# APPENDIX B

## Paper 1 - 08/272/CP

Remit – Working Group on Housing Provision in Boat of Garten

CNPA Natural Heritage Comments

SNH Comments

## Working Group on Housing Provision in Boat of Garten

### Background

On 20th August 2010 CNPA Planning Committee agreed to establish a working group to explore the possibilities for appropriate development that will help to meet the needs of the community in Boat of Garten. This is against a background of discussions on the Local Plan (due for adoption in late October 2010) in which, following the recommendations of the Scottish Government Department of Planning and Environmental Appeals, there is no allocated site for housing within the community.

### Remit of the Working Group

To identify a suitable site(s) and/or mechanisms by which new housing can be developed in Boat of Garten to meet the needs of the community, while taking account of:

- Affordable housing
- Natural heritage value
- Infrastructure and community facilities
- Land ownership objectives
- Informal recreation

### Proposed membership:

- Cllr Stuart Black, THC (Chair)
- Boat of Garten and Vicinity Community Council (Julie Mackenzie, Alison Fielding)
- Highland Council (Housing) (Paul Brown)
- Cairngorms National Park Authority (Fiona Munro (Housing), Matthew Hawkins (Natural Heritage & Landscape), Murray Ferguson (Director) and Andrew Tait, Mary Grier (Planning))
- Scottish Natural Heritage (Anne Elliott)
- Seafield and Strathspey Estates (Andrew Norval, Sandy Lewis)
- Cairn Housing Association (Simon Campbell)
- The Highland Small Communities Housing Trust (Sam Faircliff – Board member, Ronnie Macrae )

Notes: Fiona Munro is the main contact point for the Group

Cairngorms National Park Authority
October 2010

Scottish Natural Heritage
Dualchas Nàdair na h-Alba
All of nature for all of Scotland
Nàdar air fad airson Alba air fad

Andrew Tait
Cairngorms National Park Authority
Albert Memorial Hall
Station Square
Ballater
Aberdeenshire
AB355QB

17 December 2010

Your ref: 08/272/CP
Our ref: CNS/DC/HI/BOGH

Dear Mr Tait

**Town And Country Planning (Scotland) Act 1997: 08/272/CP – Proposed Housing Development and Provision of Primary School (Amended Layout) at Land 200m West of Boat of Garten Football Field, for Davall Developments**

Thank you for your letter of 6 December 2010 requesting comments from Scottish Natural Heritage (SNH) on the above development proposal.

We note that this site has a long and complex planning history. It is not zoned for development in the adopted CNPA Local Plan, but was zoned for development in both the Highland Council Badenoch and Strathspey Local Plan and the deposit draft Cairngorms National Park Local Plan at the time the planning application was first submitted. The site has been subject to a previous planning application for housing development, which was determined after appeal in 2006.

We advised on the implications of zoning part of Boat of Garten Wood for housing in the CNP Draft Local Plan (21 January 2008). We concluded that the CNPA had not demonstrated that there would be no increased disturbance to capercaillie as a result of the proposed zoning of this site for housing development. This could have an impact on the metapopulation of capercaillie, some of which use the nearby SPAs. Therefore the proposed zoning was likely to have a significant effect on the SPAs and also risked adversely affecting the integrity of these sites.

We also advised that if mitigation of the impacts on capercaillie were to be implemented, it is possible that disturbance to capercaillie would be reduced - possibly to the extent that there would be no adverse effect on the site integrity for the capercaillie populations within the European sites.

However the Scottish Government reporter took a different view in the Cairngorms Local Plan report dated December 2009. They said in paragraph 56.31 "we have serious concerns about the impact of the proposal for one Scotland's most threatened species, i.e. capercaillie. We also agree with the submitted capacity assessment findings that development of the site

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would have a significantly negative impact on the landscape character of Boat of Garten. Based on these findings, we conclude that the natural heritage and landscape value of BG/H1 and the potential for harm from development are so significant that development should be presumed against."

We responded to an earlier version of the current planning application in October 2008. We objected to that version of the proposal because the development had potential to cause disturbance to capercaillie using the adjacent woodland, and this could significantly affect the capercaillie populations in several nearby Special Protection Areas. No satisfactory mitigation had been submitted. We advised on the survey work that would be useful to inform mitigation, and the recommended contents of an Access Management Plan.

We received a draft mitigation plan map from Bracewell Stirling Consulting on 18 November 2010, the 'Supporting Information' document on 6 December and a revised map on 16 December 2010. This response is based on the supporting information and revised map.

SNH notes that the footprint and the number of likely occupants for the current planning application is smaller than the original application which was determined in 2006.

