



Cairngorms
National Park Authority

Ùghdarras Pàirc Nàiseanta a'
Mhonaidh Ruaidh

Item 5 Appendix 2 26 January 2024

Agenda item 5

Appendix 2

2023/0004/DET

Habitats regulations appraisal

HABITATS REGULATIONS APPRAISAL

Planning reference and proposal information	2023/0004/DET Siting of 27 lodges, access road & landscaping.
Appraised by	Karen Aldridge, Planning Ecological Advice Officer
Date	10 May 2023
Checked by	NatureScot
Date	Date of consultation response from NatureScot

INFORMATION

European site details

Name of European site(s) potentially affected

1) Kinveachy Forest SPA

2) River Spey – Insh Marshes SPA

The River Spey SAC is within 400 m of the proposed development site, however there is a lack of direct ecological connectivity between the proposed development site and the SAC. Therefore, the River Spey SAC will not be considered further.

Abernethy Forest SPA is within 10 km of the proposed development – the qualifying species include capercaillie and osprey. The osprey from Abernethy, have been recorded using the lochan within the site boundary. An assessment of effects of both capercaillie and osprey are covered under Kinveachy/ River Spey-Insh Marshes SPA.

Qualifying interest(s)

1) Kinveachy Forest SPA

Capercaillie - breeding

Scottish crossbill - breeding

2) River Spey – Insh Marshes SPA

Hen harrier – non-breeding

Osprey – breeding

Spotted crane – breeding

Wood sandpiper – breeding

Whooper swan – non-breeding

Wigeon – non-breeding

Conservation objectives for qualifying interests

Kinveachy Forest SPA/ 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

APPRAISAL

STAGE 1:

What is the plan or project?

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

Construction of 27 self-catering lodges which will be 2 storeys with 3 bedrooms. The lodges will be sited within the existing woodland at the site of the dry ski slope on Grampian Road, part of the Aviemore Highland Resort.

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) Kinveachy SPA

Capercaillie – YES LSE. There is potential disturbance during operation of the site through increased human activity by the addition of the occupants from the proposed development to the already existing population within Aviemore (See Annex 1)

Scottish crossbill – NO LSE. The habitats onsite are suboptimal for supporting breeding crossbill, with the site containing a fairly open canopy with fewer mature trees. No disturbance to breeding crossbill is predicted. Therefore, this species will not be considered further.

2) River Spey – Insh Marshes SPA

Hen harrier, spotted crake, whooper swan, wigeon & wood sandpiper- No LSE. The proposed development site does not support these species or habitats known for supporting any of these species, therefore no likely significant effect is predicted, and these species are not considered further.

Osprey: YES LSE. Osprey are known to fish from within the artificial pond located within the proposed development site, therefore there is potential from short term disturbance during construction activity and then long term disturbance from activity during occupation of the lodges (e.g. from humans and pets particularly dogs moving around the area).

STAGE 4:

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

the(ir) conservation objectives

1) Kinveachy Forest SPA

Distribution of the species within the site:

The distribution of capercaillie within the site will not be affected as additional use of woods (described in **Annex I-III**) is not likely to result in additional off path activity, therefore this conservation objective will be met.

Distribution and extent of habitats supporting the species; structure, function and supporting processes of habitats supporting the species:

There will be no effect on the structure, function or supporting processes of the habitats supporting capercaillie as a result of the proposed development, therefore this conservation objective will be met.

No significant disturbance of the species

See **Annex I-III** for detailed assessment. In summary, there would be no additional disturbance to capercaillie over and above what is already occurring through use of existing routes in capercaillie woods I, J, K, L, M, N and O. Therefore, this conservation objective can be met.

Population of the species as a viable component of the site:

As the other conservation objectives can be met, the population of capercaillie should not be affected and so this conservation objective will be met.

2) River Spey – Insh Marshes SPA

Distribution of the species within the site:

The distribution of osprey within the site will not be affected as there is no construction activities within the site (development site is approximately 6.5km north of the SPA) therefore this conservation objective will be met.

Distribution and extent of habitats supporting the species; structure, function and supporting processes of habitats supporting the species:

There is potential for negative effects on supporting habitats outwith the SPA. Several adult and juvenile osprey are known to feed on the artificial loch on site, which is stocked during the summer months with fish for the purpose of photographing the fishing osprey. Osprey from nests within the River Spey-Insh Marshes SPA and Abernethy SPA have been photographed using the lochan and during the times when the lochan is stocked, osprey are regular daily visitors.

