

# AGENDA ITEM 5

## APPENDIX 2

2021/0115/PPP

## HABITATS REGULATIONS APPRAISAL

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| <b>Planning reference and proposal information</b> | 2021/0115/PPP, Erection of four houses and associated infrastructure, land 35M South of The Snipe, 3 Deshar Court, Boat of Garten |
| <b>Appraised by</b>                                | Emma Bryce – Planning Manager<br>Nina Caudrey – Planning Officer<br>Alan Atkins – Planning Officer                                |
| <b>Date</b>  | 13/05/2021  |
| <b>Checked by</b>                                  | Hayley Wiswell  |
| <b>Date</b>  | <b>May 2021.</b>  |

| INFORMATION  |
|--|
| European site details  |
| Name of European site(s) potentially affected  |
| Abernethy Forest SPA <sup>1</sup>  |
| Qualifying interest(s)   |
| Breeding: capercaillie, osprey and Scottish crossbill  |
| Conservation objectives for qualifying interests   |
| <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>– Population of the species as a viable component of the site</li> <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> </ul> |

<sup>1</sup> It is recognised that effects on capercaillie at any one of the Badenoch and Strathspey capercaillie SPAs or associated woodlands shown on the map in **Annex I** has the potential to affect the wider capercaillie metapopulation of Badenoch and Strathspey. Attention has been focused in this HRA on the woods likely to be used regularly for recreation by users of the proposed development site, which in this case are Abernethy Forest SPA (woods K and L on the map) and the associated Boat woods (wood J on the map). Other capercaillie SPAs and woods were considered during the initial phase of the assessment (see **Annex I question 3**) but detectable effects were ruled out, so they have not been included in this HRA. If however the HRA had concluded an adverse effect on site integrity, or required mitigation, then all of the capercaillie SPAs in Badenoch and Strathspey would have been reassessed in relation to potential effects on the metapopulation.

## **APPRAISAL**

### **STAGE 1:**

**What is the plan or project?**

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

Proposal for four houses and associated infrastructure in woodland immediately adjoining existing homes and infrastructure in the settlement of Boat of Garten – planning permission in principle, including removal of around 50 trees at the edge of the woodland to accommodate the development.

### **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)?**

Capercaillie – there is a risk of LSE from the potential long term disturbance through increased human activity by the addition of the occupants of the proposed housing – as explained within **Annex I**.

Osprey – no LSE as this species do not use the affected woodland habitat which is remote from the SPA.

Scottish crossbill – a number of Scots Pine trees will be removed for the development, however these are on the edge of a much larger area of pine woodland outwith the SPA, and are unlikely to be significantly used by this species due proximity to existing houses and paths, therefore there will be no LSE.

Osprey and Scottish crossbill are therefore not considered further in this assessment.

### **STAGE 4:**

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

**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) 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** for detailed assessment. In summary, there should not be additional disturbance to capercaillie over and above what is already occurring through use of existing routes in woods J, K and L. 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.

**In conclusion, all conservation objectives can be met.**

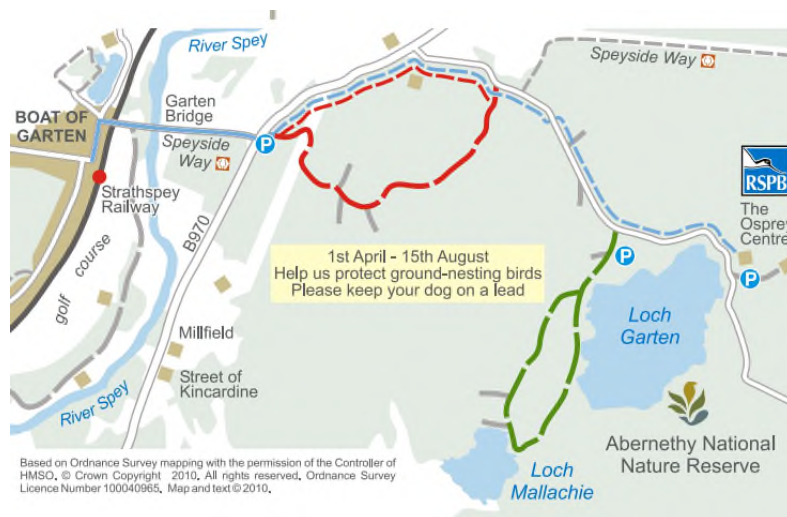
**STAGE 5:****Can it be ascertained that there will not be an adverse effect on site integrity?**

Yes, as all conservation objectives are met it is possible to conclude that there will not be an adverse effect on site integrity.