In preparing this response we have followed the role for SNH that is set out in the SNH/CNPA Casework Agreement. Under this agreement, within the National Park, SNH only advises on any implications for Natura sites, Sites of Special Scientific Interest, National Nature Reserves and European Protected Species. CNPA advises on other natural heritage issues including outdoor access, landscape and visual, wild land, wider biodiversity interests, and impacts on the National Park itself, although they may also comment on issues normally addressed by SNH if they so choose.

**SNH POSITION**

SNH **objects** to the proposal as currently submitted, because the development has the potential to cause disturbance to capercaillie using the adjacent woodland. This could have a significant effect on capercaillie populations in several nearby Special Protection Areas (SPAs). The mitigation plan is not yet sufficient to avoid these significant effects, and has not been agreed between all the parties required to implement it successfully. We do recognise that the developers have responded to our comments on the first version and are amending their mitigation proposals. We consider that it could be possible to agree works which would address our concerns.

**SNH APPRAISAL OF THE PROPOSALS**

**Natural heritage interests affected:**

The proposed development site lies within woodland at Boat of Garten. This woodland is not designated but is known to be well used by capercaillie which are part of the wider metapopulation in Badenoch and Strathspey. Capercaillie within this metapopulation are one of the qualifying interests of several nearby European sites, including Craigmore Wood SPA, Kinveachy Forest SPA, Abernethy SPA and Cairngorms SPA. The legislative requirements for European sites are summarised in Circular 6/1995 as amended June 2000. We can advise further on this legislation if necessary.

**SNH appraisal of the likely impacts of the proposal on natural heritage interests:**

The same issues as were addressed in the previous planning application and zonation in the Local Plan apply to the development proposed in this planning application.

The Developer has now prepared a capercaillie mitigation plan. However, the plan is not yet sufficient to ensure there will be no increase in disturbance to capercaillie in the nearby woodlands, and has not yet been agreed between all the parties needed to implement it successfully. **SNH's advice is therefore that this proposal is likely to have a significant effect on a qualifying interest of the SPAs listed above.** SNH's view is that, as a consequence, the Cairngorms National Park Authority is required to undertake an appropriate assessment of the implications of the proposal for the sites in view of the sites' conservation objectives for their qualifying interests. This assessment should in particular be based on an appraisal of the likely impacts on capercaillie using the wider Boat of Garten woodland arising from the increased recreation pressures due to this development.

On the basis of information currently available, and for the reasons given above, SNH considers that it is probable that it cannot be ascertained that the proposal will not adversely affect the integrity of the nearby SPAs. We remain willing to work with the developers to develop the mitigation plan further.

Should the CNPA conclude that the development could be permitted with appropriate mitigation, the mitigation and associated survey work should be carefully considered. SNH's comments on this are provided in the Appendix attached. Any mitigation would also need to be enforceable, for example, through a Section 75 agreement.

Please contact Anne Elliott at our Aviemore office if you need any further information or advice from SNH in relation to this proposal. I would be grateful if you would let us know of your Authority's decision in due course, or of any further changes to the proposal which would be relevant to our interests. You are reminded of the terms of the Town and Country Planning (Notification of Applications) (Scotland) Direction 2007 in relation to development affecting a European site where SNH has advised against granting planning permission. The plans are returned with this letter.

Yours sincerely,

[redacted]

Debbie Greene
Operational Manager
East Highland

Enc.

