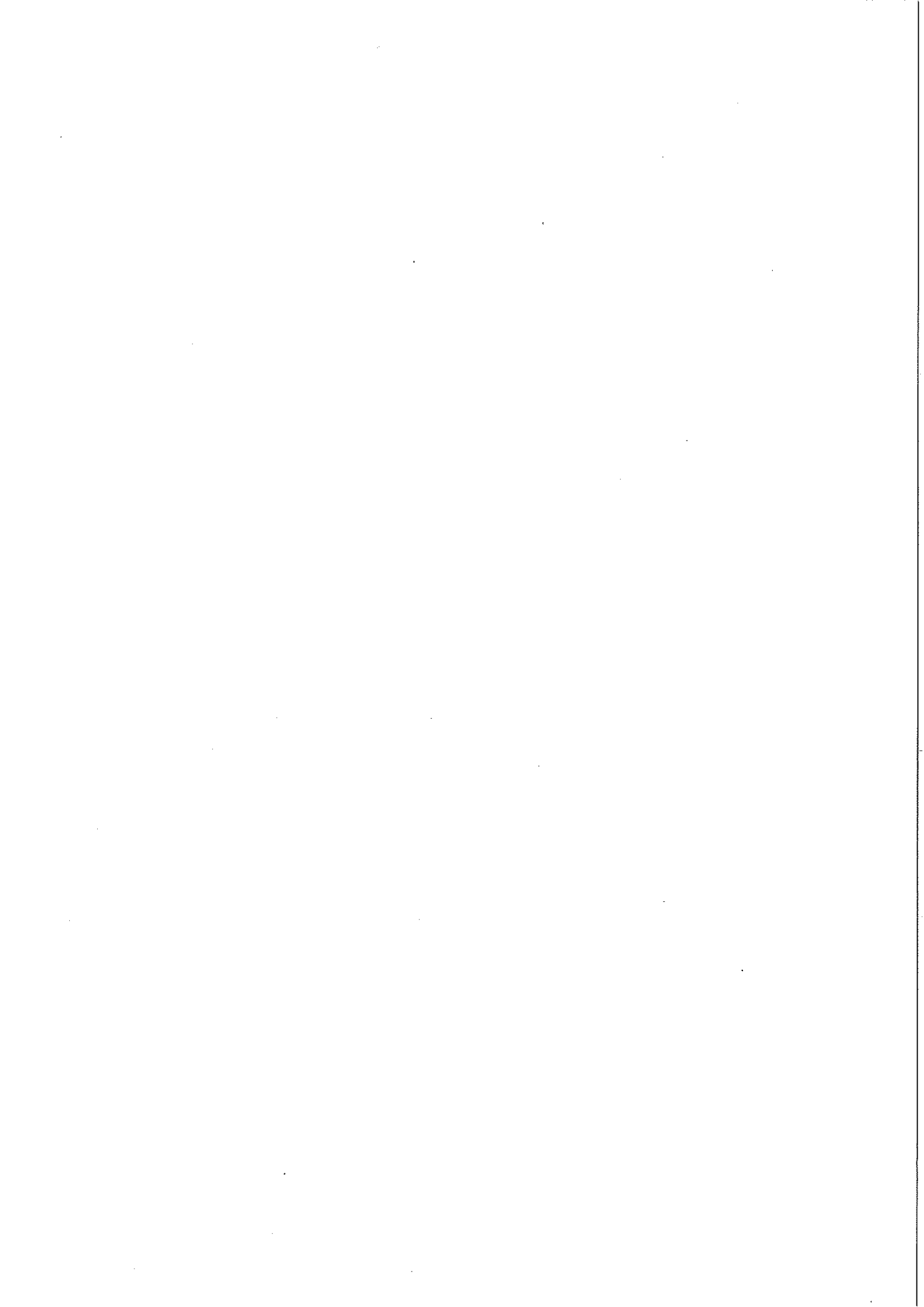
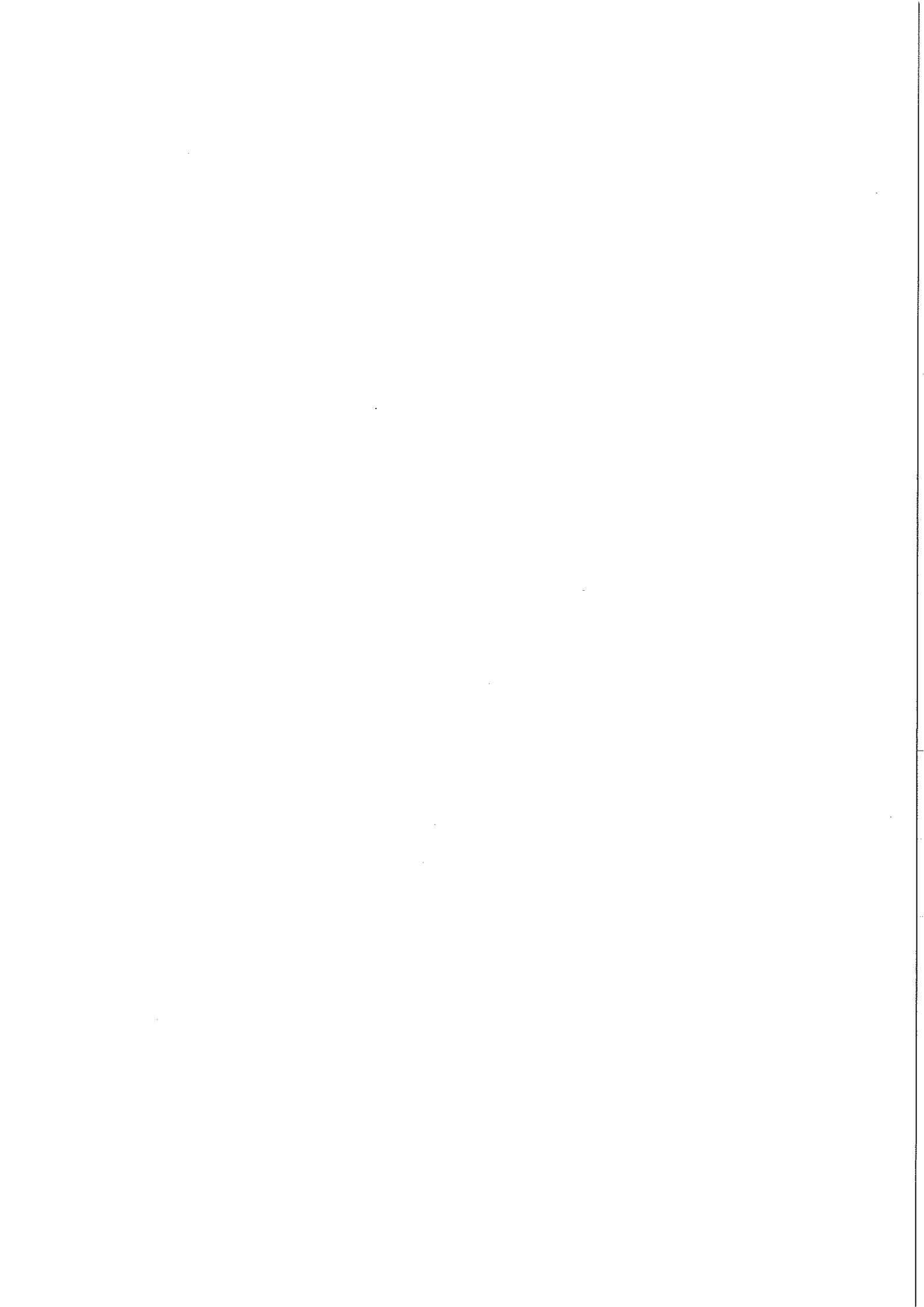


## APPENDICES



**APPENDIX 1 CNPA/SNH Mitigation Criteria**



## **Boat of Garten housing proposals – mitigation criteria**

### **Proposals**

The criteria below will be used by CNPA and SNH to assess any mitigation proposals coming forwards for the applicant in relation to the deferred proposals for 72 houses and five house plots in Boat of Garten Woods.

### **Context**

The mitigation is required to comply with the Habitats Regulations by ensuring that this development results in no increase in disturbance to Capercaillie that might affect the nearby Special Protection Areas. It must also comply with policies in the National Park Plan, other relevant legislation and be framed within the vision, guiding principles and policies contained within the Local Plan for the Cairngorms National Park and relevant Supplementary Guidance.

Boat of Garten Woods are defined as the extent of tree cover from Boat of Garten west to Loch nan Carriagean and bounded by the Strathspey Railway and the Inverness to Perth main line. The baseline study and subsequent mitigation may include the wider area and not be solely restricted to the woods.

### **Outcome**

The outcome sought from the mitigation proposals is that there must be no increase in disturbance to the Capercaillie in Boat of Garten Wood as a result of this development. In particular, the mitigation proposals must ensure that the development will not affect the ability of the Capercaillie there to continue living and breeding successfully, at levels which sustain the meta-population.

No.	Criteria and Reason
1.	<p><b>Current and estimated recreational use and provision: The mitigation proposals should be based on a detailed and evidence-based understanding of current recreational use of the area, (both spatially and temporally) in terms of numbers, distribution, behaviour and reasons and take account of the predicted future recreation demand arising from the proposed development.</b></p> <p>(Reason: This information is needed in order to plan where, when, and what mitigation is needed and to help assess the effectiveness of alternative proposals. To achieve this it is important to build up a picture of where people currently go in the woods, whether or not they are accompanied by dogs as the frequency and nature of use can impact adversely on Capercaillie. Potential future use resulting from the development along with the existing information will provide a baseline against which to assess the success of the mitigation measures.)</p>
2.	<p><b>Best practice: The mitigation proposals should be built on best practice and reference should be made to relevant examples elsewhere in UK or Europe where similar approaches have been proven to be effective in such situations</b></p> <p>(Reason: Evidence is required that will provide confidence that the mitigation proposed will be successful in Boat of Garten.)</p>
3.	<p><b>Location and time-specific: The mitigation proposals should be designed to avoid an increase in disturbance throughout the parts of Boat of Garten wood currently used by Capercaillie. They should analyse information on the sensitivity of different parts of the wood for Capercaillie, and the sensitivity of different times of the day and year, alongside consideration of current and likely future levels and patterns of recreational use.</b></p> <p>(Reason: Evidence shows that Capercaillie currently use most of Boat of Garten wood, and mitigation must prevent increased disturbance throughout the area they use. There will also be some areas and some time periods that are particularly sensitive and/or particularly likely to have an increase in recreational disturbance as a result of the development, and these may require additional targeted mitigation measures.)</p>