Osprey are considered to have a core foraging range of approximately 10 km, so it is likely that this pond is only part of each of the ospreys feeding ground. Given that the lochan is artificial in nature and artificially stocked, with no natural pathways for fish to enter the lochan, the longevity of the pond as suitable feeding grounds is unclear.

The plans for the development do not include the removal of the pond which will stay in situ; however, the current operator has indicated that the current stocking levels are uncertain, with the potential of the business being closed. The current operator also indicated that stocking would be unlikely to continue during construction of either this proposed development or the A9

dualling. If the pond is no longer stocked, then the pond would likely be lost from the osprey's range. As the stocking and maintenance of the pond is undertaken by a third-party operator, that is not subject to control by the proposed development.

Although there will be a decrease in potential feeding ground, it is not considered a significant effect, as although the pond currently offers value to feeding osprey, feeding at this loch is considered to be short term (given the risks to the pond/business).

No significant disturbance of the species

There is potential for disturbance to feeding osprey at the artificial loch if the loch is stocked during the construction of the development (short-term) and potentially longer-term disturbance with the addition of lodges and the potential for increased human activity during times when the osprey are feeding. Osprey have become habituated to the current baseline levels of disturbance on the site (business users of the lochan, nearby lodges/hotel and the A9 traffic) and have been witnessed on site during other construction activities (A9 advanced works).

In order to minimise unnecessary disturbance, it is recommended that construction (if granted) should be **commenced** outwith the active osprey season (late March – September) to minimise disturbance around the lochan, especially if the lochan has been stocked. Additionally, a species protection plan (SPP) should be produced to mitigate/minimise disturbance on any visiting osprey during any construction.

The implementation of SPP and timing restrictions will reduce the risk of disturbance of the osprey, therefore, it is considered that this conservation status can be met and given the distance from the SPA (and known nest locations), **no significant disturbance** to the species is considered the likely outcome.

Population of the species as a viable component of the site:

As the other conservation objectives can be met, the population of osprey should not be affected and so this conservation objective will be met.

STAGE 5:

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

1) Kinveachy Forest SPA

Yes it can be ascertained that there will not be an adverse effect on site integrity as all the conservation objectives can be met.

2) River Spey – Insh Marshes SPA

Yes it can be ascertained that there will not be an adverse effect on site integrity as all the conservation objectives can be met provided the below condition is applied to planning permission (should planning permission be granted):

Construction should seek to commence outwith the active osprey season (late March – September) to minimise disturbance around the lochan and a species protection plan should be produced to provide mitigation for minimising disturbance to any visiting osprey during construction.

Reason: To ensure no significant disturbance to osprey occurs.

Annex I: Capercaillie Assessment

2023/0004/DET 27 Construction of 27 lodges, access road & landscaping at site of dry ski slope, Grampian Road, Aviemore.

Q1. Is the proposed development likely to change levels of human activity or patterns of recreation around the proposed development/associated settlement?

Q1: This and Q2 are included as screening questions to filter out any developments that aren't likely to have changed levels or patterns of recreation.

Yes, there would be an increase in the level of human activity (but not patterns of recreation).

The proposed development includes construction of 27 lodges aimed at the tourism market, sleeping 6 people (3 double bedrooms), this results in around 162 additional people staying at the proposed development.

The existing population of Aviemore was estimated to be around 3,800 people in 2020 (based on National Records of Scotland 2019 mid-year estimate of the population).

In the planning system, there is a number of consents for additional residential units, as listed in **Annex II**. Using the 2.07 occupancy rate applied for the LDP (in the absence of a robust alternative), this would amount to an additional 613 people, giving a potential population of around 4,413.

Adding an additional 162 people to the existing Aviemore population (assuming full occupancy year round, which is unlikely given the seasonal fluctuating nature of tourism in the National Park) would increase the current population* by around 4%. This would be a moderate increase in the potential number of people using existing paths and routes, should all the visitors use them (which not all visitors will).

*based on occupancy of existing properties, not including consented but not yet built

The potential population of Aviemore (i.e. baseline existing population plus consented but not yet built) would increase the existing population by around 16% to 4,413 people. Adding the additional 162 people from the proposed development to this would result in an increase in the potential population of around a further 4%.