**Appendix : SNH comments on the draft mitigation plan submitted to date**

| Information requested to inform a capercaillie mitigation plan in our planning response dated 14 October 2008 | Information provided in the draft capercaillie proposals as submitted |
|---|---|
| **Information on the use of the wood by capercaillie so that measures to address disturbance can be targeted to where they will have the highest value** | |
| Lek counts from 2006, 2007 and/or 2008 if they exist (this information may be available from the Capercaillie Project Officer - Timothy Poole). If there is no recent information, the developers should plan to undertake a lek survey in 2009, using methodology agreed with SNH and the Capercaillie Project Officer. | Lek counts were not provided. The information would be available from the Capercaillie Project Officer. |
| An updated systematic survey of capercaillie droppings across the whole of the wood. | This information has been provided in a report by Robert Moss et al. |
| Site visit by the Capercaillie Project Officer to identify potential nesting and brood rearing areas, based on the habitat. | There is no mention of the contractor visiting the site with the Capercaillie Project Officer to identify nesting and brood rearing areas. |
| Information on any brood counts carried out in the wood in 2008. | This information was not provided. Obviously more recent information would now be available. |
| **Information requested on the recreational use of the wood** | |
| NB The proposed works would need to be compliant with the Scottish Outdoor Access Code and agreed by CNPA in their role as access authority under the Land Reform (Scotland) Act 2003. In consultation with the community, consideration might also be given to promoting specific circular walks from the new development from the eastern access point NH 936188 (e.g. into the village, c. 3km circuit on core paths, c. 5kn circuit incorporating vehicle track and Speyside Way), and if possible identifying a specific exercise areas for dogs, perhaps by means of a targeted information leaflet for residents. | |
| Mitigation proposals should also be informed by a recreation survey to establish the current level and pattern of recreational use of the wood, using a methodology to be agreed in advance with the CNPA as access authority. The capercaillie and recreation surveys should then inform an Access Management Plan for the approval of CNPA prior to commencement of development which should incorporate mitigation options/proposals. The Access Management Plan should be in accordance with the Land Reform (Scotland) Act 2003. The Access Management Plan should be implemented to the satisfaction of CNPA prior to the occupation of the first house.<br><br>Without prejudice to the above, the Access Management Plan should include: | No recreation survey has been carried out. In lieu of this, it would be helpful to carry out a consultation with the community at Boat of Garten to explore the current use and aspirations for recreation in the wood for different activities (i.e., walking, dog walking, cycling, cross-country skiing etc). |
| A map showing all existing paths, tracks, and Rights of Way and any associated | The map only shows the main vehicle tracks – no 'desire line' paths or existing |

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| infrastructure (for example, signs). | infrastructure are shown. |
| Any paths and tracks which would be created, diverted or removed. | There are no proposals to create, divert or remove paths or tracks. |
| Details of the proposals for mitigation to minimise disturbance to capercaillie as a result of public access. | A draft capercaillie mitigation plan has been produced. |
| Monitoring, to be agreed with the CNPA, to show whether the mitigation is working and if necessary, to inform adaptation. | No suggestions have been made for monitoring. |
| **Capercaillie mitigation suggested in SNH's Natura appraisal dated 21 January 2008** | |
| The design of the development should not include any new direct access into the wood beyond (i.e. additional to the existing formal paths). Access could be provided via the existing tracks so that occupants of the houses have easy access to the wider woodland. | The idea behind this recommendation was to avoid having lots of link paths from the housing into the woodland, because each path would add to the area subject to disturbance. The draft plan includes a new 'loop' path immediately adjacent to the application site. This in itself constitutes new access to the wood, i.e. additional to the existing formal paths. However, if it can be constructed to discourage access from the path into the wider wood it could be beneficial and we note that proposals to plant with juniper or similar species, and to scarify to encourage natural regeneration, are made in the amended map. |
| Operational controls should limit construction activity to the zoned area. | This suggestion was made to prevent damage and disturbance to the wider woodland area next to the construction site. The amended plan states that construction activity would be strictly limited to the development site and proposes that a construction method statement would be prepared. |
| Retention of trees on the boundary of the zoned area to act as screening. | The amended map states that trees would be retained on the site boundary to act as screening. |
| Using signs to encourage people to stick to paths and keep dogs on leads during the breeding season (a technique used elsewhere, e.g. Anagach Woods SPA). | Signage is included in the draft plan. The wording should be agreed with the CNPA in their role as access authority and this is stated on the map. |
| Particularly sensitive areas (i.e. the lek and potential nesting and brood rearing areas) should be screened from tracks and paths by increasing cover and visual barriers via appropriate silvicultural and vegetation management as recommended by Thiel et al. | The amended plan proposes that existing natural regeneration should be retained and enrichment planting carried out by scarifying to encourage natural regeneration on sections considered vulnerable to access being taken off the path. |

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| (2007) and Finne et al. (2000). This may take some time to become established effectively as screening, especially if it is primarily Scots pine thicket and juniper, and therefore we recommend it should be implemented early in any development scheme. It would also need to be maintained, and any losses should be replaced. | The extent of this and other works needs to be identified and agreed with SNH and the CNPA. |
| The mitigation should be in place prior to the occupation of the houses. | The draft plan could be improved by stating the timing of the proposed works. |

## Boat of Garten housing and Capercaillie

### Conclusion

The site at Boat of Garten woods is clearly a very important for the population of capercaillie in the Strathspey and consequently to the Scottish population. From the consultation with the UK Capper BAP group, Dr Robert Moss, the scientific adviser to that group, SNH and the RSPB there is agreement that the proposal for housing would be detrimental to the population on site due to the increase in disturbance from recreational use.

The mitigation proposals are considered to be inadequate to mitigate this impact and they are largely unenforceable. In addition there are potential conflicts with access legislation. The SLU directorate also considers that *any* mitigation is unlikely to pass the tests required to maintain the conservation objectives of the four nearby Capercaillie SPAs.

