AGENDA ITEM 5

APPENDIX 2

2020/0009/DET

HABITATS REGULATION APPRAISAL

HABITATS REGULATIONS APPRAISAL

Planning reference and proposal information	2020/0009/DET Erection of 18 dwellings including associated drainage and road layout.
Appraised by	Emma Bryce – Planning Manager Nina Caudrey – Planning Officer
Date	17/06/2021
Checked by	Hayley Wiswell – Conservation Officer
Date	26/03/2021

INFORMATION

European site details

Name of European site(s) potentially affected

1. River Spey SAC
2. Anagach Woods SPA

Qualifying interest(s)

1. Atlantic salmon

   Otter

   Fresh water pearl mussel

   Sea lamprey
2. Capercaillie

Conservation objectives for qualifying interests

1. River Spey SAC:

To avoid deterioration of the habitats of 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 avoid deterioration of the habitats of the qualifying species or significant disturbance to species, including range of genetic types for salmon, 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
– Distribution and viability of freshwater pearl mussel host species
– Structure, function and supporting process of habitats supporting freshwater pearl mussel host species.

2. Anagach Woods 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)

Erection of 18 dwellings including associated drainage, mains sewerage connection and road layout. Surface water drainage will be via a detention basin with an outflow connection to the existing Cromdale Burn. Site allocated as H1 in the 2020 LDP.

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
Otter:
Potential for likely significant effects during construction (notably construction of the SUDS outflow and foul drain outflow, both of which are in close proximity to the Cromdale burn, part of the SAC) through disturbance and pollution events caused by construction activity and sediment release from ground works reaching the Cromdale burn, affecting water quality and smothering habitats. There is also a risk of entrapment in the SUDs outflow if a vermin screen is not fitted to the pipe.The foul drain is proposed to link into an existing foul drain from the main village, which runs to the sewage works downstream. The proposed connection appears to be almost directly on top of the burn in line with a track crossing the burn (Drainage Layout Plan CTCH-J2844-002).

With regard to potential disturbance to otter from residents during occupation of the proposed housing, the residents of the site are likely to use the existing footpath network, which follows the Cromdale burn to the Spey where there is an informal seating area and picnic area. This path is already well used by residents of the village as part of a circular recreational route that includes the old Speyside railway line and links to Cromdale Kirk. In addition there is a playing field on the opposite side of the burn, which appears to maintained and in use. As a result otter will be used to some disturbance from recreational activity in the vicinity of the proposed development. Recreation is also most likely to take place during daylight hours when otter are less likely to be active. Therefore, the small area affected by recreation disturbance already experiences a level of human activity due to close proximity of the Speyside Way footpath and adjacent playing field, so the introduction of a relatively small number of additional people undertaking the same activities as existing local people would not cause otter to avoid the area. The impact of additional recreational activity on otter is not considered to be significant, therefore no likely significant effect caused by recreation activity.

Atlantic salmon, sea lamprey, fresh water pearl mussel:

Potential for likely significant effects during construction (notably construction of the SUDS outflow and foul drain connection) through pollution events caused by sediment release from excavations reaching the Cromdale burn, affecting water quality and smothering habitats. The foul drain is proposed to link into an existing fowl drain from the main village which runs to the sewage works downstream. The proposed new connection appears to be almost directly on top of the burn in line with a track crossing the burn (Drainage Layout Plan CTCH-J2844-002) and should be relocated further away from the burn if possible.

2. Anagach Woods SPA

Capercaillie:

No likely significant effect – see Appendix 1(it is considered HRA undertaken for LDP remains valid for this application). Anagach Woods SPA is therefore not considered further in this HRA.

STAGE 4:

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

No significant disturbance of the species

Otter: construction activity at the watercourse, in particular the SUDs outflow and sewer connection, could cause disturbance to otter using the Cromdale burn.

Distribution of the species within site, Distribution and extent of habitats supporting the species,

Structure, function and supporting processes of habitats supporting the species,

Distribution and viability of freshwater pearl mussel host species, and Structure, function and supporting process of habitats supporting freshwater pearl mussel host species

All species: Pollution from sediment run off during construction could affect the structure, function and supporting processes of habitats supporting the species (and their host species) and therefore the distribution of species (and their host species) on the site. This would occur through changes in water quality and smothering of habitat if sediment released during construction reached the watercourse.

Population of the species, including range of genetic types for salmon, as a viable component of the site

Atlantic salmon, sea lamprey, fresh water pearl mussel: As a result of above effects on the other conservation objectives, the population of these species as a viable component of the site could be affected through changes in water quality and smothering of habitat if sediment released during construction reached the watercourse.

Otter: It is unlikely that the population of otter would become unviable, as they are numerous and widespread throughout the SAC, and the proposed works would temporarily (during construction) have a short effect a very small stretch of one watercourse that is used for commuting and possible foraging (based on the ecological survey results).