4.	<p>Paths and peoples' use: The proposals should consider the need for a reduced network of paths, which still meets the needs of the community, addresses the management needs of Capercaillie and are practical and enforceable mechanisms. The proposals should identify how they will ensure that there is no increase in recreational disturbance by people and dogs off paths, or on minor / informal paths, as a result of this development and that how the proliferation of new informal paths will be avoided. [Examples of the range of mechanisms might include signs, wardening, guidance to new house occupiers through to more formal arrangements such as an agreement through the Town and Country Planning (Scotland) Act 1997, the powers contained in the Land Reform (Scotland) Act such as provisions for byelaws, Rangers, powers to protect the natural heritage, or powers such as Management Rules contained in the National Park (Scotland ) Act 2000 and Wildlife and Countryside Act and habitats regulations.]</p> <p>(Reason: Existing evidence suggests that Capercaillie already avoid existing paths and tracks, and also that infrequent recreational use of informal paths and off-path areas are both more disturbing than use of the main paths. Capercaillie disturbance is at its most sensitive during the breeding and rearing season and disturbance from dogs is recognised as a potential year round problem.)</p>
5.	<p><b>Community engagement and support: The proposals should demonstrate effective engagement with the community and recreational users and a sufficient degree of support to ensure the proposals are effective.</b></p> <p>(Reason: To be effective there needs to be clear support from regular users shown through positive behaviour change so that informal networks are unlikely to be created or existing desire lines restored if removed.)</p>
6.	<p><b>Alternative recreational provision: The mitigation proposals should demonstrate how any predicted increases in the types of recreational use that are likely to disturb Capercaillie (e.g. dogs ranging off paths) will be catered for and diverted to a suitable location that won't disturb Capercaillie.</b></p> <p>(Reason: To be effective, mitigation proposals need to ensure that predicted demands for different types of recreation arising from this development are catered for in a suitably attractive manner and location that will not result in increased disturbance to Capercaillie.)</p>

7.	<p><b>Any Screening proposals, including planting and vegetation management, requires to be effective and commensurate with the phasing of the development, including the construction phase.</b></p> <p>(Reason: Screening has to work immediately the development commences otherwise negative impacts are likely to occur.)</p>
8.	<p><b>Practical enforcement: The mitigation proposals should demonstrate that the measures will be practically enforceable and maintained in perpetuity at no cost to the public purse.</b></p> <p>(Reason: The proposals must demonstrate that they are workable and affordable, including any contingency arrangements.)</p>
9.	<p><b>Phasing: The mitigation proposals should identify how mitigation measures will be effective at the appropriate time in line with the construction and development phasing.</b></p> <p>(Reason: To ensure that short and medium term disturbance does not occur in advance of more permanent solutions coming into play.)</p>
10.	<p><b>Monitoring, review and adaptive management: The mitigation and management measures must be monitored and reviewed to ensure effectiveness in perpetuity and a mechanism put in place to take further management measures to reduce disturbance if necessary.</b></p> <p>(Reason: To ensure the mitigation measures continue to be effective.)</p>



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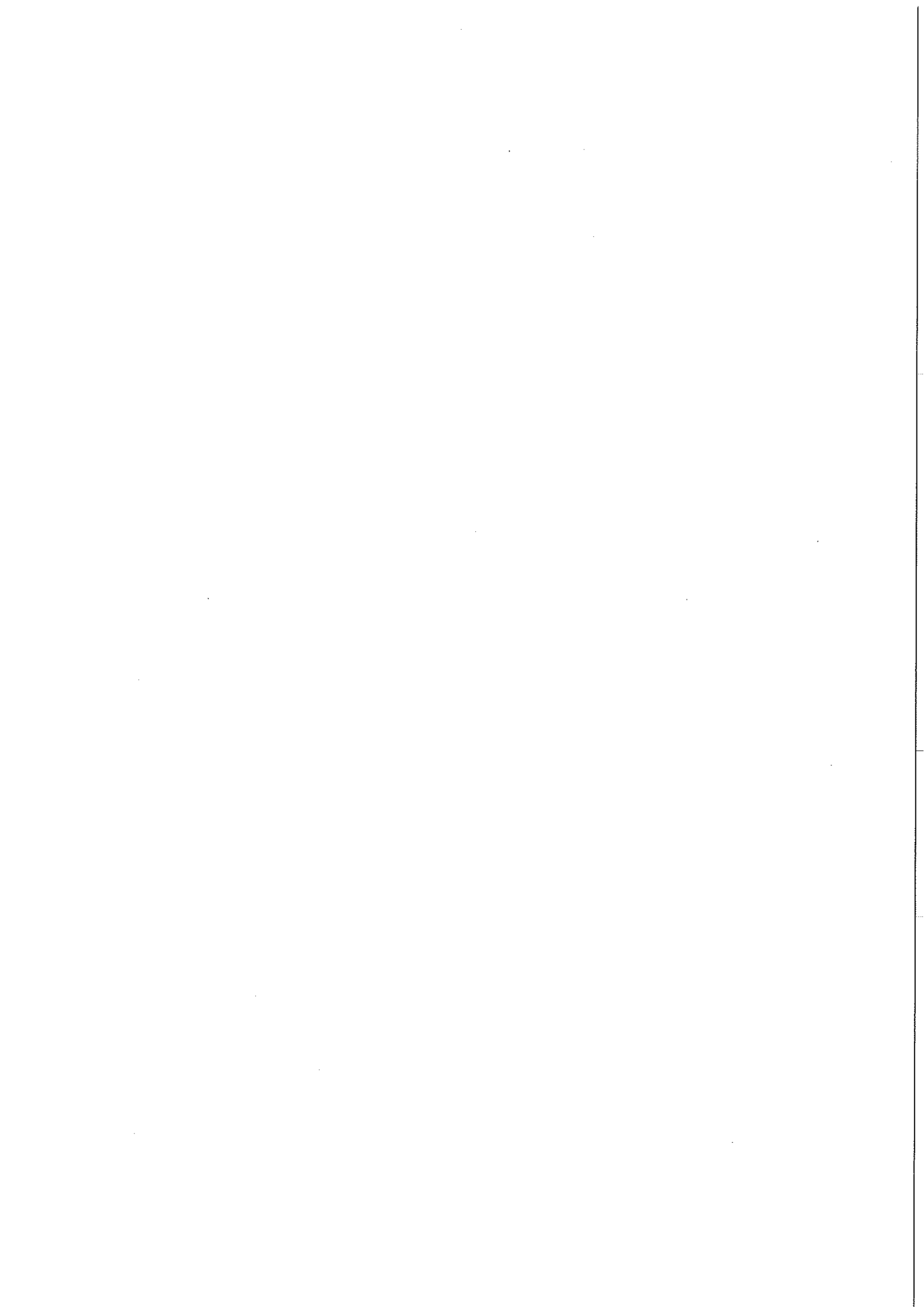
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**APPENDIX 2 CNPA Core Paths in and Around Boat of Garten**

## Map 20

### Boat of Garten

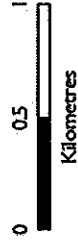
Boat of Garten Core Paths	
Path Ref No	Path Name/Description
LBS1	The River Spey
LBS53	Sustrans Route 7
LBS64	The Speyside Way – new path to be developed
LBS66	River Path
LBS67	Woodland Path
LBS69	Craigie to Curling Pond Path
LBS70	All Abilities Trail
LBS71	Boat to Drumullie
LBS111	Abernethy (red route)
LBS112	Loch Garten to Loch Mallachie Path
LBS113	A96 Cycle Path
LBS116	The Speyside Way
LBS121	River Path
LBS126	Sustrans Route 7
GR6	The Sluggan

