

# **AGENDA ITEM 8**

## **APPENDIX 3**

**2021/0262/DET**

# **HABITATS REGULATIONS APPRAISAL**

## HABITATS REGULATIONS APPRAISAL

<b>Planning reference and proposal information</b>	2021/0262/DET, Formation, maintenance and upgrading of a vehicular access track (part retrospective) including drainage works, to the south of B955 in Glen Clova, Kirriemuir, DD8 4QR
<b>Appraised by</b>	Nina Caudrey, Planning Officer
<b>Date</b>	31/08/2021
<b>Checked by</b>	
<b>Date</b>	

INFORMATION
<b>European site details</b>
<b>Name of European site(s) potentially affected</b>
<p><b>1. Cairngorms Massif SPA</b></p> <p><b>2. River South Esk SAC</b></p>
<b>Qualifying interest(s)</b>
<p><b>1. Cairngorms Massif SPA</b></p> <p>Breeding golden eagle</p> <p><b>2. River South Esk SAC</b></p> <p>Freshwater pearl mussel</p> <p>Atlantic salmon</p>
<b>Conservation objectives for qualifying interests</b>
<p><b>1. Cairngorms Massif SPA</b></p> <p>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</p> <p>To ensure for the qualifying species that the following are maintained in the long term:</p> <ul style="list-style-type: none"> <li>– Distribution of the species within site</li> <li>– Distribution and extent of habitats supporting the species</li> <li>– Structure, function and supporting processes of habitats supporting the species</li> <li>– No significant disturbance of the species</li> <li>– Population of the species as a viable component of the site</li> </ul> <p><b>2. River South Esk SAC</b></p> <p>Conservation Objective 2. To ensure that the integrity of the River South Esk SAC is restored by meeting objectives 2a, 2b, 2c for each qualifying feature (and 2d for freshwater pearl mussel):</p> <p>2b. Restore the distribution of <b>freshwater pearl mussel</b> throughout the site</p> <p>2c. Restore the habitats supporting freshwater pearl mussel within the site and availability of food</p> <p>2d. Restore the distribution and viability of freshwater pearl mussel host species and their supporting habitats</p> <p>2a. Restore the population of freshwater pearl mussel as a viable component of the site</p> <p>2b. Restore the distribution of <b>Atlantic salmon</b> throughout the site</p> <p>2c. Restore the habitats supporting Atlantic salmon within the site and availability of food</p> <p>2a. Restore the population of Atlantic salmon, including range of genetic types, as a viable component of the site</p>

Conservation Objective 1. To ensure that the qualifying features of the River South Esk SAC are in favourable condition and make 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)**

Retrospective permission for construction of a 600m track for forestry purposes. The track has been constructed within a forestry block and is not connected to the road. There is plantation woodland and a grassed area between the edge of the track and the roadside.

Formation, maintenance and upgrading of a vehicular access track (part retrospective) including ground and drainage works, to the south of B955 in Glen Clova. The track is in two parts that have already been partially created but are suffering from severe erosion of the drainage channels, with a joining route driven by vehicles over vegetated ground (the joining route is not part of the planning application).

The southern part of the track is just within/on the boundary of the Cairngorms Massif SPA. The closest part of the River South Esk SAC is approximately 300m downslope to the east across a field, public road and another field. There is direct watercourse connectivity from the site into the 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. Cairngorms Massif SPA**

**Likely significant effect** on golden eagle due to part of the track being within the SPA therefore potential to affect the habitat of the prey species, and the rest of the tracks being in close proximity to the SPA, therefore potential disturbance to breeding eagle should they be breeding nearby.

#### **2. River South Esk SAC**

**Likely significant effect** due to potential for sediment release affecting water quality and smothering habitat relied on by the qualifying interests during construction and operation of track. NatureScot advice is that "A small watercourse lies adjacent to part of the track and drains into the SAC. Both freshwater pearl mussels and salmon are vulnerable to the effects of fine sediment and other pollutants. Fine material can clog the gills of juvenile salmon, and can smother salmon redds and freshwater pearl mussel beds. Sediment entering these watercourses during construction could potentially impact on mussels and salmon, in combination with other sources of sediment."

### **STAGE 4:**

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

## **I. Cairngorms Massif SPA**

### *Distribution of the species within site*

There is a very small area of track within SPA. It is within rough grassland fields, next to a small forestry block, with the public road and farm tracks in the vicinity. So this area is unlikely to be heavily used by golden eagle due to unsuitability of habitat and existing levels of human activity. Therefore the distribution of the species of the site should not be affected. 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*

Habitat around the small area of tip of the track within the SPA is rough grassland, of low value to prey species to golden eagle. Therefore the distribution of and extent of habitats supporting the species should not be affected. Therefore this conservation objective will be met.

### *No significant disturbance of the specie*

Advice from NatureScot is that the proposed development is “some distance from nearest eagle nesting site that we [NatureScot] know of”. So there would not be any significant disturbance of the species. Therefore this conservation objective will be met.

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

As all the other conservation objectives have been met, there will be no effect on the population of the species Therefore this conservation objective will be met.

## **2. River South Esk SAC**

*Conservation Objective 2. To ensure that the integrity of the River South Esk 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. 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*

*Conservation Objective 1. To ensure that the qualifying features of the River South Esk SAC are in favourable condition and make an appropriate contribution to achieving favourable conservation status*

CNPA and NatureScot both consider that there is potential for sediment reaching the SAC, which could affect water quality and smother the habitats supporting both species, which would affect the distribution of both species and their populations. Therefore **the proposed development as submitted would prevent the conservation objectives from being met.**

## **STAGE 5:**

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

## **I. Cairngorms Massif SPA**

For the Cairngorms Massif SPA, all the conservation objectives will be met. Therefore there will not be an

adverse effect on site integrity.

## **2. River South Esk SAC**

For the River South Esk SAC, the proposed development as submitted would prevent the conservation objectives from being met and therefore there would be an adverse effect on site integrity.

However, provided the below condition is applied to prevent sediment release reaching watercourses connected to the SAC, then the conservation objectives should be met and there will not be an adverse effect on site integrity. The following condition is required:

**Condition:** A Construction Method Statement with details of how works will be carried out and how drainage will be formed, including pollution prevention and control measures to prevent sediment release reaching watercourses connected to the River South Esk SAC, to be submitted to and approved in writing by CNPA prior to any works commencing on site, and thereafter implemented.

**Reason:** To prevent sediment release causing pollution and having an adverse effect on the River South Esk SAC.