



Cairngorms
National Park Authority

Ùghdarras Pàirc Nàiseanta a'
Mhonaidh Ruaidh

Item 8 Appendix 2 10 November 2023

Agenda item 8

Appendix 2

2023/0357/DET

Habitats regulations appraisal

HABITATS REGULATIONS APPRAISAL

Planning reference and proposal information	2023/0357/DET Construction of new link footpath/cycle route.
Appraised by	Karen Aldridge, Planning Ecological Advice Officer
Date	20 October 2023
Checked by	NatureScot
Date	Date of consultation response from NatureScot

INFORMATION

European site details

Name of European site(s) potentially affected

- 1) **River Dee SAC**
- 2) **Ballochbuie SAC**
- 3) **Ballochbuie SPA**

The development is within the Cairngorms Massif SPA however the proposed site contains unsuitable habitats for golden eagle therefore this designated site has been scoped out.

Qualifying interest(s)

1) **River Dee SAC**

Atlantic salmon

Freshwater pearl mussel

Otter

2) **Ballochbuie SAC (*priority habitats)**

Blanket bog*

Bog woodland*

Caledonian Forest*

Dry heaths

Plants in crevices on acid rocks

Plants in crevice's on base rich rocks

Wet heathland with cross-leaved heath

Otter

3) **Ballochbuie SPA**

Capercaillie; breeding

Scottish crossbill; breeding

Conservation objectives for qualifying interests

1) **River Dee SAC**

Conservation Objective 2. To ensure that the integrity of River Dee SAC is restored by

meeting objectives 2a, 2b and 2c for each qualifying features (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 Dee SAC are in favourable condition and make an appropriate contribution to achieving favourable conservation status

2) Ballochbuie SAC

To avoid deterioration of the **qualifying habitats** (see above) thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features; and

To ensure for the qualifying habitats that the following are maintained in the long term:

- Extent of the habitat on site
- Distribution of the habitat within site
- Structure and function of the habitat
- Processes supporting the habitat
- Distribution of typical species of the habitat

- Viability of typical species as components of the habitat
- No significant disturbance of typical species of the habitat

AND

To avoid deterioration of the habitats of the **qualifying species (otter)** or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features; 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

2) **Ballochbuie 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:

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

APPRAISAL

STAGE 1:

What is the plan or project?

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

Proposed new path/cycleway section which is part of a long term goal to link Braemar to the Deeside Way. This section had previous planning permission (2018/0375/DET) but has undergone a design change due to buildability issues. The previous approved HRA concluded that the site integrity for River Dee SAC, Ballochbuie SAC & Ballochbuie SPA would not be adversely effected by the previous proposal. The route maintains a 2m width and will involve some benching and the new route has been altered to be constructed closer to the A93. Other alterations to the design include utilising clearing in the trees to avoid the need for any tree felling. Drainage proposals remain the same, with a proposed v-shaped (turfed) drainage channel to manage run off with culverts. None of the culverts will discharge directly into any existing water courses and will be aimed to diffuse out over vegetation.

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 Dee SAC

Atlantic salmon & Freshwater Pearl Mussel: YES Likely Significant Effect (LSE).

Given the proximity of the proposed path from the River Dee and the connectivity through run off and the tributary to the west of the proposal, there is potential for short term effects arising during construction, e.g. sediment released during construction changing the water quality.

Otter: YES LSE from short term disturbance during construction and then potentially long term disturbance from recreational activity. Indirect impacts such as pollution events in the surrounding water environment (River Dee and tributaries) could impact upon otter population.

2) Ballochbuie SAC

Caledonian forest - Yes LSE. Although no tree removal is proposed, the works will include working within close proximity to existing trees and may include working within root protection

zones, which could damage mature trees and therefore impact upon the woodland.

Blanket bog, wet heathland, - Yes LSE. There is potential for blanket bog, wet heath to be present within the proposed working area and some habitats may be lost as a direct result of construction. Additionally, there may be indirect impacts through the required drainage e.g. changing the hydrological connectivity of the site.

Plants in crevices on base-rich rocks & plants in crevices on acid rocks - Yes LSE. The site is known to support rare and scarce lichen species, especially on boulders through the site. There is the potential to destroy these habitats by moving boulders to make way for the path.

