of the proposed site), construction of the bridge should be timed for out with the salmon spawning period (October – March, inclusive). The pollution prevention plan submitted with the application (Otter Survey, December 2021, Atmos), details standard mitigation and **the plan should be altered to include site specific mitigation (e.g. fuel storage locations, details/proposed locations on silt protection measures etc). The pollution prevention plan should be agreed with the CNPA prior to development.**

If the pollution prevention plan is conditioned and implemented this conservation would be met.

2c. Restore the habitats supporting Atlantic salmon & Freshwater Pearl Mussel within the site and availability of food

The current and potential restoration of the distribution of habitats supporting Atlantic salmon and FWPM within the site would not be directly affected as no development will occur in the watercourse.

However, pollution from construction activities would affect supporting habitats if significant amounts of sediment reach the watercourse and cause smothering, reducing the distribution and extent of habitat suitable for spawning and juvenile salmon and habitats suitable for supporting FWPM (long term).

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.

2d. Restore the distribution and viability of freshwater pearl mussel host species and their supporting habitats

The distribution and viability of FWPM host species (Atlantic salmon & sea trout) would not be directly affected as no development will occur within the watercourse.

However as discussed in 2b & 2c, there is potential for pollution from construction activities to indirectly affect the habitats supporting these species which may in turn lead to a change in distribution or in change in health of the supporting species. However, with the implementation of the mitigation mentioned in 2b the risk of pollution events therefore the development would not hinder the distribution or vitality of the host species.

2a. Restore the population of Atlantic salmon (including range of genetic types) and Freshwater Pearl Mussel, as a viable component of the site

As the other conservation objectives can be met for Atlantic salmon and FWPM with mitigation, the proposed development would not hinder or prevent the restoration of the population of Atlantic salmon as a viable component of site. Therefore, this conservation objective would be met.

Sea Lamprey

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

The current distribution of sea lamprey would not be directly impacted upon by the development proposals as no works will take place within the watercourse. However, there is potential for pollution from construction activities which could indirectly impact upon spawning substrates (long term) and water quality (temporary) which may alter the distribution of sea lamprey.

As detailed within 2b for Atlantic salmon & freshwater pearl mussel. Due to the lack of direct connectivity between the site and the SAC, a pollution prevention plan detailing standard good practice construction activity will reduce the risk of accidental pollution and therefore this conservation objective would be met.

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

The current suitable habitats for supporting sea lamprey will not be directly impacted upon as no works will take place within the watercourse. However, there is potential for pollution, such as sediment to enter the watercourse and smoother the suitable spawning grounds (long term) making it difficult for the sea lamprey to find suitable habitat. Changes to water quality through suspended solids or chemicals (temporary) may lead to a reduction in food availability through negatively impacting the distribution of fish species.

The implementation of standard pollution prevention measures will reduce the risk of pollution entering the watercourse therefore this conservation objective would be met.

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

As the other conservation objectives for sea lamprey can be met through the implementation of mitigation, the proposed development would not negatively impact on the current population of sea lamprey within the SAC, therefore this conservation objective would be met.

Otter

2b. Maintain the distribution of otter throughout the site

The distribution of otter may be disturbed during construction with the addition of machinery, personnel and lighting alongside the river during construction of the structure. However, this would be considered temporary and disturbance levels would likely return to the current baseline levels once construction has ceased.

An otter resting site was identified approximately 135 m downstream of the development site. The resting site was assessed as being non-breeding (it is a fairly exposed with no access underground). As the identified resting site is more than 30m from the development site boundary no disturbance of this resting features is considered likely. Suitable habitat for resting otter was identified around the existing bridge during the otter survey, although no evidence of resting at this location was recorded. In order to prevent disturbance, the Species Protection Plan (Atmos, Otter Survey, December 2021) should be implemented in full, including a pre-construction survey for otter.

<u>If the species protection plan is conditioned and implemented, this conservation objective would be met.</u>

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

The distribution of habitats supporting otter would not be directly affected. The pollution issues identified for the other freshwater species mentioned, could affect otter prey species, however the mitigation measures would reduce the risk of this occurring to a minimal level and so the conservation objective would be met.

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

As the other conservation objectives can be met for otter with the mitigation included in the proposal, the proposed development would not hinder or prevent the maintenance of the population of otter as a viable component of site, therefore this conservation objective would be met.

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

As all the other conservation objectives would be met, the proposed development would not prevent or hinder the condition or conservation status of the qualifying interests of the SAC, and so this conservation objective would be met.

<u>STAGE 5</u>:

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

1) River Spey SAC

If the mitigation measures included in the planning application and mentioned above are

secured by condition and implemented, then the conservation objectives will be met and therefore **there will not be an adverse effect on site integrity for the River Spey SAC.**

The reason for the conditions is to avoid pollution entering the Allt a Chaorainn (part of the SAC) and negatively impacting upon the qualifying features.