While the addition of 162 to the existing or potential populations **will likely result in an increase in the levels of human activity**, this needs to be put into context of existing levels of use by other visitors, as well as residents.

The Aviemore and Glenmore area hosts 1,000,000 visitors a year

(<https://www.visitaviemore.com/aviemore-community/>). In the absence of more detailed figures, this would result in around an additional 2,740 people visiting the area each day (assuming that the 1 million visitors are spread evenly over 365 days of the year, which they are not as the tourist season is skewed to summer between June and September <https://cairnngorms.co.uk/wp-content/uploads/2016/06/160620VisitorInfrastructureandInformationFINAL.pdf>). In this context, the addition of an extra 162 people would be a moderate addition to the usual levels of use.

There are a number of existing promoted and well used paths and routes in Aviemore and the surrounding area, as seen in the figure overleaf (taken from the Aviemore Paths leaflet https://www.visitaviemore.com/wp-content/uploads/2013/09/CNPA.Paper_.1911.Aviemore-Paths.pdf). There are also informal un-promoted but well used routes that connect with formal paths and roads. Visitors staying at the proposed development (marked by the black star in the below figure) are considered likely to use the promoted paths, due to information being available about them.

There is no reason to believe that visitors staying at the proposed development would undertake a different pattern of recreation to existing users of paths and routes in Aviemore and the surrounding area.

Aviemore Paths

This leaflet has been developed in partnership with Aviemore and Vicinity Community Council and the Aviemore Business Association.

Aviemore Orbital

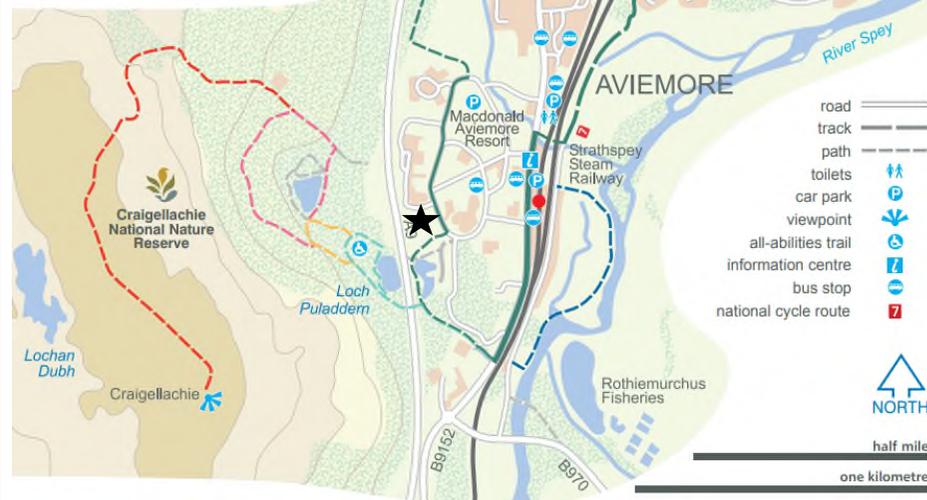
A rich and varied trail taking in Milton Woods and some of Aviemore's hidden heritage.

Distance: 3¼ miles (6km)

Approximate time: 2 hours

Start: Village centre

Terrain: Pavements and minor roads, surfaced paths with some steep sections.



Q2. Are capercaillie woods significantly more accessible from this development site than from other parts of the associated settlement?

Q2: This is included to ensure the effect of otherwise small-scale development sites particularly close to capercaillie woods are adequately considered. Evidence from settlements in Strathspey where houses are adjacent to woodlands indicates that networks of

No.

From the proposed development site, the closest entry point to a known capercaillie wood (**Kinveachy Forest, wood I** on the Badenoch and Strathspey capercaillie woodlands map in **Annex III**, part of the **Kinveachy Forest SPA**) is approximately 2.2km from the proposed development along either public roads/footpaths or the Aviemore Orbital route. As this is some distance from the proposed development, and makes use of existing routes, the proposed development site is not more accessible than from other parts of Aviemore.