The following report has been prepared following the completion of a full Appropriate Assessment for the nearby SPAs.

**UK capercaillie and Boat woods**

The national population of capercaillie appears to be currently stable after a period of rapid and significant decline. However, the national population is still small and its range is contracting. The 2003/04 national survey suggested that over 60% of all birds recorded are in Strathspey. Similarly, 67% of Capercaillie cocks observed during lek surveys from the spring of 2010 were in Strathspey. The population is still extremely vulnerable elsewhere so the Strathspey population is crucial to the long-term survival of the species in the UK.

Approximately 50% of the National capercaillie population is found within SPAs with the remainder in non-designated sites like Boat of Garten woods.

Habitat suitable for capercaillie in Scotland is heavily fragmented into comparatively small areas of forest. None of the capercaillie populations in these individual woodlands have the capability to be self-sustaining in the long term. For genetic diversity to prevent inbreeding depression, discrete groups of birds must be linked with nearby groups (i.e. recruiting and exporting birds) forming a meta-population.

Boat of Garten wood hosts a significant population of capercaillie which is a qualifying interest on four nearby SPAs -- Abernethy, Craigmore woods, Cairngorm and Kinvechy. Due to the proximity of the forests of Strathspey and the known dispersal distances of capercaillie, the birds using the area have to be considered as one ecological unit or meta-population. The Boat of Garten woods function as a vital 'stepping stone' for capercaillie, by facilitating movement between these SPAs.

Evidence suggests that Boat wood supports over 1% of UK capercaillie population. The number of cock capercaillie constituting the National population is estimated from lek counts undertaken each spring. The number at Boat of Garten woods is consistently estimated at or above 1% of the National figure. This suggests that the whole population is at least at this level. A local population is

considered of national importance if it contains more than 1% of National population and could potentially also be eligible for SPA status.

The wider Boat of Garten wood is known to contain a lek, which is approximately 1000m from the site. Much of the woodland is used and is suitable as brood rearing habitat and wintering habitat. The proposed development site itself appears to be little used by capercaillie, which is almost certainly a result of disturbance on and near the site. Records from 1994 to 2010 show that capercaillie were widely recorded throughout much of the woods, however the birds generally avoid the tracks. Evidence from dropping surveys also show that there an extensive area avoided by the birds close to all the existing houses.

Despite the current levels of disturbance, brood counts indicate that the woods are productive, with chick density at or higher than the national average. This is possibly a reflection of the quality of the habitat. It could mean that Boat of Garten woods are be producing a surplus of chicks that could be recruited into the neighbouring SPA's as a source population.

**Disturbance to Capercaillie and mitigation**

There is a growing body of evidence indicating capercaillie and other grouse species are adversely affected by disturbance resulting from human recreational activities. Our knowledge on the impacts of recreational disturbance has increased during the last few years due to the increasing body of research undertaken, although it is very difficult to measure scientifically. Capercaillie has been shown to avoid habitat close to tracks, which may reduce overall carrying capacity in forests with a high density of tracks. Human disturbance can affect capercaillie by reducing the availability of otherwise suitable habitat (including habitat used for roosting, feeding, nesting and brood rearing), displacing the birds from leks, disrupting behaviour patterns and increasing the risk of predation which may lead to reduced survival, recruitment and carrying capacity. These effects can occur separately or additively.

Dogs off leads during the breeding season have been suggested as one of the most significant issues for capercaillie in Scotland. The impact on dogs on ground nesting birds is a concern that CNPA are attempting to address, with support from the Cairngorms Local Outdoor Access Forum, through the promotion of a targeted responsible dog walking campaign. Dogs off lead can have a greater impact than people by flushing birds further away from paths, so further limiting the amount of available habitat. They can separate broods from the hen which could result in chicks becoming cold and wet and dogs can catch and kill both chicks and adult birds. The large size of the chicks, especially of males, means they require a large amount of energy to grow to adult size during a short period. They are more susceptible to the effects of disturbance than smaller birds because of the poor nutritional qualities of their food, and consequently they have a higher mortality. If a hen has good energy reserves during egg development more robust chicks are hatched, and therefore more likely to survive.

The current levels of disturbance at Boat of Garten woods are already having an impact on the capercaillie population using the area. There are areas of habitat being avoided and there is a sex-ratio skew, with less females using the area than males. Evidence suggests that females are more susceptible to disturbance effects and are less likely to persist in a disturbed area. If this situation were increased it could potentially have a significant impact on productivity within the woods, with the females that are there currently being forced out. Therefore, it would be desirable to reduce the

current levels of disturbance within the woods to address this issue. Fragmentation of the Strathspey core area would be increased if the functioning of this woodland diminished and would be in conflict with conservation aims.