**Map Legend**

--- Core Paths

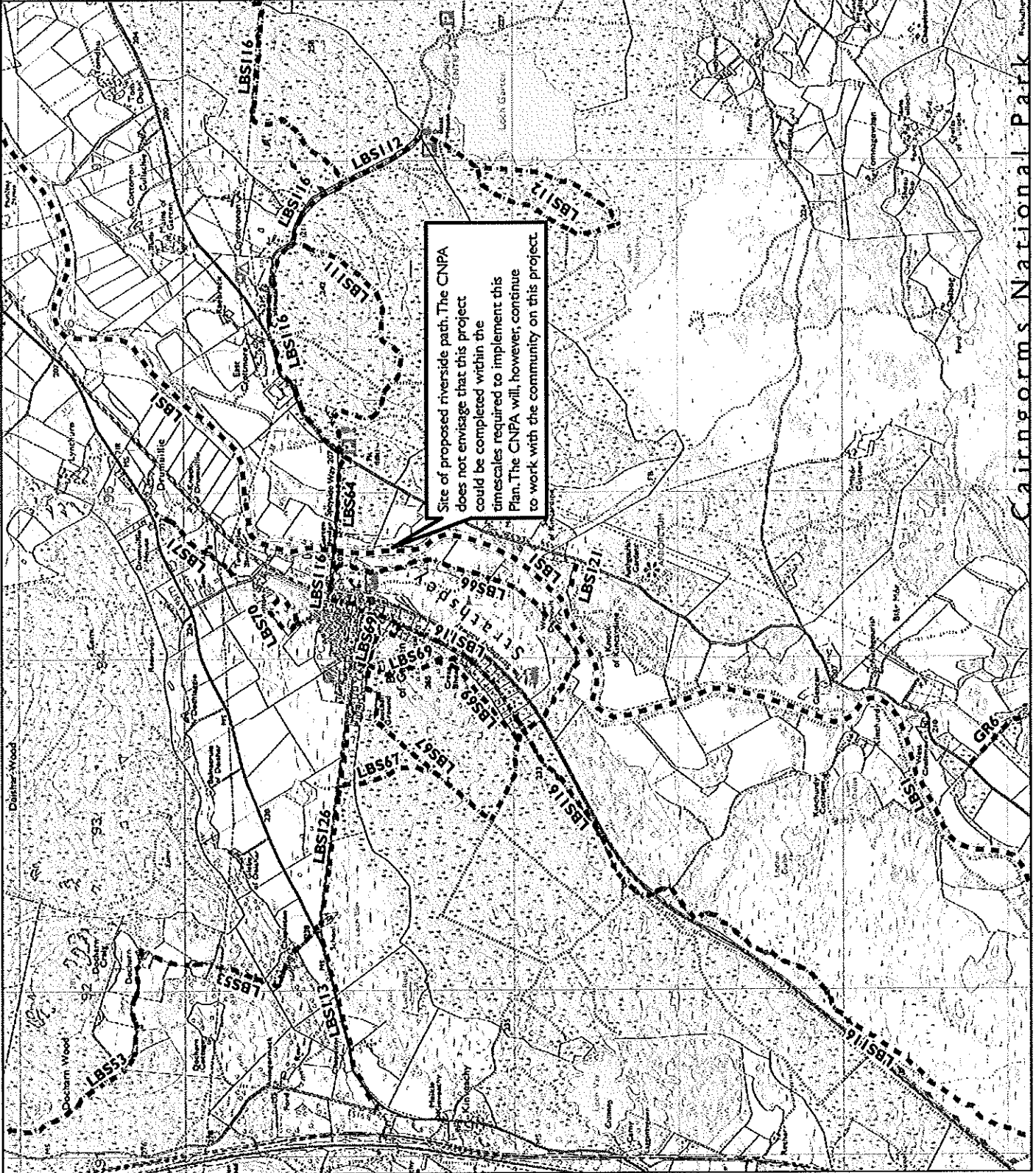
CAIRNGORMS NATIONAL PARK

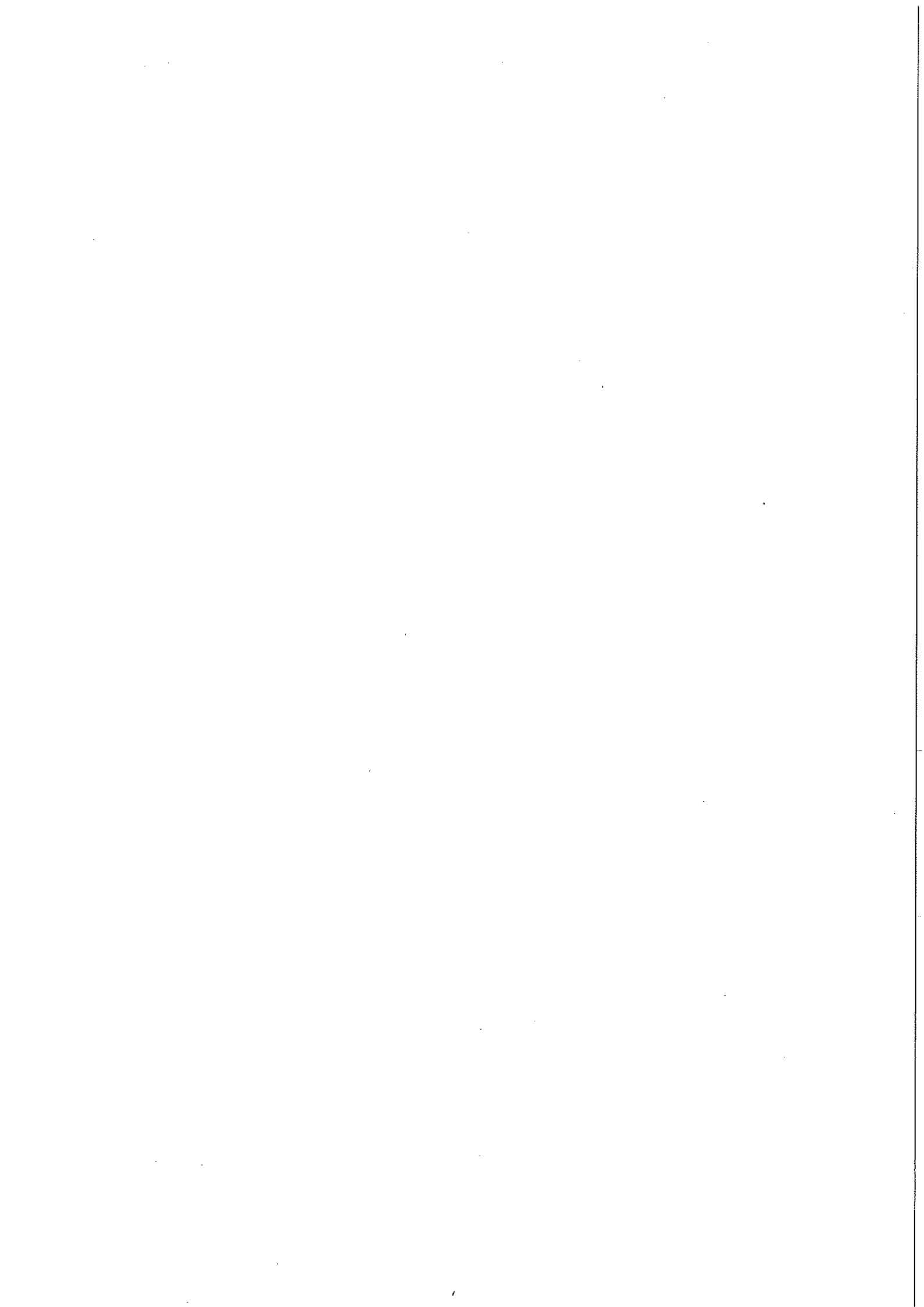
LBSI Path Reference Number



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 HFRSO. © Crown copyright and database right 2010. All  
 rights reserved. Ordnance Survey Licence number  
 100009565 Cairngorms National Park Authority.

This map must not be used for navigational purposes.







**APPENDIX 3** Master Copy of the Questionnaire

## Northern Boat of Garten Woods Path Survey, Spring 2011

This survey is being undertaken in relation to part of a request from the Cairngorms National Park Authority Planning Committee concerning the proposed development of new houses in Boat of Garten. This survey has been discussed with members of the Community Council, SNH and CNPA who have all contributed to it. We are trying to understand how the local community are or are not using the Northern Boat of Garten Woods path/track network and woodland area. The extent of the area we are interested in is shown on the attached map.

The survey is completely anonymous and we would ask every member of the household, including children, to fill in a separate form. If you need more forms for your household, there will be spare copies at the local places mentioned below, or please use the contact and phone number below to request further copies.

Please help us by taking a few minutes to fill in this questionnaire. You can answer the questions by putting a tick  in all the boxes that apply and filling in additional details if required.

**It is equally important to fill in and return this form, even if you do not use the Northern Boat of Garten Woods (just answer the first two questions).**

The results will all be collated and then made available as a summary with feedback to all local residents via the Community Council.

Please return the questionnaire by posting it in one of the Boat of Garten collection boxes at the Post Office, M & B Stores or the Community Hall before the 16<sup>th</sup> May 2011.

If you wish to discuss this questionnaire please contact the author, Andy Mackenzie on 0131 220 1027.

### 1. Please give your age range:

Age Range:	Please tick one box
Under 16	
16 to 45	
46 to 64	
65 and over	

**2. Do you enter the Northern Boat of Garten Woodlands for any leisure activities or use the paths to link to other places? For example walking, running, dog exercise, etc. Please tick or circle the box below which applies:**

YES:	NO:
------	-----

If you answered **NO**, then thank you for your time and none of the rest of the questionnaire is relevant. Please return this questionnaire to the drop-off points noted above.

If you answered **YES**, please continue to answer the rest of the questions over the page.

**3. What are the key reasons why you use the Northern Boat of Garten Woods?**

Possible Reasons:	Please tick all that apply
It is close to my house	
It is a nice place to visit/I get enjoyment from passing through it	
It has a good path network	
It is a good place to take children	
It is a good place to take my dog	
I feel safe in it	
I enjoy the woodland and wildlife it contains	
Other Reasons. Please list any/all other key reasons you feel are important:	
.....	
.....	

**4. What do you use the Northern Boat Woods for?**

Activity:	Please tick all that apply
Walking without a dog	
Walking with pushchair/pram/children	
Dog walking on lead	
Dog walking off lead but close at heel	
Dog walking off lead and dog(s) roaming off the path	
Cycling	
Running/power walking	
Horse riding	
Other Activities (please specify):	
.....	
.....	

**5. How often do you use the Northern Boat Woods?**

Frequency:	Please tick one box
Every day	
More than once a week but not daily	
Once a week	
2-3 times a month	
Once a month	
Less than once a month	
Please give further details to explain if the above answer oversimplifies your use:	
.....	
.....	
.....	

**6. What time of day do you tend to use the Wood?**

Time of Day:	Please tick all that apply
Early Morning (6am-9am)	
Morning (9am-12pm)	
Afternoon (12pm-6pm)	
Evening (after 6pm)	

**7. Does the time of year affect how regularly you use the Northern Boat Woods?**

Time of Year:	Please tick one box
No – approximately equally throughout the year	
Yes – I use the woods only in the winter	
Yes – I use the woods only in the spring to autumn	
Yes – I use the woods more in the spring to autumn	
Please give further details to explain if the above answer oversimplifies your use:	
.....	
.....	
.....	

**8. When in the woodland, do you stay on the pathways/tracks?**

Use:	Please tick one box
Always	
More than or approximately half the time	
Less than half the time	
Never	

**9. What activities, if any, take you off the paths in the Northern Boat Woods?**

Activity:	Please tick all that apply
None	
Taking a short cut	
Playing with children	
Playing with / retrieving a dog	
Watching / searching for / photographing wildlife	
Picking berries / mushrooms	
Other (please give further details)	
.....	
.....	
.....	

**10. When in the woodland, do you see dogs ranging away from the pathways/tracks?**

Activity:	Please tick one box
Always	
On more than or approximately half of your visits	
On less than half of your visits	
Never	

**11. Which paths do you use?**

Please put a tick next to all the paths/areas you use in the Northern Boat Woods and note the activities undertaken on each path ticked. The attached map shows the path locations and corresponding numbers.

Path	Tick Use	Activities On Each Path: Walking, Dog Walking, Cycling, Running, Other (please specify below) .....
1		
2		
3 / Area		
4 / Area		
5 / Area		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23 / Area		
24		
25		
26		
27		

A large number of trails and paths exist in the northern area of the Boat Woods, as shown on the attached map. Not all have been numbered, but we have tried to number at least each area of path. If you see a path/area you use within the map area which is not marked and is of importance to you, please feel free to highlight it on the map and return it with the questionnaire.

Thank you for taking the time to fill in this questionnaire.



Boat of Gaten Woods  
 Path Survey, Spring 2011

SCALE c. 1:7,000 @ A3

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**APPENDIX 4** CNPA/SNH Comments on the August 2011 Draft Report and MBEC comments on how these have been addressed.

## A. Assessment of extent to which mitigation proposals outlined in MBEC Draft Report dated 08 August 2011 meet agreed SNH / CNPA mitigation criteria

No.	Criteria and Reason	Comments from SNH/CNPA on Draft Report, received 23.8.11	How these comments have been addressed in final version of the report by MBEC and additional added comments
1.	<p>Current and estimated recreational use and provision: The mitigation proposals should be based on a detailed and evidence-based understanding of current recreational use of the area, (both spatially and temporally) in terms of numbers, distribution, behaviour and reasons and take account of the predicted future recreation demand arising from the proposed development.</p> <p>(Reason: This information is needed in order to plan where, when, and what mitigation is needed and to help assess the effectiveness of alternative proposals. To achieve this it is important to build up a picture of where people currently go in the woods, whether or not they are accompanied by dogs as the frequency and nature of use can impact adversely on Capercaillie. Potential future use resulting from the development along with the existing information will provide a baseline against which to assess the success of the mitigation measures.)</p>	<p>Partly met.</p> <p>The proposals are informed by a detailed and evidence-based understanding of current recreational use of the area. The proposals are also informed by projections of the overall increase in levels of use arising from the development.</p> <p><u>BUT</u>, the predictions of future recreation demand do not go into any detail on the likely changes in the spatial pattern of use as a result of the location of the proposed development wrt the path network; nor of any differences in the types of activities new residents may undertake as a consequence of having a different age profile to existing residents. We recommended considering both issues at the meeting on 6<sup>th</sup> July repeated in Andrew Tait's email of 08/07/11. The key risks appear to be:</p> <ul style="list-style-type: none"> <li>- proliferation of informal routes close to the new development (as has already happened in the NE sector of the wood close to the existing housing);</li> <li>- disproportionately more use of paths that are currently relatively lightly used in the NW and SW sectors of the wood (eg routes 7, 8, 14, 17, 12);</li> <li>- disproportionately more off-path use and disturbance in the NW and SW sectors of the wood by people undertaking off-path activities and dogs ranging off-paths;</li> <li>- on average, new residents may be younger than existing residents, and this could mean that activities preferred by younger people increase disproportionately. MBEC have not analysed the survey results to assess what these activities are, but they may include off-path mountain biking for example.</li> </ul> <p>The mitigation proposals seem to tackle some of these risks, but not all.</p>	<p>Likely changes in spatial pattern of use addressed in Section 10.4.</p> <p>Differences in the types of activities – addressed in Section 10.4.8</p> <p>Relating all this to mitigation measures, i.e. design in relation to key disturbance issues – addressed in Section 11.</p>
2.	<p><b>Best practice: The mitigation proposals should be built on best practice and</b></p>	<p>Not met</p> <p>It is not clear how the mitigation proposals have been designed to tackle the key disturbance issues arising from predicted future levels and patterns of recreational use. For example, what is the rationale for removing path 7 rather than any other path?</p>	<p>People and Dogs in the Outdoors (CNPA, 2011) was read and</p>