<p><i>informal paths and trails have developed within the woods linking back gardens with formal path networks and other popular local destinations (eg primary schools). Such paths are likely to be used by visitors.</i></p>	
<p>If Q1 & Q2 = No, conclusion is no significant disturbance to capercaillie and assessment ends here</p> <p>If Q1 or Q2 = Yes, continue to Q3</p>	
<p>Q3. Which capercaillie woods are likely to be used regularly for recreation by users of the development site at detectable levels? (list all)</p> <p><i>Q3: This is included to identify which capercaillie woods are likely to be used for recreation by users of non-housing development sites at levels that would be detectable. The answer will be assessed using professional judgement based on knowledge of existing patterns of recreation around settlements and in the local area, the relative appeal of the capercaillie woods concerned compared to other recreational opportunities in the area, the volume of recreational visits likely to be generated by the development site, and informed by national survey data (eg on the distances people travel for recreational visits).</i></p>	<p>None at detectable levels.</p> <p>The closest entry point to a known capercaillie wood (Kinveachy Forest, wood I on the map in Annex III and part of the Kinveachy Forest SPA) is approximately 2.2km from the proposed development, located at Milton of Burnside as described in question 2. The tracks and paths in Kinveachy are well used by residents of Burnside for recreation including dog walking, as well as by other residents of Aviemore and other people from the wider area.</p> <p>Due to the distance between the proposed development and the entry point to Kinveachy, it is unlikely that a significant proportion of visitors staying at the proposed development would recreate in Kinveachy. There are other closer and promoted routes, such as the routes within Craigellachie SSSI or the orbital path.</p> <p>In recent years Kinveachy has become known for downhill biking, with illicit route creation causing disturbance in sensitive capercaillie areas. However, the proportion of people staying at the proposed development who might visit Kinveachy and who would be equipped, inclined and capable of doing the downhill biking routes that are causing existing disturbance issues in the wood would be very small. Visitors are also more likely to use existing downhill routes than create new ones, as they are unlikely to stay long enough to identify potential new routes and create them.</p> <p>It is reasonable to expect people staying at the proposed development to also visit other areas popular for recreation/with visitor amenities, such as Boat of Garten, Loch Garten, and Glenmore and Rothiemurchus – all of which are also locations of capercaillie woods (woods J, K, L, M, N and O in Annex III, which are part of Abernethy Forest SPA). However, it is very unlikely that all the people staying at the proposed development would go to the same place at the same time – they are more likely to disperse spatially and also temporally. These areas are already well used and so the level of additional activity caused by people visiting from the proposed development would be undetectable compared to existing levels of use.</p> <p>Therefore any additional disturbance in capercaillie woods from people staying at the proposed development would be minimal (compared to existing levels of use), on existing paths and routes,</p>

	and in well used areas of existing disturbance. Therefore the additional use of the woods by people staying at the proposed development as identified above would not be at detectable levels.
Continue to Q4	
<p>Q4. Are residents / users of this development site predicted to undertake any off path recreational activities in any of the woods identified at Q3 at detectable levels?</p> <p><i>Q4: This is included because any off path recreational use in capercaillie woods will result in significant disturbance and require mitigation.</i></p>	<p>No. There is no reason to believe that people staying in the proposed development would not follow existing patterns of behaviour and use existing paths and tracks for recreation and dog walking.</p>
<p>If Q4 = No for any woods, continue to Q5</p> <p>If Q4 = Yes for any woods, mitigation is needed. Note and continue to Q5.</p>	
<p>Q5: Are each of the woods identified at Q3 already established locations for recreation?</p> <p><i>Q5: This is included because if users of the development site are likely to access previously infrequently-visited capercaillie woods, or parts of these woods, for recreation, significant disturbance is likely and mitigation is needed. This will be answered on the basis of professional knowledge.</i></p>	<p>Yes. See answers to questions 1, 2 and 3.</p>
<p>If Q5 = No for any woods, mitigation is needed. Note and continue to Q6.</p> <p>If Q5 = Yes for any woods, continue to Q6</p>	
<p>Q6: For each of the woods identified at Q3, are users of the development site predicted to have different temporal patterns of recreational use to any existing visitors, or to undertake a different profile of activities? (eg. more dog walking, or early morning</p>	<p>No. The woods are all already well used at a variety times of day for walking, running and cycling, as well as dog walking, by both residents and visitors to Aviemore and the wider area. Visitors staying at the proposed development are unlikely to undertake a different temporal pattern or profile of activities compared to existing use.</p>