## Annex I

### 2021/0115/PPP Erection of four houses, land 35M South of The Snipe, 3 Deshar Court, Boat of Garten

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| <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> There is existing high levels of recreational (including walking, running, cycling and dog walking) use by both residents and visitors to the village on existing paths and tracks in <b>Boat woods</b> (referred to as Loch Vaa, woods J, on the capercaillie woods map in <b>Annex I</b>, taken from the HRA of the 2021 LDP) connected to the proposed development site. There is no reason to believe that the addition of the occupants of 4 houses in this well used location would change the existing levels or patterns of recreation.</p> <p>The addition of the occupants of 4 houses to existing levels of recreation activity (including dog walking) in other capercaillie woodlands would not change the level of activity or patterns of recreation in those woods.</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> There are a variety of well used access points into <b>Boat woods</b> from Boat of Garten village and elsewhere (eg via routes from the A95 by Loch Vaa, and from the section of the Speyside Way between the village and Aviemore) as shown on the figures below, extracts of a promoted routes leaflet <a href="http://www.boatofgarten.com/o/wp-content/uploads/2011/09/Boat-of-Garten-walks-map.pdf">http://www.boatofgarten.com/o/wp-content/uploads/2011/09/Boat-of-Garten-walks-map.pdf</a>. Other informal but well used routes also exist in the woods but are not marked on the maps. The closest existing access point is adjacent to the proposed development, at the end of the Strathspey Park cul de sac, which connects to existing and well used paths into the woodlands that radiate out in a variety of directions. This access point is also the furthest from the lek within the woods.</p> <p>There are also existing promoted routes from the village into Garten woods (woods K in <b>Annex I</b>), shown in the second figure below, although again other well used connecting tracks and paths are not shown on the map but are well used by residents and visitors - in practice, the red and green routes on the below map are connected by well used paths and tracks through where the yellow text box is, creating a longer distance route accessible from Boat of Garten either on foot, bike or by driving the short distance to the car park off the B970.</p> |



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| <p>If Q1 &amp; 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><b>Q3. Which capercaillie woods are likely to be used regularly for recreation by users of the development site at detectable levels? (list all)</b></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>Due to the small number of additional people that would occupy the proposed houses in comparison to existing levels of use, the additional regular use of the below woods by occupants of the proposed housing would <b><u>not</u> be at detectable levels.</b></p> <p>People from the proposed development are likely to use, on the map in <b>Annex I</b>:</p> <ul style="list-style-type: none"> <li>- Direct access and connectivity to <b>Loch Vaa – woods J</b> (referred to as <b>Boat woods</b> in this assessment). Boat woods are not part of a SPA, but are an important location for the Badenoch and Strathspey capercaillie SPAs metapopulation.</li> <li>- <b>Garten woods – woods K</b>, which is part of the <b>Abernethy Forest SPA</b> for capercaillie (as well as osprey and Scottish crossbill).</li> </ul> <p>It is reasonable to expect people to also visit other areas popular for recreation, such as Kinveachy and Glenmore (<b>woods L, M, N and O in Annex I</b>). However, the level of additional activity, even in the very unlikely event that all the households went to the same place at the same time, would be undetectable compared to existing levels of use.</p> |
| Continue to Q4  |   |
| <p><b>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?</b></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><b>No.</b> There is no reason to believe that the occupants of the proposed houses 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>  |   |
| <b>Q5: Are each of the woods identified at Q3</b>   | <b>Yes.</b> See answers to questions 1 and 2.   |



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| <p><b>already established locations for recreation?</b></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>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><b>No.</b> The woods are 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 the village. The occupants of the proposed housing are unlikely to undertake a different temporal pattern or profile of activities compared to existing use.</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>  |  |

**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?**

*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%.*

**No.** While occupants of the proposed housing are likely to use Boat woods and other capercaillie woodlands as identified in question 3, due to the small number of houses proposed and the existing levels of use of the woods, the addition of 4 houses in the proposed location would not significantly increase the overall levels of recreational use.