No.	Criteria and Reason	Comments from SNH/CNPA on Draft Report, received 23.8.11	How these comments have been addressed in final version of the report by MBEC and additional added comments
	<p>reference should be made to relevant examples elsewhere in UK or Europe where similar approaches have been proven to be effective in such situations</p>	<p>The report outlining the mitigation proposals does not make any reference to solutions that have worked elsewhere, nor do the proposals clearly or explicitly refer to best practice (eg CNPA's <i>People and dogs in the outdoors</i> research report). The proposals for tackling off-path dog use look as though they may not reflect the guidance in this publication.</p>	<p>included in the author's thinking, however, this has now been made more explicit, e.g. see Paragraph 11.1.5. In reality, other than this recent review, which is largely based on English experiences, there is not much detail available on examples from elsewhere. What the author has tried to do is to work on the principles of positive engagement rather than negative "do not dos". The author has also used MBEC's practical experience of housing scheme implementation elsewhere involving fencing and woodland access, e.g. from Troon, in Ayrshire and from Inverdrue, near Aviemore. The undertakings provided in Paragraph 11.1.8 provide for longer-term monitoring and alterations and this provides a tangible level of certainty that if things don't work in practice, they can be altered for up to 10 years after residents move in (this is provided in terms of ecological monitoring and a maintenance budget).</p> <p>The proposals for an off-lead area do agree, but the signs need to be explanatory and helpful to accord. A mix of temporary and permanent signs and a specific dog area notice board also accords with experiences elsewhere and this has been clarified in the text of Section 11.</p>
3.	<p>(Reason: Evidence is required that will provide confidence that the mitigation proposed will be successful in Boat of Garten.)</p> <p>Location and time-specific: The mitigation proposals should be designed to avoid an increase in disturbance throughout the parts of Boat of Garten wood currently used by Capercaillie. They should analyse information on the sensitivity of different parts of the wood for Capercaillie, and the sensitivity of different times of the day and year, alongside consideration of current and likely future levels and patterns of recreational use.</p>	<p>Partly met, subject to agreeing further details with SNH and CNPA on some proposals, and developing further details on others.</p> <p>The report does refer to sensitive areas (eg 11.1.2; 11.1.5), but it does not state explicitly where they are nor why they are sensitive, so it is not possible to tell if they have been correctly identified. It would also be useful to clearly identify which of the sensitive areas are predicted to be subject to increased levels of disturbance in future, to inform the design and location of mitigation proposals.</p> <p>Some spatially-specific mitigation proposals included (eg removing path 7), and trackside vegetation management in areas to be agreed with SNH. No obvious time-specific proposals.</p>	<p>The key element of the mitigation is that it provides flexibility, ability for the steering group to ensure success through a variety of approaches and the ability to alter these, if monitoring suggests this is necessary.</p> <p>At this stage in the planning process, it is to be expected that further details will require to be agreed with SNH and CNPA and this is provided for in terms of future planning conditions and specifically in terms of the detail provided in Section 11 – a steering committee.</p> <p>This was all discussed at previous meetings with the CNPA and SNH and commented on by them previously, but the precise details were removed from the main report intentionally and kept in a Confidential Annex, which is only available to SNH and the CNPA. The reason for this was because it was considered that a wider audience being aware of these areas could increase the potential for added disturbance to capercaillie, particularly during lekking. The reader can rest assured that all this information was considered as the mitigation measures were developed and put forward and is contained in the Confidential Annex.</p> <p>It was previously agreed and in the draft report that all mitigation would be implemented prior to the first resident moving into any of the new houses. Monitoring is provided for with e.g. trackside vegetation management and there is also provision for further maintenance-related work within 10 years of the development becoming</p>

No.	Criteria and Reason	Comments from SNH/CNPA on Draft Report, received 23.8.11	How these comments have been addressed in final version of the report by MBEC and additional aided comments operational (see Section 11).
	<p>Fig 8 indicates a number of permanent signs will be erected. There are no proposals for temporary signs. Not yet clear how temporarily / spatially specific the messages the signs will be eg. keep dogs on leads / keep dogs on paths? All times of day / some times of day? All year / some of the year? All of the wood / parts of the wood? Not yet clear whether messages on signs are compliant with SOAC eg. minimising the area and duration of access restrictions. Message suggested on Figure 8 (not to stray off the track) may not be SOAC compliant. Also need to consider whether permanent signs are the most effective tool in the light of experience that shows that regular users may ignore them.</p> <p>Permanent signs unlikely to be an effective solution for alerting people to removal of Path 7. The line of the blocked path will become less clear over time, so leaving signage in place would then draw attention to it rather than dissuade use. Existing signage around this path will need to be removed along with changes to information panels and alterations to the existing path leaflet.</p>	<p>This level of detail was not provided in the draft report because it was felt best to agree such specifics after planning permission was granted. There is a mechanism put forward for agreeing all such details (see Section 11). However, to be clear, temporary as well as permanent signage is provided for. A notice board at the off-lead dog exercise area also provides a specific dog walking forum for messages/signs which can be targeted at seasons, etc. It is considered that details, such as SOAC compliance, can be ensured post consent and are not a matter for the CNPA Planning Committee.</p> <p>Agreed, again this is detail which it was envisaged would be a matter for post consent discussions. Signage can be removed within the 10-year post operational maintenance period for the mitigation. It has also now been decided to remove Path 8. As far as we are aware, paths 7 and 8 do not currently have any existing signage and they are not shown at all on either the first path leaflet or the recent 2010 leaflet, so these changes are not necessary and already do not encourage their use.</p>	<p>Capercaillie use two specific areas of the northern woods area for specific purposes at present (Confidential Annex gives further details) and they are sporadically present (as evidenced from past surveying) in other areas of the northern woods, however, evidence of their presence in existing disturbed areas is much less (e.g. see Moss, 2010) and those disturbance zones actually occupy the majority of the northern woods area closest to the village.</p> <p>Given that the evidence gathered has clearly shown that existing levels of disturbance in the northern woods are high to very high, it is considered that the positively led mitigation proposed in the report is targeted and will not significantly increase recreational disturbance above its current and likely future levels. The additional mitigation provided for the existing recreational use of the wood, as well as for new residents, is intended to assist with allowing an element of enhancement of capercaillie habitat within the wood.</p>
4.	<p><b>Paths and peoples' use: The proposals should consider the need for a reduced network of paths, which still meets the needs of the community, addresses the management needs of Capercaillie and are practical and enforceable</b></p>	<p>Partly met</p> <p>The proposals include removing one path which evidence shows is relatively lightly used, but there is no record of discussions with the community over this proposal, whether its removal will impact on their recreational needs, or whether an alternative is needed.</p>	<p>MBEC's camera survey from the southern end of this path suggests it is lightly used, however, as pointed out in Paragraph 10.4.6, it may be used more at its northern end, closest to the village and proposed new development. This has been discussed initially with the</p>

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	<p>mechanisms. The proposals should identify how they will ensure that there is no increase in recreational disturbance that might affect the nearby Special Protection Areas by people and dogs off paths, or on minor / informal paths, as a result of this development and that how the proliferation of new informal paths will be avoided. [Examples of the range of mechanisms might include signs, wardening, guidance to new house occupiers through to more formal arrangements such as an agreement through the Town and Country Planning (Scotland) Act 1997, the powers contained in the Land Reform (Scotland) Act such as provisions for byelaws, Rangers, or powers such as Management Rules contained in the National Park (Scotland ) Act 2000 and Wildlife and Countryside Act and habitats regulations.]</p>	<p>There is no clear analysis of the literature on recreational disturbance to capercaillie to identify the recreation management outcomes that would avoid / minimise increased disturbance. For example, these outcomes might include avoiding increased use of lightly used paths; avoiding increases in the number of dogs ranging away from paths in the parts of the wood used by caper, particularly during lekking &amp; brood rearing; avoiding increases in the number of people off paths in areas used by caper; avoiding the creation of new informal routes.</p> <p>It follows on that, because the recreation management outcomes needed to avoid / minimise increased disturbance are not clearly identified, the proposals do not explicitly identify how they will ensure there is no increase in disturbance that might affect the nearby SPAs.</p> <p>Although this underpinning rationale is absent, many of the proposals themselves do sound broadly sensible. In the absence of a clear rationale it is hard to assess whether they are sufficient.</p>	<p>Community Council and they will be formally consulted prior to this application going back to the CNPA Planning Committee. The general view from people consulted is that it will not impact on people's needs and there are plenty of alternatives. It is important to note that this quieter area not having a path provides an opportunity to enhance capercaillie habitat by decreasing existing levels of disturbance. It has been specifically proposed because there will be no direct access to this path from the proposed new housing, but it has existing lighter use for recreation and hence there are plenty of alternative paths close by which would facilitate a decrease in existing capercaillie disturbance.</p> <p>There is an existing high to very high level of capercaillie disturbance in the northern Boat of Garten Woods. This has been shown by the path use data MBEC have collected. While there is not much published data, Moss (e.g. 2010) has completed detailed work in the same northern Boat Woods and has concluded that only very small pockets of relatively undisturbed capercaillie habitat currently remain. Hence the MBEC analysis on the existing level of disturbance is corroborated by his work and vice versa. The mitigation proposed has all been presented and discussed taking all this information into consideration and hence why paths 7 and 8 have been proposed for closure, because, as explained in the report, these paths go through an area of currently less disturbed capercaillie habitat, when compared to the use of the larger paths, including the core paths.</p> <p>There seems to be confusion here between the existing high to very high use/disturbance in the northern Boat Woods and the current "baseline" for the nearby SPAs and any future change to this of which one driver could be the proposed new housing. In other words, there is an existing significantly adverse issue with the level of disturbance to capercaillie in the northern Boat of Garten Woods and there is a separate issue of any increase in future disturbance levels related specifically to the proposed new housing. This work was guided by CNPA and SNH to address the later with mitigation (see Section 11 of the report). However, the developer has offered to undertake mitigation/enhancement to help towards improving the situation for capercaillie in relation to the existing levels of disturbance, in addition to any effects from the proposed new residents.</p>
	<p>(Reason: Existing evidence suggests that Capercaillie already avoid existing paths and tracks, and also that infrequent recreational use of informal paths and off-path areas are both more disturbing than use of the main paths. Capercaillie</p>		<p>See Above — this has all been considered in the report and in the answers above.</p>

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5.	<p>disturbance is at its most sensitive during the breeding and rearing season and disturbance from dogs is recognised as a potential year round problem.)</p> <p><b>Community engagement and support: The proposals should demonstrate effective engagement with the community and recreational users and a sufficient degree of support to ensure the proposals are effective.</b></p>	<p>Not met</p> <p>The report refers to a meeting with the community, but does not give any evidence of effective engagement over the proposals, nor of support from the community or recreational users. This will be needed to help demonstrate that the proposals are workable and likely to be effective.</p>	<p>It is the author's view that this comment is very unfair and misrepresents the situation. There were various meetings and correspondence with the community prior to the planning meeting on 7<sup>th</sup> January 2011, and this was followed by the Boat of Garten and Vicinity Community Council's response to the CNPA regarding the planning application before the committee. This document makes it clear that the community supported the mitigation measures proposed previously and believed with their buy-in they would be effective. Further engagement with the community council has since taken place by email and phone and this culminated in a meeting with the Boat of Garten community at a presentation and discussion held in the Boat of Garten Community Hall on the evening of the 29<sup>th</sup> June 2011 (CNPA and SNH were aware of this meeting before it occurred). The purpose of this presentation was to make the community aware of the detailed results of the questionnaire survey and to update interested local people. After the presentation a discussion was held which focused on likely mitigation options and people gave their views. It was at this meeting that it became obvious that local people were in favour of a specific off-lead dog walking area, but the discussion was much wider than just this. Minutes were taken by the Community Council and distributed to local people (Appended to the main report as Appendix 5. Boat of Garten Community Council were also fully aware of the camera survey and were passed a draft copy of this report. MBEC asked the Community Council if they would like to comment on this report and we would take account of their comments, however, we were informed that they would wait until they were formally asked by the CNPA to comment before the application went back to the planning committee. Further community input will be forthcoming from the Community Council in due course. Informally, it has been clear throughout this process that local people are generally interested in wildlife and, on this basis, we have no doubt that if communication is continued with the existing residents they will react positively to the mitigation, as long as they can still continue to use their local wood with an understanding of why particular mitigation is being implemented.</p>
6.	<p>(Reason: To be effective there needs to be clear support from regular users shown through positive behaviour change so that informal networks are unlikely to be created or existing desire lines restored if removed.)</p> <p><b>Alternative recreational provision: The</b></p>	<p>Partly met</p>	<p>Positive behavioural change can only occur once the mitigation is put in place, but this can be monitored and such monitoring is detailed in Section 11.</p> <p>See Section 13 for a summary which addresses this and the prior</p>