<p>use)</p> <p><i>Q6: This is included because some types of recreation are particularly disturbing to capercaillie; and increased levels of these types of recreation will cause significant disturbance and require mitigation. This will be answered on the basis of professional knowledge on existing patterns of recreational use and whether each location is sufficiently close and/or convenient in relation to the development site and patterns of travel from there, to be used by users of the development for different recreational activities or at different times of day. For example, capercaillie woods with safe routes for dogs that are located close to development sites are likely to be used for early morning &/or after work dog walking.</i></p>	
<p>If Q6 = yes for any woods, mitigation is needed. Note and continue to Q7</p> <p>If Q6 = No for any woods, continue to Q7</p>	
<p>Q7: For each of the woods identified at Q3, could the predicted level of use by residents / users of the development site significantly increase overall levels of recreational use?</p> <p><i>Q7: This is included because a significant increase in recreational use could result in significant disturbance to capercaillie, even in situations where the capercaillie wood is already popular for recreation, and no changes to current recreational patterns / activities or off path activities are predicted. The answer was assessed on the basis of professional judgement of current levels of use and whether the increase is likely to be more than approximately 10%.</i></p>	<p>No. There would not be a detectable or significant increase in human activity in Kinveachy Forest or the capercaillie woodlands associated with Boat of Garten, Loch Garten, and Glenmore and Rothiemurchus (woods I, J, K, L, M, N and O in Annex III).</p>
<p>If Q4-7 = No for all woods, conclusion is no significant disturbance to capercaillie and assessment ends here</p> <p>If Q4, 5, 6 and/or 7 = Yes for any woods, mitigation is needed</p>	

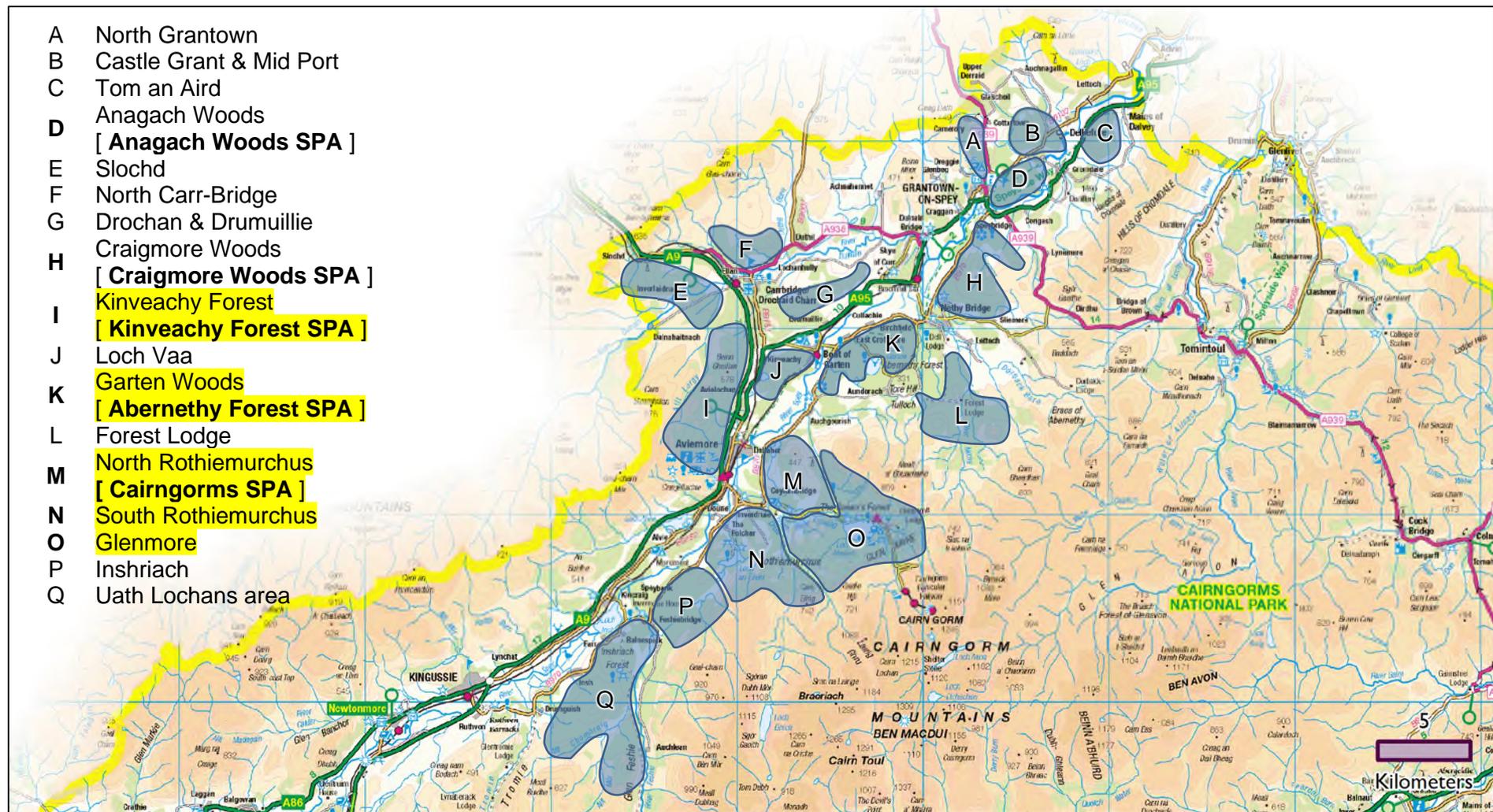
Conclusion: Is mitigation needed as a consequence of this development site in relation to each wood listed at Q3?	None required.
Reasons mitigation needed:	n/a