Dry heath & bog woodland - No LSE. It is not thought that either of these habitat types will be disturbed or significantly damaged.

Otter - Yes LSE. As with River Dee SAC, there is potential for disturbance of otter either directly through construction or recreational activities or indirectly through pollution events into the surrounding water environments.

3) Ballochbuie SPA

Capercaillie - Yes LSE. Although the proposed site is in an area that is little used by capercaillie therefore limiting direct impacts upon the species, however the footpath could result in increased disturbance to capercaillie through recreational activities.

Scottish Crossbill - Yes LSE. Scottish crossbill are likely to be present and breeding in the woodland surrounding the proposed path. Construction during sensitive breeding times (February to mid July) could lead to disturbance of the species.

STAGE 4:

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

1. River Dee SAC

2. To ensure that the integrity of River Dee SAC is restored by meeting objectives 2a, 2b and 2c (and 2d for freshwater pearl mussel)

Atlantic salmon

2b. Maintain the distribution of Atlantic salmon throughout the site

The current and potential distribution of Atlantic salmon within the site would not be directly affected as no development will occur in the SAC. However, pollution from sediment release 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 used by salmon for spawning and juveniles (long term).

Mitigation measures such as a site-specific pollution prevention plan (to be secured by condition) mean that the risk of pollution can be reduced to a minimal level, so that the conservation objective could still be met. The pollution prevention plan should include detailed measures to protect the River Dee and surrounding watercourses from the release of

sediments or other pollutants and adhere to good practice guidance measures¹. If the mitigation is agreed and fully implemented before construction commences, this conservation objective would be met.

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

The current and potential restoration of the distribution of habitats supporting Atlantic salmon within the site would not be directly affected as no development will occur in the SAC. However, as discussed above, pollution from sediment release would affect supporting habitats and if significant amounts of sediment reach the watercourse it could cause smothering, reducing the distribution and extent of habitat suitable for spawning and juveniles (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.

2a. Maintain the population of Atlantic salmon, including range of genetic types, as a viable component of the site

As the other conservation objectives can be met for Atlantic salmon with the mitigation included in the proposal, 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.

Freshwater Pearl Mussel

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

The current and potential distribution FWPM within the site would not be directly affected as no development will occur in the SAC. However, pollution from 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, mitigation measures identified for Atlantic salmon would reduce the risk of pollution reaching the watercourse to a minimal level and so this conservation objective would be met.

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

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

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 for 2b above would reduce the risk of pollution reaching the

¹ [Guidance for Pollution Prevention \(GPP\) documents | NetRegs | Environmental guidance for your business in Northern Ireland & Scotland](#)

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 SAC.

However as discussed in 2b & 2c (above), 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. With the implementation of the mitigation mentioned for Atlantic salmon the risk of pollution events will be reduced 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.

Otter

2b. Maintain the distribution of otter throughout the site

No up-to-date otter survey information has been supplied with the application but the River Dee and surrounding watercourses are known to support otter. A preconstruction survey of all suitable habitat within 200m of the proposed development should be undertaken, prior to any works commencing on site. A species protection plan should be produced and submitted to the CNPA prior to works commencing. Given the proximity of the new proposed path to the A93, any otter using the terrestrial habitats within the proposed development site are likely accustomed to a certain level of noise and light disturbance therefore simple mitigation limiting construction hours to minimise activities which may cause disturbance during hours in which otter may be active would prevent a change in distribution. The recreational activities which the proposed development caters for - cycling and walking are unlikely to lead to an increased volume of disturbance compared to the noise of traffic.

If the species protection plan is conditioned and implemented during construction, this conservation objective would be met.

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

At this time, it is believed that no supporting habitat will be directly lost, e.g. holts or other resting sites. Indirectly, any pollution issues such as those 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 Dee 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) Ballochbuie SAC

*To avoid deterioration of the **qualifying habitats** (see above) thus ensuring that the integrity of the site is maintained, and the site makes an appropriate contribution to achieving favourable conservation status for each of the qualifying features; and*

To ensure for the qualifying habitats that the following are maintained in the long term:

- Extent of the habitat on site*
- Distribution of the habitat within site*
- Structure and function of the habitat*
- Processes supporting the habitat*
- Distribution of typical species of the habitat*
- Viability of typical species as components of the habitat*
- No significant disturbance of typical species of the habitat*

Caledonian Forest - The new proposal does not include the felling of any trees and seeks to develop within the thinner more open sections of the woodland, therefore maintaining the extent and distribution of the habitat on site. However, there is potential for working within the root protection zones of the surrounding trees in places, which could indirectly lead to damage and therefore loss of trees and fragmentation of the habitats. See Ballochbuie SPA assessment for the assessment for the typical species of the habitat but mitigation is proposed to avoid significant disturbance to species using the woodland.