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	<p>mitigation proposals should demonstrate how any predicted increases in the types of recreational use that are likely to disturb Capercaillie (e.g. dogs ranging off paths) will be catered for and diverted to a suitable location that won't disturb Capercaillie.</p> <p>(Reason: To be effective, mitigation proposals need to ensure that predicted demands for different types of recreation arising from this development are catered for in a suitably attractive manner and location that will not result in increased disturbance to Capercaillie.)</p>	<p>As explained at 1 above, the predictions of increases in recreational use are restricted to changes on overall levels of use, and do not consider changes in the types of recreational use. As a result there is no explicit demonstration of how predicted increases in the types of use that could disturb capercaillie will be catered for and diverted to locations that would not cause disturbance.</p> <p>Despite this lack of underpinning rationale, the mitigation proposals do refer to two attempts to divert use:</p> <ul style="list-style-type: none"> <li>- by providing an off-lead dog exercise area with rough location shown on Fig 8</li> <li>- to arrange the fences around the development and the paths from it in such a way that they will direct people eastwards into the woods, rather than west or south.</li> </ul> <p>These proposals seem sensible, but without the underpinning rationale it is hard to tell whether they will be effective, or whether they are sufficient. In particular, the dog exercise area is unlikely to appeal to all people living in the development who wish to exercise their dogs off leads, so there remains a risk of increased off-path use by dogs arising from the proposed development. Fig 8 includes proposed signage asking people and dogs to stay on tracks throughout the wood, but would this be effective in the light of the guidance in the 'dogs in the outdoors report'? The trackside vegetation enrichment proposals will help in the longer term, but what about the short term risks, and are there short term management proposals that would bridge the gap?</p>	<p>This is thought likely to be insignificant in practice, but is covered in the text, e.g. small increase in mountain biking and possible increase in short walks with children.</p> <p>The dog off-lead play area is only given an approximate location at present, because it was thought sensible to discuss its exact location with a range of stakeholders, post consent, prior to it being finalised. For example, it is important that it is easy for residents to get to, but not so close to garden edges that it causes a nuisance to existing residents without dogs.</p> <p>The overall likely positives and negatives are discussed in Section 13 and what is important is that the overall result of the mitigation indicates an overall positive.</p> <p>It is accepted that such habitat management cannot be achieved instantaneously, hence why a 10-year operational time-span has been included. It is not felt suitable in this location, away from the village/proposed new residences, to undertake large-scale earthworks or fencing within the woodland itself and therefore it is accepted that vegetation growth will take time to develop.</p>
7.	<p>Any Screening proposals, including planting and vegetation management, requires to be effective and commensurate with the phasing of the development, including the construction phase.</p>	<p>Partly met</p> <p>There are three proposals that involve screening:</p> <ol style="list-style-type: none"> <li>a) for trees/shrub cover and a 'stand off' zone around the development site (11.1.2). It's not completely clear exactly what is being proposed by this. It may mean a zone around the site where existing trees and shrubs will be left standing?</li> <li>b) to thicken up path edges (11.1.3 &amp; Fig 8) – in locations to be agreed with SNH</li> <li>c) additional tree &amp; shrub cover around the edge of the development in the medium to long term (11.1.4 &amp; Fig 8)</li> </ol> <p>Para 11.1.5 says that that the proposals in 11.1.2 will be fully implemented before the houses are occupied. There are some recommendations about the timing of implementing the proposals in 11.1.3 and 11.1.4, but no clear statements of what will happen when.</p>	<p>Yes it does and this is in addition to the instant effectiveness of the fencing and the longer-term thickening of this natural screen.</p> <p>The mitigation proposals will be fully implemented before the houses are occupied, but the growth of the vegetation will take longer and that is partly why fencing is also proposed around the development.</p>

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		<p>The report identified proposal b as an 'enhancement' measure. Depending on the outputs of the 'missing' analyses identified at 1, 3 &amp; 4 above, proposal b may actually be needed to mitigate the impacts of any predicted increases in off-path use by people and dogs in areas used by capercaillie. If so, it would need to be implemented and effective before the houses are occupied.</p>	<p>It is identified as an enhancement measure, but it is recognised in Section 13 that the mitigation has to be looked at together as a whole to allow an overall assessment of positives and negatives to be balanced together. It is intended to implement all mitigation before the houses are occupied, but its becoming effective, for some mitigation, will take longer, but will be ensured within the 10-year monitoring and "adaptation" budgeting and timescale.</p>
	<p>(Reason: Any screening needed to avoid negative impacts arising from the development would need to be effective immediately. Screening proposed in order to enhance the prospects for capercaillie could become effective over a longer timescale.</p>		<p>Fencing around the proposed development will be effective immediately, but screening proposed to enhance capercaillie habitat would take a longer period; success would be ensured within the 10-year monitoring and budgeted period.</p>
8.	<p><b>Practical enforcement: The mitigation proposals should demonstrate that the measures will be practically enforceable and maintained for the lifetime of the development at no cost to the public purse.</b></p> <p>(Reason: The proposals must demonstrate that they are workable and affordable, including any contingency arrangements.)</p>	<p>Partly met</p> <p>Paras 11.1.5 and 11.1.6 state that the mitigation proposals are deliverable by the developer and the landowner, and that they are willing to do so.</p> <p>There are no firm proposals for maintaining the works carried out to deliver the mitigation proposals (eg fencing, signage, tree / shrub planting, resident information packs). The need to maintain works to enhance the ground flora is identified, but there are no proposals or details of how &amp; when this would be done, nor how resources to do so would be allocated in the long term.</p>	<p>See Section 11 for further details, however, it is intended that the detail of this would be agreed with the CNPA post-consent.</p>
9.	<p><b>Phasing: The mitigation proposals should identify how mitigation measures will be effective at the appropriate time in line with the construction and development phasing.</b></p>	<p>Partly met</p> <p>Taking each mitigation measure in turn:</p> <ul style="list-style-type: none"> <li>• Access from the development to more sensitive paths (11.1.2) – not clear exactly what is being proposed or when – not clear whether criteria met</li> <li>• Actively encourage people to walk to the east (11.1.2) – via fencing &amp; link paths – will be in place before houses are occupied (11.1.5) – criteria met</li> <li>• Limit visual &amp; noise disturbance (11.1.2) – via fencing, tree shrub cover (existing or planting?), 'stand off zone' – will be in place before houses are occupied (11.1.5) – criteria met</li> <li>• Discourage back garden exits – via double fencing, info packs – will be in place before houses are occupied (11.1.5) – criteria met</li> <li>• Discourage off-head dog walking (11.1.2) – via info packs, Community Council, newsletter articles, permanent signs – some of these will be in place before houses are occupied (11.1.5) – RLIU proposal doesn't seem to comply with guidance.</li> </ul>	<p>All mitigation would be implemented prior to the first house being occupied in the new development.</p>
			<p>More detail added in Section 11 and 13 of the report – criteria met.</p>
			<p>Tree cover is existing, but also planting to thicken it up if necessary, fencing will be effective immediately it is built. Criteria met.</p>
			<p>Dog owners will be encouraged, as will all other recreational users, to access Path 2 south into the woodland, so provision is still provided to the east and south-east, just not towards the west and south-west. Criteria met.</p>

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	<p>in 'dogs in the outdoors' report, so doubts over effectiveness because dog owners will still need somewhere suitable to walk their dogs – criteria not met</p> <ul style="list-style-type: none"> <li>• Positive, limited and targeted signage &amp; positive education measures with community involvement (11.1.2) – timetable not clear &amp; are signage proposals sufficiently targeted in time &amp; space? – criteria not met</li> <li>• Remove path 7 (11.1.2) – timetable not clear &amp; insufficient details on community support to assess effectiveness – criteria not met</li> <li>• Targeted woodland management to improve capercaillie habitat (11.1.3) – timetable not clear but agree this is enhancement rather than mitigation so phasing not crucial, although firm timetable needed.</li> <li>• Targeted woodland management to thicken up path edges (11.1.3) - timetable not clear so effectiveness uncertain – may be needed to reduce risks of more off-path use in NW &amp; SW sectors of wood – criteria not met</li> <li>• Off-lead dog play area (11.1.3) – timetable not clear - may be needed to accommodate some of the likely increase in off-path dog use – criteria not met</li> <li>• Signage take out (11.1.3) – details and timetable unclear – criteria not met</li> <li>• Selective thinning to improve capercaillie habitat (11.1.3) – repeats proposal above?</li> </ul>	<p>Details of the signage to be agreed post-consent, just because it will require further discussion and is not really deemed to be a fundamental issue – it can be agreed later, but timetable is the same as all mitigation, i.e. before houses are occupied. Criteria met</p> <p>Remove paths 7 and 8, again timetable is pre-occupation. These are less-used paths; the community seemed supportive, overall, at the meeting, but they can comment on this prior to the planning committee meeting, if this is not satisfactory. Criteria likely to be met, given that these are much less-used paths and more remote from the existing village.</p> <p>All pre-house occupation. Criteria met.</p> <p>All pre-house occupation. Details of precisely where this is completed can be agreed with the proposed Steering Committee. Criteria met.</p> <p>All implemented pre-house occupation. Criteria met.</p> <p>Details to be agreed with Steering Committee, as and when appropriate. Criteria met.</p> <p>Selective thinning and woodland management are additional mitigation measures proposed for implementation pre-house occupation, but may need some refinement into the 10-year occupation stage, to encourage bilberry increases, in particular.</p>	<p>Criteria met.</p>
10.	<p>(Reason: To ensure that short and medium term disturbance does not occur in advance of more permanent solutions coming into play.)</p> <p><b>Monitoring, review and adaptive</b></p>	Not met	

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	<p>management: The mitigation and measures must be monitored and reviewed to ensure effectiveness for the lifetime of the development and a mechanism put in place to take further management measures to reduce disturbance if necessary.</p> <p>(Reason: To ensure the mitigation measures continue to be effective.)</p>	<p>No clear or detailed proposals for monitoring, review or adaptive management. Some comments on the need for monitoring and some recommendations in para 11.1.5, but no comprehensive proposals of sufficient detail to be confident that the mitigation measures will be effective in the long term. Given that some of the mitigation proposed will take some time to grow, the monitoring proposals should be phased accordingly.</p>	<p>Covered under Sections 11, 12 and 13, but summarised and specifically addressed in Section 14.</p>

**Summary of key residual risks & uncertainties**

- increased off-path use by dogs in areas used by caper. Some of the potential increase in this type of behaviour will be diverted to the off-lead dog play area, and some of it may be diverted on-path by people complying with the signs and newsletter messages etc. In the long term, trackside vegetation enrichment will help to reduce dog use off-path. Given the high incidence of dogs off-leads and roaming off paths at present, and the guidance in the dogs in the outdoors report, we can infer that there is considerable demand for off-lead and off-path dog walking and it would be surprising if the increased demand from new residents could all be diverted into the play area and into on-path use. Have the community and recreational users indicated that these proposals are likely to work? Is there a need to identify somewhere else in the vicinity where people can go for longer walks with their dogs off lead?
- increased off-path use by people in areas used by caper, especially in the NW and SW sectors of the wood. We know from the survey results that some off-path activities are popular. Is mitigation needed to steer these activities away from the sensitive areas? And will a different range of off-path activities be popular amongst residents as a result of potentially having a younger age profile?
- increased use of path 8? It could make part of a circuit from residents at the proposed development (route 2, 8, 1, sustrans route).
- increased off-path dog / people use around SW of path 1? (Maybe the trackside vegetation enrichment proposals could be applied here too – not clear from Fig 8)
- are the proposals based on best practice?
- will the various mitigation proposals will be in place and effective in time to mitigate the effects of the development?
- robust, fit-for-purpose monitoring regime
- long-term management regime, including adaptive management
- is there sufficient support amongst the community and recreational users to be confident these proposals will be effective?
- are the signage proposals SOAC compliant, and based on best practice & available guidance?