Annex II – information on planning applications with consent but not yet built

The number of people per application site has, unless otherwise stated fully in application, been calculated using the 2.07 person occupancy figure used for the LDP assessment as explained in the answer to question 1 of this document:

- **GRAMPIAN ROAD, 2 people:** 21/01746/FUL, Change of use from office space to 2 bedroom flat, 85 Grampian Road, Aviemore, PH22 IRH
- **PINE BANK CHALETS – no change,** replacement of one large cabin with two smaller cabins: 21/01221/FUL, Demolition of holiday units, erection of 2 new units, Pine Bank Chalets, Dalfaber Road, Aviemore, PH22 IPX
- **GRAMPIAN ROAD NEAR ACHANTOUL 3 people based on number of guest beds per the approved floor plan:** 20/03708/FUL Conversion of garage annex to form guest bedroom accommodation, Carn Mhor Guest House, The Sheiling, Aviemore, PH22 IQD
- **INVERDRUIE 13 people:** 2016/0158/DET Erection of 6 dwellings, upgrade current access point and a new access track formed; private drainage (shared treatment plant and soakaway), Land 175M SE Of Heatherbank, Rothiemurchus, Aviemore
- **SOUTH END OUTSIDE AVIEMORE 2 people:** 20/04360/FUL Demolition of garage and replacement with double garage with granny flat, Kinmundy, Grampian Road, Aviemore, PH22 IRH
- **SOUTH END OF AVIEMORE LA TAVERNA 8 people based on 4 double beds in each unit as per the approved floor plan:** 19/00846/FUL Construction of 4no. units for holiday letting, High Range Motel, 19 Grampian Road, Aviemore, PH22 IPT
- **NEXT TO HAPPY HAGGIS 56 people:** 2019/0363/DET, Erection of three blocks of flats (27 units) with associated parking and access, Development Site On Former Filling Station Grampian Road Aviemore Highland
- **NEAR HOSPITAL 34 people:** 2019/0298/DET, Spey House Phase 2 - Development of 14 no dwellings including 6no terraced houses, 4no bungalows and 4no cottage flats, Land 20M South East of Spey House, Cairngorm Technology Park, Dalfaber Drive, Aviemore
- **Part of H1 in LDP: 193 people:** Applications associated with 2018/0184/MSC Satisfy the Conditions of Planning Permission PPA-270-2126 for residential units, Land North West Of Dalfaber Farm, Dalfaber Drive, Aviemore
- **PART OF H2 in LDP: 79 people:** 2016/0224/DET Proposed 30 flats and 8 terraced units, Land 30M West Of 31 Allt Mor, Aviemore
- **PART OF AHR MI in LDP:** 33 units of the 140 already built, so for the remaining units it will be **221 people:** 05/306/CP Erection of 140 dwellings, construction of roads and services and landscaping, Horse Field (Land North Of Scandinavian Village), Aviemore
- **SEAFIELD PLACE –22/04334/FUL-** Conversion of a garage into a one bedroom self contained flat. **2 people.**

Annex III – Badenoch and Strathspey capercaillie woods map (assessed woodlands are highlighted)



Capercaillie woodland in Badenoch and Strathspey.

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