In order to protect the woodland, a tree protection plan/ arboricultural method statement should be condition and implemented in full, which would meet the conservation objectives for the Caledonian Forest.

Blanket bog & wet heathland - Blanket bog and wet heathland are likely to be permanently lost. Approximately 40m of the proposed path will be constructed over areas of blanket bog/wet heath which will lead to a loss of approximately 80m² (40m x 2m wide path). This is not expected to lead to a significant impact on site integrity for these habitats and the proposed drainage will seek to retain the water flow throughout the remaining habitats. Therefore, the conservation

objectives for blanket bog & wet heathland would be met.

Plants in crevices on base-rich rocks & plants in crevices on acid rocks - Along the proposed route, there are a number of rare and scarce species found on the boulders and rocks. As per the previous application (2018/0375/DET) a construction method statement for moving the rocks to retain the sensitive lichen communities. The method statement should ensure that any boulders moved retain their original orientation. If the method statement is conditioned and implemented fully there will be no adverse impact on these habitats and the conservation objectives would be met.

Otter - Impacts on otter are assessed within River Dee SAC & mitigation proposed meaning the conservation objectives will be met.

3) Ballochbuie 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:

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

Capercaillie - Although the proposed development is in an area which is considered largely unsuitable for capercaillie therefore minimising disturbance, the proposed development (path) may lead to increase disturbance in other areas of the SPA which are used by capercaillie, particularly to the east of the proposed development. However, it is not anticipated that the pattern of use for the footpath (e.g. visitors in early morning/evening) will significantly change with the proposed development. As per the previous application, signage to highlight the importance of the site for capercaillie and the recommendation for dogs to stay on a lead and that people stay on the paths should be installed. As per the assessment of the SAC, there will be no significant impacts on the supporting habitats for capercaillie.

With the implementation of the mitigation the conservation measures for capercaillie will be met.

Scottish Crossbill - No trees are proposed for felling therefore no significant impacts upon supporting habitats are anticipated. There is the potential for construction activities to disturb any Scottish crossbill who are nesting within the surrounding trees although evidence would suggest that crossbill are not overly sensitive to disturbance (NatureScot², 2022). In order to prevent disturbance, works are recommended to commence outwith the typical breeding season for Scottish crossbill (February to Mid July). If this is not possible and works must commence during this period, nesting bird checks will be required and an appropriate buffer should be implemented around potential/confirmed nests. If the proposed mitigation is conditioned and implemented no significant impacts on Scottish crossbill, therefore the conservation objectives would be met.

² <https://www.nature.scot/doc/disturbance-distances-selected-scottish-bird-species-naturescot-guidance>

STAGE 5:

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

River Dee SAC

It can be ascertained that there will not be an adverse effect on site integrity if the following is conditioned and implemented:

- 1) A site-specific Pollution Prevention Plan - detailing methods of protecting the surrounding water environments.
- 2) An otter survey and species protection plan detailing results of survey, identifying any potential rest sites and mitigation required to prevent an adverse impact on otter population of the River Dee catchment.

Ballochbuie SAC

It can be ascertained that there will not be an adverse effect on site integrity if the following is conditioned and implemented:

- 3) An arboricultural method statement for construction activities close to trees/tree roots. Method statement should include a tree protection plan.
- 4) A construction method statement for moving any boulders to protect sensitive lichen communities.

Ballochbuie SPA

It can be ascertained that there will not be an adverse effect on site integrity if the following is conditioned and implemented:

- 5) Installation of capercaillie signage to advise users to stay on paths and keep dogs on a lead.
- 6) Works should commence outwith the crossbill breeding season (February to mid-July). If not, nesting birds checks should be undertaken by a suitably experienced ecologist and appropriate buffers implemented.