The above summary has been addressed in the reporting, which has been updated to try to ensure this is now as clear as possible for the planning committee stage. All details of this mitigation cannot be expected to be finalised at this stage, but the key thing is that a regime is given for adaptive mitigation to ensure success and a financial commitment and method is also given which can be developed further, should the planning committee give consent. MBEC are confident that there are no fundamental issues that cannot be resolved and adapted to ensure this mitigation is successful and this is detailed within the report in Sections 11, 12, 13 and 14.



## B. Key comments on the draft report

Firstly, we recognise the time and effort made on the recreation questionnaire, camera management and analysis and on this report. There is much in the report that we have not commented on because we agree with it.

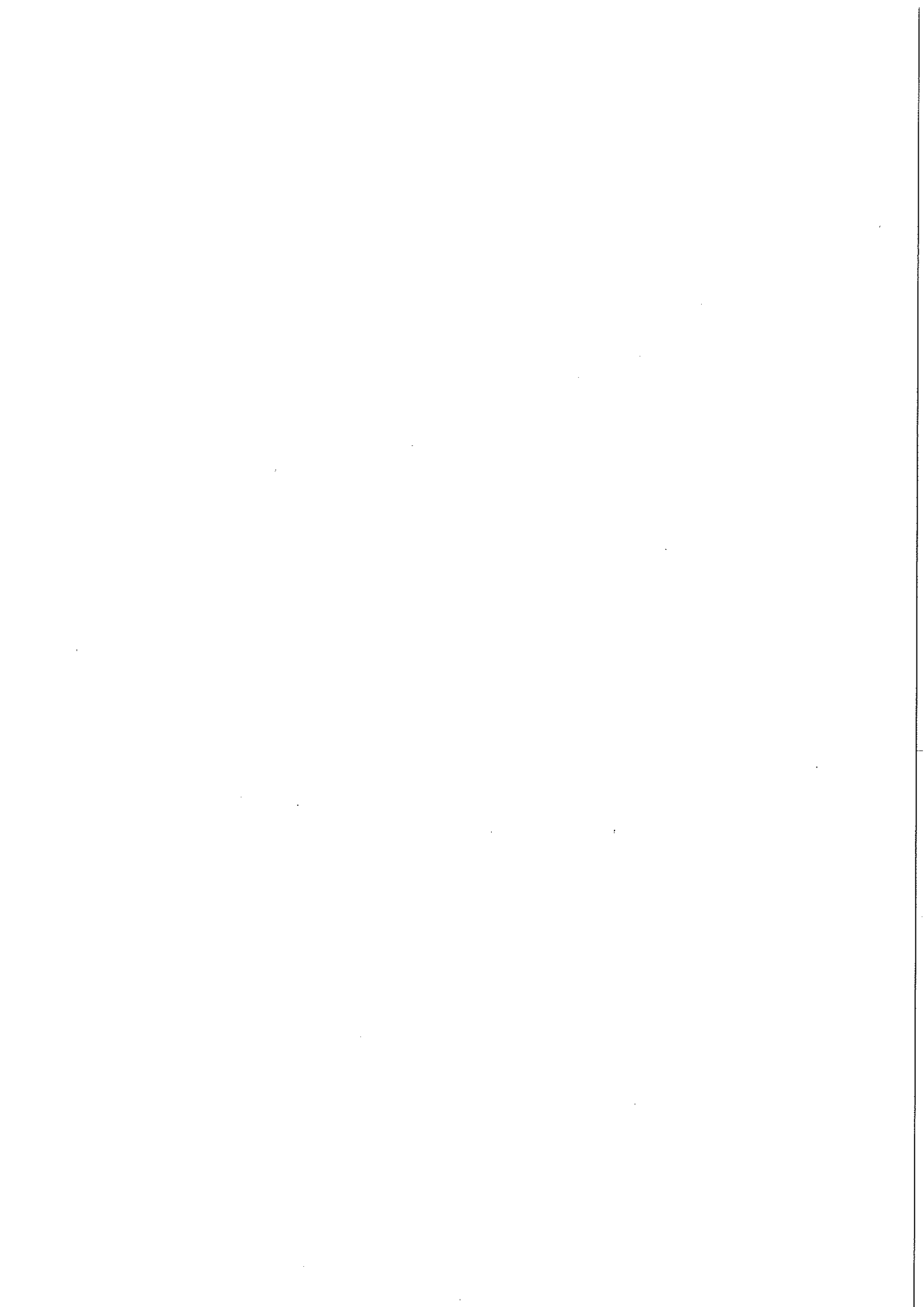
Paragraph number	Comments from SNH and CNPA	Response from MBEC
1.1.2	The text in the middle of this paragraph has confused the roles of SNH and CNPA. It is CNPA in their role as planning authority who identify the key concerns in relation to a proposed development. SNH's role is to advise on the implications of proposals for designated sites. In this instance, CNPA have identified a number of concerns related to this proposed development. SNH has no role in assessing which concern is the more significant, and has given no advice of this nature.	Addressed by a small text change.
2.2.1	We suggest it would be more accurate to say that the 2003/04 survey was conducted with input from SNH. The methodology was never agreed by SNH, so the current wording could be seen as suggesting that there was more agreement than was the case.	This was taken from his reporting, but has been changed.
3.1.4	Capercaillie are close to extinction, but are not yet extinct in Loch Lomond area.	According to recent RSPB comments to MBEC, they are no longer breeding at all in the Loch Lomond area so, to be completely correct, they are functionally extinct. However, wording has been changed.
3.1.7	Saying that capercaillie are confined to pinewoods is not consistent with the statement in 3.1.4 that capercaillie are found in the oakwoods of Tayside.	Addressed by a small text change.
3.1.12	In the first sentence, lekking is meant rather than 'breeding', i.e., it is only towards the end of the lekking period that the hens arrive at the lek site. Obviously the breeding period is much longer than the lekking period.	This whole section has been adjusted, we were simply trying to summarise this information as much as possible, but recognise more detail could be given.
3.1.13	The capercaillie biology in this paragraph is not wholly correct. In late winter/early spring cocks begin to aggregate within 1km of a lek centre. In Scotland, cocks' regular lek displays begin at the start of April. Hens attend from mid-April to the beginning of May, peaking usually between 20 – 25 April. Hens may visit one or several leks within a season.	Simply trying to summarise again, but have now added to with this further information.
3.2.2	This is an over simplification of capercaillie biology. Natal dispersal occurs in autumn and spring and is driven by movement of young hens, which disperse much further than cocks. Broods break up in autumn. This is apparently density-dependent as young hens seek less crowded areas with greater food resources. Males are sedentary and much less likely to disperse. It is also worth noting that hens in the Pyrenees act aggressively towards each other in spring as they defend territories with scarce brood habitat (Menone, 1991). Each bird will require a territory in winter providing an abundance of resources.	Text error clarified.
3.2.3	The text is unclear and contradictory where it states that 'they may well have been from only several birds and they may well have only been present for a very short period of time i.e. they are very likely to have been resident for a protracted period of time.'	We agree that the data is more comprehensive than for most woods, but this is not the same thing as it being a scientifically accurate and complete picture of the northern Boat Woods throughout the year. Many of the records outwith direct lekking counts and occasional brooding surveys are for a dropping or droppings only. This is difficult to interpret back to hard data about the birds. The reason for this is because a single bird can produce multiple droppings over a short period of time or, vice versa, few droppings over a longer period and the amount of droppings and indeed a variety of locations of droppings cannot be interpreted back to whether a bird or birds are resident, passing over, temporarily roosting but moving around, permanently present, etc. It is also important to note

	<p>We also disagree that the data does not provide evidence of the clear use of the area as a stepping stone. Although it is true that there is no direct evidence, the fact that capercaillie are present and breeding makes the site part of the overall population, i.e., part of the cushion of breeding birds that supports the population in the SPAs.</p>	<p>that the recording of a dropping gives no indication when it was dropped, how young or old it is (many of the records do not indicate this) and, therefore, it may well be that the records are not all time accurate. We are fully aware that capercaillie produce more than one kind of dropping and this can provide additional information, but this information is not present in the data sets. Therefore MBEC agree that capercaillie have been present, that they lek and that they have been recorded breeding/brooding and this is clearly indicated from the data. However, MBEC do not feel that the data proves that they are present every month of the year (i.e. resident) and that they necessarily brood eggs/young every year within the northern Boat Woods.</p> <p>We agree that the capercaillie recorded in the northern Boat Woods are part of the wider "Strathspey population". As stated, there is no direct evidence of the "stepping stone" theory, hence the reason we said this. However, related to the previous comment and given the amount of disturbance recorded within the northern Boat Woods, it does make sense that some birds pass through it to and from other sites, but do not necessarily spend much time in the northern Boat Woods. However, it is fully acknowledged that this is surmising and the survey evidence is currently not available to prove or disprove this.</p>
3.2.6	<p>We disagree with the statement that that 'it does not appear to be occupied by birds on a 'residential' all year round basis and is perhaps more likely to be used for small periods of the year'. There is no evidence at all to support this statement. The evidence suggests the opposite, i.e., that capercaillie are present all year.</p>	<p>See comments above; to be fair, there is a lack of clear evidence to be totally clear about either view. This thinking was based on taking all the evidence we were aware of together, but we recognise that the survey data is insufficient to be definitive about the precise capercaillie situation within the northern Boat Woods.</p>
3.2.10	<p>The last part of this paragraph relates to blaeberry. Although parts of the wood do not have much blaeberry, other areas have extensive patches of blaeberry, including areas where it is the dominant field layer shrub under the DOMIN scale.</p>	<p>Yes, there are small, mainly more open areas within the northern Boat Woods where I agree that, on a very local quadrat basis, blaeberry would be dominant, however, taking the wider area of the northern Boat Woods area, it is occasional at best – the vast majority is dominated by common heather with other shrubs, such as cowberry and bell heather also present and some small areas of acid grassland-dominated flora, where it tends to be present. Blaeberry has a higher cover and is more frequent further south in the Boat Woods outside of our area of interest. One of the things which will be necessary, prior to the capercaillie habitat management, will be to map this distribution of blaeberry accurately, to provide a baseline for trying to improve its overall cover. I have re-worded this paragraph.</p>
3.3.1	<p>It would be helpful to explain, or preferably, show in a map, which area is meant by the 'northern' part of the wood.</p> <p>If the whole of the wood shown in the maps is meant by the 'northern section of the wood', then we disagree that this area is only rarely used by capercaillie.</p>	<p>The "northern Boat Woods" or the "northern Boat of Garten Woods" refers to the area covered by the MBEC footprint map (Figure 2). I have included reference to this near the beginning of the text of the report – paragraph 2.1.1.</p>
3.3.2	<p>The middle part of this paragraph is unnecessarily downplaying the importance of the wood. It is a circular argument to state that the population size is 4 – 24 birds and then say that the evidence shows that fewer birds are present, since the estimate of population size is also based on evidence (i.e., the number of birds seen at the lek).</p>	<p>It is not – clarified in 3.3.1 now.</p> <p>This confusion relates to the whole problem of the way that capercaillie population estimates are calculated and are not really applicable to a small separated-out area like the northern Boat Woods, taken in isolation, i.e. there is not definitive evidence from the existing data that</p>