Conclusion: Not possible to conclude that the conservation objectives would all be met for all of the qualifying interests, however straightforward good practice mitigation measures could be applied to ensure that all the conservation objectives could be met. Recommended mitigation is:

Otter:

- a Species Protection Plan with appropriate mitigation measures overseen by an ECoW onsite during construction of the SUDs pond and mains sewer connection. This should include: a vermin grill to be fitted to the outflow of the SUDs pond to prevent access by otter, a pre-construction survey in accordance with NatureScot guidance (https://www.nature.scot/species-planning-advice-otter) and appropriate mitigation measures to avoid disturbance such as, but not limited to, , working hours avoiding one hour before sunset until one hour after sunrise.

All Species:

- a Construction Environmental Management Plan which details pollution prevention measures during construction to prevent pollution reaching the Cromdale burn (particularly from construction of the SUDs pond (including outflow) and connection to the mains sewer), and references the most uptodate SEPA Guidance for Pollution Prevention Works and maintenance in or near water[1]

The Species Protection Plan and the Construction Environmental Management Plan should be approved in writing by CNPA prior to commencement of works on site.

STAGE 5:

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

Provided the mitigation measures identified in Stage 4 are applied as conditions on any planning permission granted and subsequently are fully 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. The conditions required to avoid pollution reaching the Cromdale Burn (part of the SAC) for all species and to avoid disturbance to otter are:

- No development shall commence on site until a Species Protection Plan is submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority. Thereafter the approved plan will be implemented in full and overseen by suitable qualified Ecological Clerk of Works on site during construction of the SUDs pond and mains sewer connection. This should include: a vermin grill to be fitted to the outflow of the SUDs pond to prevent access by otter, a pre-construction survey in accordance with NatureScot guidance (https://www.nature.scot/species-planning-advice-otter) and appropriate mitigation measures to avoid disturbance such as, but not limited to, working hours avoiding one hour before sunset untilone hour after sunrise.

- No development shall commence on site until a Construction Environmental Management Plan which details pollution prevention during construction to prevent pollution reaching the Cromdale burn (particularly from construction of the SUDs pond (including outflow) and connection to the mains sewer) and references the most uptodate SEPA Guidance for

[1] https://www.netregs.org.uk/environmental-topics/guidance-for-pollution-prevention-gpp-documents/guidance-for-pollution-prevention-gpps-full-list/

Pollution Prevention Works and maintenance in or near water[2] is submitted to and approved in writing by the Cairngorms National Park Authority acting as Planning Authority in consultation with SEPA. Thereafter the development shall commence strictly in accordance with the approved plan.

[2] https://www.netregs.org.uk/environmental-topics/guidance-for-pollution-prevention-gpp-documents/guidance-for-pollution-prevention-gpps-full-list/

Extract of the HRA for the 2020 LDP for

Settlement: Cromdale

Anagach Woods SPA – capercaillie				
Settlement(s) / site(s)	**Potential likely significant effects**	**LDP modification / mitigation**	**Residual effects**	**Conclusion – any adverse effect on site integrity?**
Cromdale (H1: Kirk Road; H2: Auchroisk Park)	There are no likely significant effects because the proposed development sites are either: A) i. not predicted to increase the population of the settlement over the plan period; and / or change levels or patterns of recreational activity around the settlement; and ii. not significantly more accessible to capercaillie woods OR B) i. residents of the development sites are not predicted to undertake off path recreational activities in any of the woods; and ii. the woods are already established locations for recreation; and iii. residents/users of the development site are not expected to have different	None required	None	The identified mitigation measures and application of safeguarding policies within the LDP will ensure there will be no adverse effect on the integrity of the SAC, either alone or cumulatively with other development affecting it

	temporal patterns of recreation use from any existing visitor or undertake a different profile of activities; and iv. the overall level of recreational use will not significantly increase. (See settlement specific table below for further details).			

Q1. If all the current and proposed development sites in this settlement are developed, is the population of the settlement predicted to increase over the plan period and/or are any non-housing development sites likely to change levels of human activity or patterns of recreation around the settlement?
Yes. New housing over the plan period could mean that Cromdale is able to accommodate a net increase in population of around 9%. However, this would only equate to just over 20 additional people.
Q2. Are capercaillie woods significantly more accessible from this development site than from other parts of the settlement?
No
Q3. Which capercaillie woods are likely to be used regularly for recreation by residents / users of the development site at detectable levels? (list all)
Anagach Woods (Anagach Woods SPA) Tom an Aird (Anagach Woods SPA) Castle Grant and Mid Port (Anagach Woods SPA)
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?
No
Q5: Are each of the woods identified at Q3 already established locations for recreation?
Yes
Q6: For each of the woods identified at Q3, are residents / 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)

No
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?
No
Conclusion: Is mitigation needed as a consequence of this development site in relation to each wood listed at Q3? Give Yes/No answer for each wood
Mitigation is not required for any of the woodlands listed
Reasons mitigation needed