Since the 32 house Pinewood development was consented in 2014, a further 24 dwellings have been granted consent in Boat of Garten (see below information). Using the 2.07 occupancy rate applied for the LDP (in the absence of a robust alternative), this amounts to an additional 50 people. When added to the 32 houses consented at Pinewood, this would result in an overall population increase of 125. Adding a further 9 people to this from the proposed development does not cause a significant increase in the additional population that would arise from already consented and the Pinewood housing (125 people compared to 116).

The Pinewood development consists of 30 houses (built and in occupation for a number of years) and two self-build plots (subject to separate planning consent, which has been granted). Anecdotal evidence is that while there has been an increase in activity on paths accessed in the vicinity of the Pinewood development, this has not resulted in a detectable change in the pre-existing patterns and types of recreation activity (including dog walking) in Boat woods (or in capercaillie woods elsewhere). This has been confirmed by RSPB who advise that the capercaillie “have remained relatively stable in population between 2015-2021. There has been some slight fluctuations in the lek count and brood count results, which is typical in capercaillie surveys, but there is no apparent trend.” (RSPB pers comm). This is based on lek and brood counts, as well as two full occupancy surveys completed in 2017 and again in 2020, using the same methods, where a similar number of birds were seen in both surveys. The birds were roughly using the same area, as they continue to avoid the forest closest to the village. This is expected as the forest closest to the village is where the greatest concentrations of human activity, particularly dog walking, occurs.

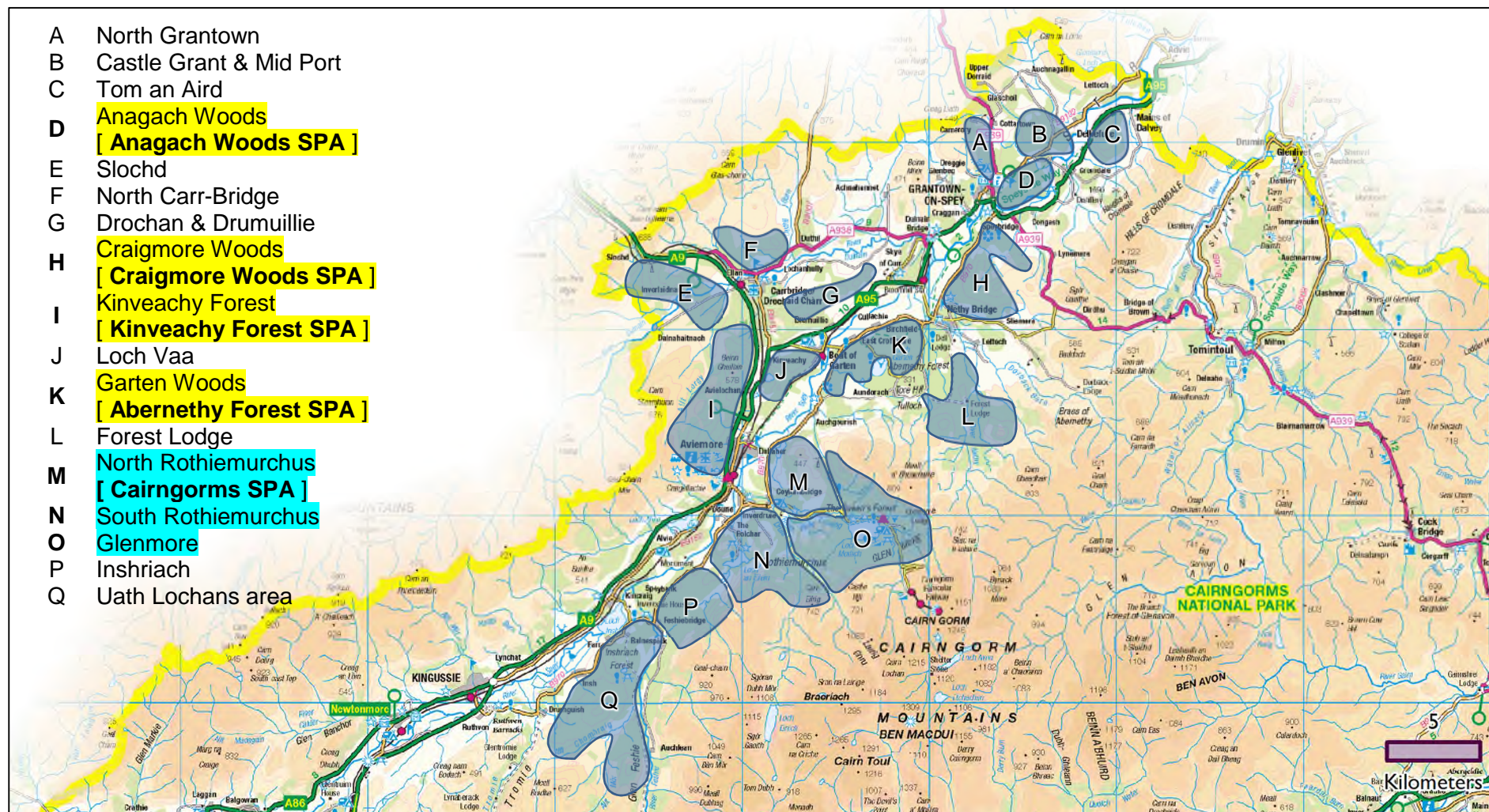
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**Cumulative proposals granted consent within Boat of Garten since Pinewood (30 houses and 2 house plots, granted October 2014):**