		<p>the northern Boat Woods even has four birds permanently resident, since their territory sizes are larger than just this small compartment of sub-optimal woodland. The fact that there is a lek within the woodland suggests that adult male territory edges converge within the woodland, but that does not mean that these males are "resident" within it permanently. I have tried to clarify this.</p> <p>Lack of large blaeberry patches and lack of wetter bog habitat for abundant supply of insect food for chicks – removed this for clarity.</p>
4.4.1	<p>In the last sentence, it states that the habitat does not exhibit all the known necessary elements of habitat preferred, but it does not state what is thought to be missing. Either this sentence should be removed, or the statement should be justified.</p> <p>We disagree that the promoted paths, together with other factors such as demographic shift, will 'act to increase the present disturbance zone area for capercaillie in the northern area of the wood in the future'. There is no evidence to substantiate this claim.</p>	<p>Agreed that there is no concrete evidence to substantiate this, but reasons for this suggestion are given and its is certainly more likely than a decrease in future recreational use, given the general trend of increasing recreational use of woodlands.</p>
5.2.1	<p>We disagree that capercaillie may 'only actually be 'resident' in Boat Woods for short periods at a time. The evidence does not support this.</p>	<p>I have changed this paragraph to try to make it clearer, but the fact that there is a lek in the northern Boat Woods does strongly suggest it is on the edge of a number of adult male territories and therefore is not likely to be "core" territory and the evidence is not definitive that capercaillie or indeed the same birds are present all the time within the woods.</p>
5.2.2	<p>There is no need to conclude that the conclusions must be treated with caution. If this was the case, then further survey work would be required. We believe that there is enough information to be able to draw firm conclusions, i.e., that there are capercaillie present, that they are breeding, the location of the lek and brood areas, and that capercaillie are present all year.</p>	<p>Reasonable conclusions can be drawn, but as with most aspects of ecology, there are always gaps in knowledge and I am just being honest about this. This paragraph remains unchanged.</p>
8.2.6	<p>The other factor that may have affected levels of use between weeks 1 &amp; 2 is the weekend weather. The weekend of 26/27 June was cool and showery, whereas the weekend of 2/3 July was warm and sunny.</p>	<p>This is an important observation which I have added in.</p>
9.2.7	<p>There are gaps in the analysis in this section. These are:  - an analysis of how spatial patterns of use may change if the development goes ahead, i.e., there would presumably be more people accessing the paths and sectors of wood adjacent to the development, and some of the wood in this area is of high quality for capercaillie  - an analysis of any changes in patterns of use due to a different age profile of the people living in the proposed development, i.e., would they be younger than the existing population, and if so, would they use the wood differently?</p>	<p>This has been addressed in the earlier comments/changes.</p>
10.3.2	<p>The most critical area is the wood to the west of path 1, and north of path 12, because it is close to the development, already has a 'desire line' path within it, and it is high quality brood habitat.</p>	<p>This has been addressed with the mitigation proposed.</p>
10.3.6	<p>We disagree with the idea that the wood is already so disturbed that the proposed development would make no difference to capercaillie. There is no evidence for this, and if anything, the converse is likely to be true.</p>	<p>I agree that this is unknown at present and therefore I have left in the question, but not offered any answer.</p>
10.3.7	<p>There is no mention here of location specific issues, i.e., increasing disturbance to previously less disturbed areas such as the north west quarter of the wood.</p> <p>We suggest that the last two sentences of this paragraph are removed. This report is about the developer mitigating the likely effect of the proposed development.</p>	<p>This is all addressed in the mitigation text and in the confidential annex.</p>
10.3.8	<p>We can speculate that the level of disturbance will be least in mid winter, but there is no evidence for this. For example, cross country skiers are likely to be most active in winter. In addition, dogs will need to be walked at all times of the year, and we know that dog walking is one of the most common reasons to walk in the wood.</p>	<p>Agreed that this report is specific to this proposed development, but this report does raise a much bigger issue relating to existing disturbance levels, which we feel as ecologists should be highlighted as a "wider recommendation" and therefore this has been left in.</p> <p>Changed this slightly to cover lack of evidence, but it does seem likely that the gaps between disturbance events will be shorter in the summer, i.e. frequency of use will be higher in the summer, given residents and visitor numbers together.</p>

10.4.1	<p>Table 10.1 is based on the assumption that new residents follow the same pattern as the existing residents. Given that Paths 1 and 7 are closer to the proposed new houses than most of the existing houses, this assumption is probably incorrect, i.e., the level of use may well be higher.</p> <p>First bullet point - it would be helpful to state which paths are considered to be more sensitive. A new bullet point could be to try and prevent the development of new 'desire line' paths close to the development, and especially west of path 1 and north of path 12.</p> <p>In our view some of these points are also needed to mitigate the effects of the development, and so should also be listed in 11.1.2. For example, signage is a key management tool.</p> <p>For most of the proposals, in order to assess the overall effects of the development on the nearby SPAs, we would need more information, for example, what would the signs say, where would the woodland management be carried out and what would it comprise?</p> <p>Would an off lead dog play area without a fence be more effective if it were to be fenced?</p> <p>What is the difference between 'targeted woodland management' and 'selective thinning'? Does 'woodland management' mean managing for blaeberry?</p>	<p>Further detail added to this section of text to address this.</p>
11.1.1		<p>Done in bullet point. Added to existing bullet point.</p>
11.1.3		<p>This whole section has been re-arranged considerably and tries to clarify this further.</p> <p>It is not possible to give details of exactly what signs will say at this stage, since these things will all need to be agreed with all relevant stakeholders. However, we have tried to be as detailed as possible with other aspects, such as woodland management. We feel that the commitment is clearly given to undertake this work and amend as necessary to ensure mitigation success and are of the view that this is a more than adequate level of detail for Appropriate Assessment and indeed for the CNPA Planning Committee to base a decision on.</p> <p>We thought carefully about fencing and it is recommended in CNPA (2011), however, we decided against it because it may make non-dog owners feel excluded. Also, given the capercaillie in the area it would need to be made very visible e.g. chestnut pole or similar, and this may cause visual concerns in a relatively "natural" woodland setting. However, if stakeholders agree and feel strongly about this, the developer is quite happy to provide such fencing.</p> <p>Local thinning of Scots pine and encouraging blaeberry are both proposed and the detail of precisely where and how these are undertaken can be agreed with relevant stakeholders, including the capercaillie conservation officer, should consent be granted in principle.</p>
11.1.4	<p>it is understandable to say that the additional residents' impact on the main route (we assume that paths 9 and 15 are meant) would not have any additional impact on capercaillie above that already occurring. However, this would not be the case if they or their dogs leave the path. The mitigation should address how to avoid increases of dogs and people straying off the path.</p>	<p>This includes paths 2 and 9, since evidence from the cameras suggests that a good proportion of people do not go as far from the village as Path 15. The mitigation for dogs is a balance between existing and new dog owners wishing to use the off-lead dog area and being encouraged to keep their dogs at heel or on-lead within the wider woodland area (i.e. a decrease), with the track edge being thickened, along with a possible slight increase in core path off-lead dog walking (i.e. an increase). Monitoring would be used (e.g. cameras or people-based survey) to ensure that the situation remains no worse, and hopefully better, than the existing off-lead dog situation.</p>
11.1.5	<p>Where are the sensitive areas? It would be helpful to define this. We assume that the brood and lek areas are meant?</p>	<p>This is detailed in the confidential annex, but yes, the lekking area, as well as the very small areas of currently less disturbed brooding habitat. It is accepted that the lek area cannot be mitigated, since it has multiple core paths very close to it and when the idea of re-defining core paths was discussed at a meeting with CNPA and SNH, the impression was given that it would be unlikely that these could be changed.</p>

	<p>As explained above, to assess the effects on the SPAs, we would need more detail of exactly what is proposed.</p>	<p>Detail has been added to this version and, as noted above, the developer has given clear assurances on the fundamental aspects of implementing this and we feel that we cannot give further detail until it has been agreed with all relevant stakeholders. It is MBE's experience that appropriate assessment is often completed by the Scottish Government for design and build type contracts, where similar levels of assurance are given, but less detail of actual individual mitigation proposals is provided than what is given in this document and therefore we feel that this level of information is adequate. We wish to be fair to local people in giving them the opportunity to be part of the detailed decision process for, e.g. the precise location of the off-lead dog play area, etc., when the development is taken forward post planning consent.</p>
<p>11.1.6</p>	<p>We suggest removing the reference to further work by SNH and CNPA as this is outwith the remit of this report.</p> <p>As explained above, to assess the proposals we would need further details of exactly what is proposed, where it will happen, when works will be done and when they are expected to become effective, how their success will be monitored, and in the event they are not successful, what remedial management works are proposed and who will carry them out. As an example of the further detail needed, what techniques will be used for removing path 7, and when will this be done? There is an informal car park at the north end of path 7: will it be removed too?</p> <p>We strongly recommend discussing all the proposals with the community and taking feedback into account. For example, how would the community react to the proposal to remove path 7? Would they wish an alternative path to be created?</p> <p>Should the dog walking area be fenced? Would the community prefer this rather than an unfenced area?</p> <p>Should paths 8 and 19 be scarified in order to limit risks of disturbance from the new residents using this currently lightly used route?</p> <p>We recommend considering re-inforcing the western side of path 1 to discourage the development of 'desire line' paths within the wood. Reinforcement could include ditching, planting with juniper or other shrubs, fencing etc.</p> <p>We support the proposals for woodland management such as thinning, and management to benefit blaeberry within the wider woodland.</p>	<p>This is addressed in a previous comment.</p> <p>Detail has been added to this version, where it reasonably can be at this stage.</p> <p>The informal car park is actually at the north end of Path 1, not Path 7. However, it is felt that this would be a useful additional mitigation measure, the developer is happy to discuss and agree this with the CNPA, SNH and the local people, should they wish.</p> <p>Detail is given in answer to a previous comment, but local people did seem in favour of the removal of these small paths, given that the vast majority of people use the main tracks. There was no indication that additional paths would be necessary as replacements. The Community Council will be responding officially prior to the Committee meeting, so they may wish to give more detail on these specifically.</p> <p>Yes, this is now included for Path 8 and most of Path 19 will be within the development boundary, so it will effectively disappear. However, new residents will not be able to directly access this side of the new development, due to the double fences proposed.</p> <p>This path will not be available to new residents, due to the provision of double fencing and hence is not likely to be affected by desire lines. All access to the woodland from the new development will be to the east, only.</p> <p>The northern Boat Woods would benefit from this habitat enhancement, particularly when combined with all the other mitigation proposed.</p>
<p>Figure 8</p>		



**APPENDIX 5** Minutes of the Board of Garton and Vicinity Community Council Chaired Meeting on 29<sup>th</sup> June 2011.

