



**Cairngorms**  
National Park Authority

Ùghdarras Pàirc Nàiseanta a'  
**Mhonaidh Ruaidh**

Item 5 Appendix 2 11 August 2023

Agenda item 5

Appendix 2

2022/0305/DET

Habitats regulations appraisal

## HABITATS REGULATIONS APPRAISAL

<b>Planning reference and proposal information</b>	2022/0305/DET Erection of 21 dwellings.
<b>Appraised by</b>	Karen Aldridge, Planning Ecological Advice Officer
<b>Date</b>	20 April 2023
<b>Checked by</b>	NatureScot
<b>Date</b>	Date of consultation response from NatureScot

## INFORMATION

### European site details

#### Name of European site(s) potentially affected

- 1) **River Spey SAC**
- 2) **Abernethy Forest SPA**
- 3) **Craigmore Wood SPA**

The Cairngorms SAC is approximately 395 m from the proposed development site, however no connectivity is considered between the SAC qualifying features and the features found within the development site.

#### Qualifying interest(s)

##### 1) **River Spey SAC**

Otter

Freshwater pearl mussel

Sea lamprey

Atlantic salmon

##### 2) **Abernethy Forest SPA**

Breeding: capercaillie

dotterel

golden eagle

merlin

osprey

peregrine

Scottish crossbill

##### 3) **Craigmore Wood SPA**

Breeding Capercaillie.

#### 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 I.** 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) Abernethy Forest SPA**

## **3) Craigmore Wood 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 21 houses of a mix of detached and semi-detached 2 and bedroom houses. The development will include associated mains services and roads infrastructure and is located on Station Road, Nethybridge.

Ground clearance including removal of existing scrub will be required to prepare the development site. The development site is immediately adjacent to the River Nethy, which is part of the River Spey SAC and the site is separated from the River Nethy via Station Road. There is no obvious hydrological link between the development site and the River Nethy.

### 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, through potential pollution events such as sediment released during construction activity or spillages of oils/fuels on or around the site entrance, entering River Nethy and causing pollution changing the water quality, part of the River Spey SAC.

**Otter: YES LSE** from short term disturbance during construction activity and then long term disturbance from activity during occupation of the houses (e.g. from humans and pets particularly dogs moving around the area).

#### **2) Abernethy Forest SPA**

**Dotterel, golden eagle, merlin, osprey, peregrine and Scottish crossbill: NO LSE.** No suitable breeding habitats for these qualifying species are found within the development site or within disturbance distances. The site is immediately adjacent to housing and commercial properties and the current use of the site includes regular public access along the Speyside Way.

**Capercaillie: YES LSE.** There will be no direct impacts on the SPA habitats, with the development being approximately 530 m from the nearest point of the SPA. However, there will

be indirect effects on breeding capercaillie due the increase of people potentially accessing Abernethy Forest SPA, which is easily accessible from the development site through the Speyside Way.

### **3) Craigmore Wood SPA**

**Capercaillie: YES LSE.** There will be no direct impacts on the SPA habitats, with the development being approximately 1km from the nearest point of the SPA. However, there will be indirect effects on breeding capercaillie due the increase of people potentially accessing Craigmore Wood SPA, which is accessible from the development site.

## **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 current and potential distribution of Atlantic salmon or FWPM within the site would not be directly affected as no development will occur in the watercourse. However, pollution from nearby construction activities (e.g. sediment, fuels or oils) 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).

However, due to the lack of direct hydrological connectivity between the development and the SAC habitats mean that the risk of pollution can be managed. A pollution prevention plan is recommended. Mitigation should include standard good practice, such as maintaining a minimum 50 m buffer for storing chemicals/concrete wash out or any other potential polluting activity (SEPA WAT-SG-75). Other relevant Guidance for Pollution Documents should also be referred to and implemented on site (i.e. GPP5, GPP8, GPP21, GPP22) If a pollution prevention plan is conditioned and implemented - this conservation objective 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 smother 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 within the site may be directly affected in the long term through disturbance caused by increased human activity, particularly off-lead dog walking, shifting the population away from the River Nethy. (This effect would be reversible should disturbance cease.). However the development site is within an already heavily disturbed area and therefore it is possible that any otter which use the River Nethy have become habituated to the noise and presence of dogs.

An otter resting site was identified approximately 100 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 and is shielded from view of the development through riparian vegetation, including mature trees. No disturbance of this resting features is considered likely.

Therefore, this conservation objective would be met.