- 20/01888/FUL two semi detached houses behind house neighbouring Fraoch Lodge, granted Sept 2020
- ~~20/00719/FUL, Erection of house, 16 Pinewood Road Boat Of Garten PH24 3BF (behind recycle bin car park) (part of original Pinewood permission so not counted as is already included as part of Pinewood figures)~~
- Sawmill houses – 12, February 2020

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|  | <ul style="list-style-type: none"> <li>– 18/05435/FUL Erect new house within garden ground (REVISED SCHEME 18/03290/FUL) Land 30M SE of 6 Strathspey Park Boat Of Garten Jan 2019</li> <li>– 18/01051/FUL Change of use of outbuilding to form self contained residential unit and erection of extensions (part retrospective) Fairlawn Kinchurdy Road Boat Of Garten PH24 3BP May 2018</li> <li><del>– 17/01593/FUL Erection of house (Plot 7) 14 Pinewood Road Boat Of Garten June 2017 (part of original Pinewood permission so not counted as is already included as part of Pinewood figures)</del></li> <li>– 16/01884/FUL Erection of two semi-detached houses Land 55M SW Of Spey View Deshar Road Boat Of Garten Jan 2017</li> <li>– 2018/0173/PPP Demolition of existing shop and cafe and erection of 6 new housing units and associated car parking and cycle storage Dow Store And The Osprey Cafe Deshar Road Boat Of Garten Nov 2018</li> </ul> <p><b>Total of 24 dwellings, apply 2.07 occupancy = additional 50 people on top of additional 67 people associated with Pinewood development.</b></p> <p><b>Proposed 4 dwellings would add additional 9 people to this figure, so would be 125 people compared to 116 people with existing permissions.</b></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> |  |
| <b>Conclusion: Is mitigation needed as a consequence of this development site in relation to each wood listed at Q3?</b>   | <b>None required.</b>  |
| <b>Reasons mitigation needed:</b>  | n/a  |

## Badenoch and Strathspey capercaillie woodlands



Capercaillie woodland in Badenoch and Strathspey.

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