**BOAT OF GARTEN AND VICINITY COMMUNITY COUNCIL**  
**Minutes of the Special Meeting**  
**regarding the Boat of Garten Woodland Surveys**  
**held in the Community Hall, Wednesday 29 June 2011, at 7.00pm**

CC members: Mary Clark (Chairman), Alison Fielding (Vice-Chair), Sam Faircliff, Lorna O'Connell.

Ex officio: Cllr Stuart Black, Willie MacKenna (CNPA).

In Attendance : Dr Andy Mackenzie (Mackenzie Bradshaw Environmental Consulting; Independent Ecological Consultants); Allan Rennie (Architect); Allan Munro (Davall Developments Ltd.)

Also present: 18 residents of the Community Council area as per the sederunt list.

Apologies for Absence: V. Fairweather; F. Bardgett, B. Brodie, J. Dunbar, A. Martin.

**1. Agenda**

Residents of the area had been invited to attend a public consultation to hear the results of the recent Use of Woodland Survey in connection with the Planning Application currently under consideration by CNPA for a housing development in the Boat of Garten woodland proposed by Davall Developments Ltd. In the Secretary's absence at a Highland Council meeting, minutes would be taken by Alison Fielding.

**Application General Details**

<b>CNPA Reference</b>	<b>LA Application Number</b>	<b>Local Authority</b>	<b>Application Type</b>
08/272/CP	08/00188/FULBS	Highland Council	Full Application
<b>Applicant Name</b>	Davall Developments		
<b>Applicant Address</b>	Myrtlefield House Grampian Road Aviemore		
<b>Development Address</b>	Land 200m West Of Boat Of Garten Football Field Craigie Avenue Boat Of Garten Highland		
<b>Development Details</b>	Erection of 73 houses; formation of 6 house plots; provision of primary school site; associated amenity ground, roads and footways		

**2. Presentation**

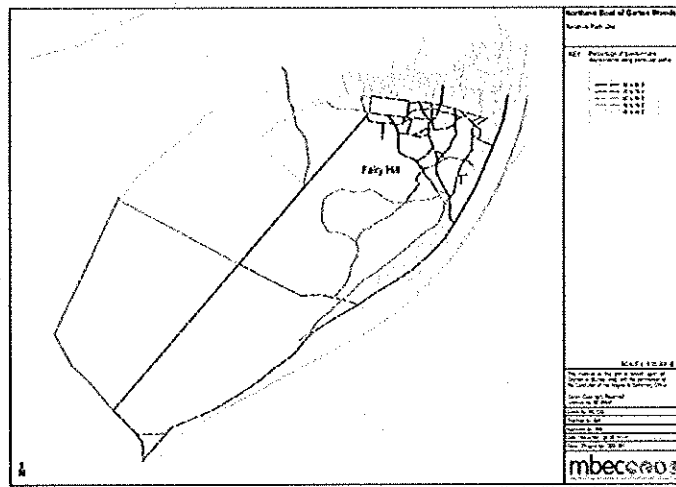
- 2.1. Following his welcome from the Chair, Dr Mackenzie clarified that he is an independent ecological consultant and that Mackenzie Bradshaw Environmental Consulting, Edinburgh [MBEC] are not the developer. He stressed the importance of his independence in undertaking this survey work as the results will be used by SNH, CNPA officers and the CNPA Planning Committee in the future.
- 2.2. With the aid of a powerpoint presentation, Dr Mackenzie began by summarising the background to the proposed housing development, previous ecological surveys, his meetings with CNPA and SNH and the current proposed timescales of the CNPA Planning Committee. When the housing application came before the CNPA Planning Committee in January 2011, the Committee voted by a majority to defer the application for the purpose of obtaining further information about the use of the woodland by capercaillie versus the human use of the woodland, and associated previously proposed mitigation proposals.
- 2.3. Dr Mackenzie thanked the Community Council for informing the community about the importance of the questionnaire survey, and thanked the residents for providing such a good response rate. Out of approximately 430 questionnaires delivered, 263 were returned, giving a response rate of over 60%, demonstrating how important the woods are to the local population. He outlined MBEC's review of past capercaillie surveys/counts concluding that the species use the woods for different purposes during different times of the year. It is MBEC's current view that while capercaillie do use the woods fairly regularly, the woods are used intermittently not every day. Nevertheless given the conservation status of this species, this does give the wood a level of importance. He said it is thought by SNH to be mainly a 'stepping stone' to surrounding SPAs. Numbers are thought to be declining nationally, with possibly only 1000-2000 left in Scotland.
- 2.4. Discussions about the importance of the woodlands is ongoing between the developers, the CNPA and SNH. Capercaillie are sensitive to disturbance by people, and SNH/CNPA recognise it is important to understand better the link between human usage of the wood and that of the species. This need has led to 2 surveys being undertaken, the questionnaire survey, being summarised this evening, and the camera survey



which is ongoing. Both these surveys have been the subject of discussion and agreement between MBEC, Davall, CNPA and SNH.

- 2.5. Dr Mackenzie went on to outline the results of the analysis of the questionnaires. The age range question showed that responses reflected all age groups in the village. 83% of respondents said they use the woodland on a regular basis. 94% gave multiple reasons for using the woods. Walking, dog walking and cycling are not surprisingly the main reasons for use.
- 2.6. Other reasons are all recorded. 31.5 % of the 83% say they use the woods every day. Afternoons are the most popular, but there is substantial use at other times of the day as well. 75% of respondents said they use the woods equally throughout the year, suggesting a clear lifestyle choice for those living in the area. 58.1% of respondents say they stay on the paths and tracks all the time. The question about how frequently dogs are seen running off lead gave the result of 25% saying never, which could mean 75% see this sometimes, a higher % than might have been expected, raising the question of how important it is to educate the public. Dogs running away from their owner are much more disturbing to all wildlife than those on lead or stay at heel/on the tracks.
- 2.7. Dividing the map of the paths into 4 quadrants, the north east sector (immediately behind the village) ranked 1, has very high use, the south east sector (deeper in the woodland towards Aviemore) ranked 2, has moderate use, the south west sector (deeper in the woodland towards Aviemore) ranked 3, has moderate use, and the north west sector (from the end of the village towards the school) ranked 4, has lowest use. The camera survey will be used as confirmation of the overall level of use.

## Questionnaire Results



- 2.8. In outlining the way forward, Dr Mackenzie said that the results of all the work are being collated and will be used to extrapolate to the potential new house numbers and how those additional people could influence the existing use of the northern Boat Wood. From this, appropriate mitigation is being drawn up and recommended. It is aimed to give all this information to the CNPA Planning Committee for their August meeting.
- 2.9. Mitigation ideas currently under discussion include careful path construction within the proposed development and to existing path links, possible changes to existing paths, a possible specific 'dog off lead' area, careful signage and improving woodland habitat.

### **3. Discussion** Mary Clark invited questions and discussion from the floor.

- 3.1. In response to a question Dr Mackenzie said his staff had not seen any capercaillie during all their surveys, but there is evidence of use of the wood by the species, and the 'stepping stone' use could be important, perhaps more important than breeding habitat. There are differences of opinion about the frequency of use of this wood by the species. Brooding habitat is not great and better in other surrounding areas. Capercaillie chicks need insects which is not ideal in Boat Woods and the older birds like bilberry

plants, but in Boat of Garten woods, cowberries are much more dominant in the northern area. Chicks like bog habitat (more insects) which is very limited here. Chicks have been seen in the quieter part of the wood in past years. One has to be very careful about making inferences from the level of droppings identified. One resident said she had seen 2 capercaillie near Kinchurdy Road two years ago and Dr Mackenzie took note of her sightings. Another resident said she has lived in the village all her life and never seen a capercaillie.

- 3.2. Discussion covered the benefits of signage, the need for good quality signage to avoid vandalism; advisory signage e.g. explaining about ground nesting birds; appealing to both locals and visitors; the importance of education of woodland users; the buying in of local communities and peer pressure to encourage responsible behaviour in the woodland. Location of signs is also important.
- 3.3. Questions were raised about how capercaillie are affected by disturbance, and how one can estimate if more people using the woodland will make a difference. Dr Mackenzie said that the high level of current use of the woodland must have some negative effect on capercaillie. Dogs off lead are a greater hazard than human disturbance. He was asked if encroachment into sensitive areas would lead capercaillie to move away. Males are said to be more robust to disturbance. Females and chicks are more affected. Another person pointed out that pine martins are also a hazard for capercaillie but they too, are a protected species. The question is 'when does any disturbance reach a critical point' from the point of view of protection of the species and its maintenance in the wood. This is a difficult question and inevitably quite subjective. It is very hard to be objective about how many more people would constitute reaching such a threshold. Work by a respected ecologist, Robert Moss, suggests a disturbance effect at up to 230 metres from a human path and it is statistically significant at a distance of 125m away from paths within Boat Woods. The proposed development is over 900 metres from one of the most sensitive areas, and the survey results show that the brooding habitat area appears to be less used by people, but reaching firm conclusions remains problematic. In drawing up mitigation proposals they will also be looking at what appears to be working elsewhere in the National Park and will try and narrow matters down to sensible proposals bearing in mind the criteria drawn up by CNPA and SNH.
- 3.4. In the first week of the camera survey, significant human use of the woodland is confirmed. Cyclists are particularly obvious. The cameras have photographed roe deer, but no pine martin or other species, and images confirm that dogs are often off-lead.
- 3.5. Discussion took place on the benefits/disbenefits of identifying a particular 'dog off lead' zone. The idea was generally welcomed. It was suggested by the residents that this is an issue in the whole of the National Park for the protection of wildlife and the CNPA Officers should be asked to take the lead on this and identify possible zones in all sensitive park areas, possibly using our area as a pilot scheme.
- 3.6. In response to a question on red squirrels, Dr Mackenzie confirmed that new wildlife legislation has been passed providing a mechanism for licensing of dreys in a similar way to that for European protected wildlife. SNH are currently looking at how the legislation can be implemented. Planners may well now be able to place a condition on planning consents related to obtaining a license, if necessary. Residents also commented that more houses could well have a positive effect on the density of red squirrels in the wood because of more bird feeders.

#### **4. Conclusion**

- 4.1. Mary Clark thanked Dr Mackenzie for his presentation and welcomed the positive discussion that had taken place. Participants were invited by the Community Council to look again at the housing plans available on the side table.

*The meeting ended at 8.30pm.*

*A copy of the powerpoint presentation is available via the Community Council.*

*Survey conducted by MBEC (Mackenzie Bradshaw Environmental Consulting), Thistle Court - 1 to 2 Thistle Street - Edinburgh - EH2 1DD, Tel: 0131 220 1027 Fax: 0131 220 1482.*