### **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.

## **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.

## **2) Abernethy Forest SPA**

### **Distribution and extent of habitats supporting the species and Structure, function and supporting processes of habitats supporting the species**

There will be no direct or indirect effects on the habitats supporting capercaillie due to the location of the development site in relation to the SPA (>500m). Therefore, these conservation

objectives should be met.

#### **No significant disturbance of the species**

The assessment in Annex I results in a conclusion that there will not be any significant disturbance of capercaillie, therefore this conservation objective will be met.

#### **Distribution of the species within site**

As there should not be significant disturbance of the species, the distribution of capercaillie should be unaffected and therefore this conservation objective will be met.

#### **Population of the species as a viable component of the site**

As all the other conservation objectives will be met, this conservation objectives should be unaffected by the proposed development.

### **3) Abernethy Forest SPA**

#### **Distribution and extent of habitats supporting the species and Structure, function and supporting processes of habitats supporting the species**

There will be no direct or indirect effects on the habitats supporting capercaillie due to the location of the development site in relation to the SPA (>1km). Therefore, these conservation objectives should be met.

#### **No significant disturbance of the species**

The assessment in Annex I results in a conclusion that there will not be any significant disturbance of capercaillie, therefore this conservation objective will be met.

#### **Distribution of the species within site**

As there should not be significant disturbance of the species, the distribution of capercaillie should be unaffected and therefore this conservation objective will be met.

#### **Population of the species as a viable component of the site**

As all the other conservation objectives will be met, this conservation objectives should be unaffected by the proposed development.

### **STAGE 5:**

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

##### **1) River Spey SAC**

Provided the development of a **pollution prevention plan**, which should be agreed with the CNPA prior to any development commencing on site, is 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.

Reason: To avoid pollution reaching the River Nethy (part of the SAC).

## Annex 1: 2022/0305/DET Capercaillie Assessment of Abernethy Forest SPA & Craigmore Wood SPA

<p><b>Q1. Is the proposed development likely to change levels of human activity or patterns of recreation around the proposed development/associated settlement?</b></p> <p><i>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.</i></p>	<p><b>No.</b></p> <p>There is an existing high level of recreational (including walking, running, cycling &amp; dog walking) use by both residents and visitors on existing paths such as the Speyside Way which connects the development site and Abernethy Forest SPA. Craigmore Wood SPA has similar levels and types of activities and is accessible from the development through a network of existing paths, including a path network through Craigmore Wood.</p> <p>Assuming full occupancy of each of the proposed properties, this would result in an additional 96 people residing in Nethybridge. The current estimated population of Nethybridge is 828 (as of 2020). The additional 96 people equates to around a 11% increase in the population. However, it is unlikely that all the occupants of the development will visit Abernethy Woods &amp; Craigmore Wood SPA and fewer still are likely to venture off the designated paths within the woodlands.</p>
<p><b>Q2. Are capercaillie woods significantly more accessible from this development site than from other parts of the associated settlement?</b></p> <p><i>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 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><b>No</b> – Abernethy Forest, Craigmore Wood &amp; other non-designated woodlands which may support capercaillie, in the wider environs from the development site are easily accessible from the majority of the developments within Nethybridge and the neighbouring villages.</p> <p>It is not considered that any new informal paths within either Abernethy Forest or Craigmore Wood will be developed due to this development.</p>
<p><b>If Q1 &amp; Q2 = No, conclusion is no significant disturbance to capercaillie and assessment ends here</b></p> <p>If Q1 or Q2 = Yes, continue to Q3</p>	
<p><b>Q3. Which capercaillie woods are likely to be used regularly for recreation by users of</b></p>	<p>N/a as conclusion for questions 1 and 2 is that there is no significant disturbance and so no need for further assessment.</p>

**the development site at detectable levels?  
(list all)**

*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).*

Continue to Q4

**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?**

*Q4: This is included because any off path recreational use in capercaillie woods will result in significant disturbance and require mitigation.*

N/a as conclusion for questions 1 and 2 is that there is no significant disturbance and so no need for further assessment.

If Q4 = No for any woods, continue to Q5  
If Q4 = Yes for any woods, mitigation is needed. Note and continue to Q5.

**Q5: Are each of the woods identified at Q3 already established locations for recreation?**

*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*

N/a as conclusion for questions 1 and 2 is that there is no significant disturbance and so no need for further assessment.

<i>basis of professional knowledge.</i>	
<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><b>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 use)</b></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 &amp;/or after work dog walking.</i></p>	<p>N/a as conclusion for questions 1 and 2 is that there is no significant disturbance and so no need for further assessment.</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><b>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?</b></p> <p><i>Q7: This is included because a significant increase in recreational use could result in significant disturbance to</i></p>	<p>N/a as conclusion for questions 1 and 2 is that there is no significant disturbance and so no need for further assessment.</p>

*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%.*

**If Q4-7 = No for all woods, conclusion is no significant disturbance to capercaillie and assessment ends here**  
**If Q4, 5, 6 and/or 7 = Yes for any woods, mitigation is needed**

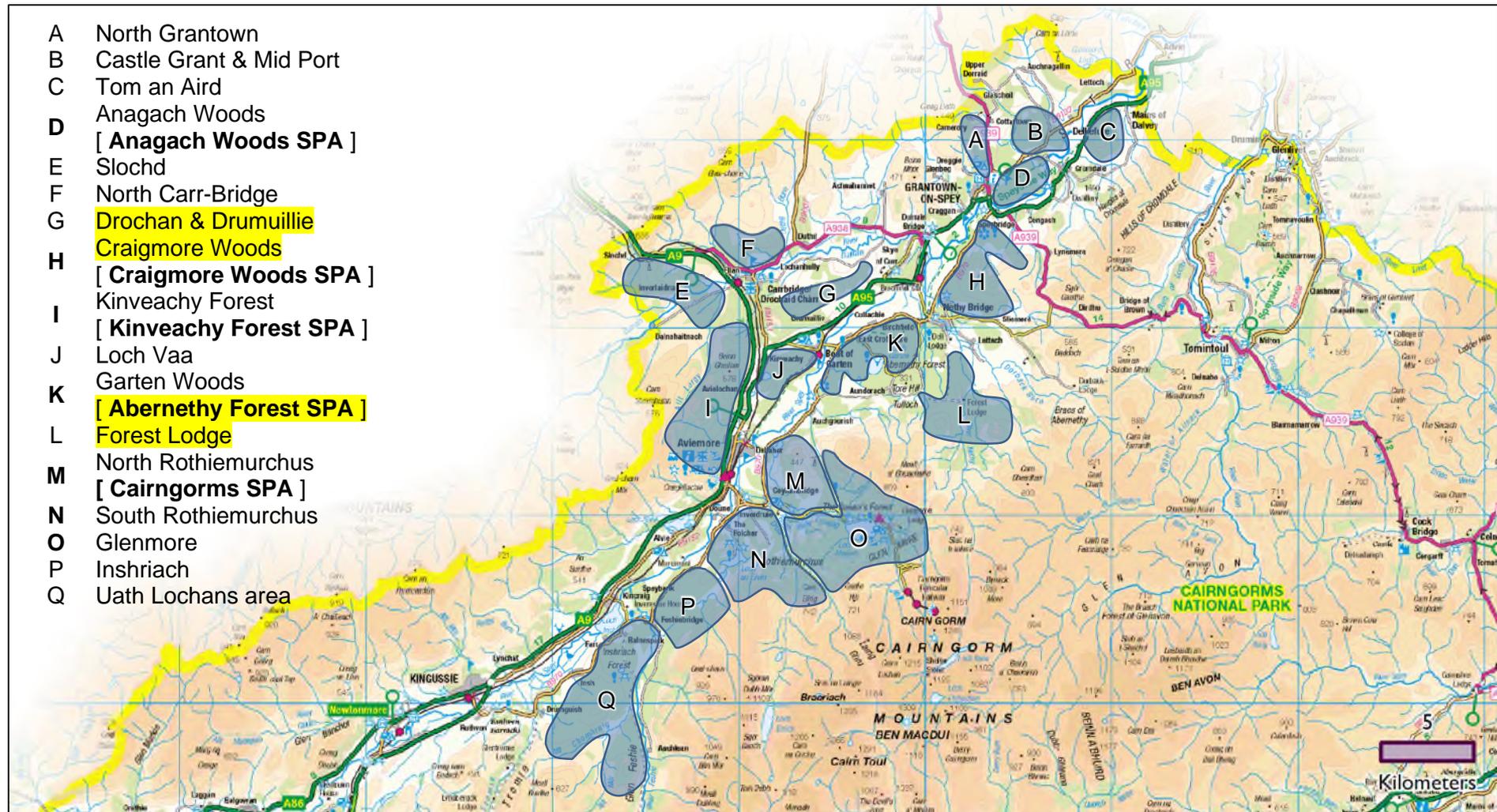
**Conclusion: Is mitigation needed as a consequence of this development site in relation to each wood listed at Q3?**

As conclusion for questions 1 and 2 is that there is no significant disturbance, there is no need for mitigation.

**Reasons mitigation needed:**

N/a as no mitigation required.

## Badenoch and Strathspey capercaillie woods map



Capercaillie woodland in Badenoch and Strathspey.

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