The mitigation proposals largely rely upon blocking and reducing the quality of footpaths as well as signage to encourage people to use footpaths away from the core area used by the birds. This does not address the use of the larger area of the woods for feeding habitat and brood rearing. In addition the success of the mitigation relies upon changing in behaviour particularly on the part of dog walkers and their pets.

**Appraisal**

After consultation with SNH, RSPB, the UK Capper BAP group and their main scientific adviser Dr Robert Moss, the SLU Directorate concludes that the mitigation proposals submitted are insufficient to influence patterns of behaviour in a way that would not be detrimental to the capercaillie population. They also have potential to contravene the Access legislation. In addition we feel that no reasonable mitigation could be undertaken or effectively enforced that could ensure no increase in recreational disturbance.

The increase in recreational disturbance may to lead to a reduction in the population in the Boat woods. Just as important is the negative impact upon the population of the surrounding four SPAs for capercaillie from the reduction in migration and an increased fragmentation of the habitat and therefore the meta-population.

## Natural Heritage planning consultation response

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| Site: Boat of Garten wood | |
| Development: Housing development | |
| Drawings: | |
| Application No: - 08/272/CP | |
| Case officer: Andrew Tait | |
| Date received: | Response date:17/12/10 |

## Ecology response

### Red Squirrels

*Legislation*

Red squirrels are one of a number of species protected under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended under the Nature Conservation [Scotland] Act 2004).

It is an offence to intentionally or recklessly

- kill, injure or take (capture) a red squirrel
- damage, destroy or obstruct access to any structure or place which a red squirrel uses for shelter or protection
- disturb a red squirrel whilst it is occupying a structure or place which it uses for that purpose.

It is also an offence to release a grey squirrel into the wild.

Red squirrel is a UK Biodiversity Action Plan Priority Species, a Cairngorms LBAP priority species and a priority in the National Park Plan.

Section 9(4) of the Act makes it an offence to intentionally or recklessly damage a red squirrel drey. Section 10 sets out a number of exceptions to Section 9 relating to agricultural operations. Section 16(9)3 sets out a number of purposes for which a licence may be granted to allow damage or disturbance to a red squirrel drey. These purposes do not include development.

**There is currently no legal mechanism (such as licensing) to deal with red squirrel dreys and development. Although this is currently being brought to the parliament in the Wildlife and Natural Environment Bill.**

*Boat of Garten Proposed development*

The ecological report submitted in December 2010 indicates that during a survey in 2009, 49 dreys were recorded, scattered within the survey area, which includes the proposed development site and a 50m. The site was also surveyed in 2008 with 27 dreys being recorded. This shows a substantial increase (22 or 81%) in the number of dreys on site and since the latest survey is over a year old it is likely that there are more than 49 dreys on site.

MBEC estimates that there are up to 6 squirrels within the survey area. Dr Mel Tonkin (Project Manager of Saving Scotland's red squirrels, a partnership project between SWT, SNH, FCS and SRPBA) suggests that there are probably 12-13 adult squirrels within this area, making it very valuable red squirrel habitat. The CNP is a stronghold for red squirrels and although red squirrels are afforded legal protection they are still a material consideration of planning applications.

MBEC stated that they could use reasonable precautions (by mitigation) to allow felling of trees with dreys present but still prevent an incidence of wildlife crime. SNH were contacted to comment on this and their response is that (full response attached) "*There is also the issue of exceptions for offences where they are incidental as a result of lawful activities and where reasonable precautions have been taken to prevent them occurring. It is suggested in the supporting information that reporters in the Aberdeen Western Peripheral Bypass PLI, supported the view that consented development with reasonable mitigation measures would be considered as lawful activities under this provision. The reporters are quoted as supporting a "mitigation strategy that involved differentiating between active dreys and abandoned dreys at the time of construction". The report also quotes from SNH advice on inadvertent and reckless action, which you mention in your e mail:http://www.snh.org.uk/publications/on-line/wildlife/law/reckless.asp*
*In our view, when felling trees known to host red squirrel dreys, the defence that damage to dreys was incidental would be difficult to use. 'Reasonable precautions' could include surveying to avoid the felling of any trees with dreys. Surveying to identify which dreys are currently in use so that trees with unused dreys can be felled is different, and there is still the question as to whether felling those trees would be legal, which only a court could determine."*

MBEC have recommended that surveying and monitoring of the dreys could be undertaken by thermal imaging. Whilst the SLU directorate recognise that the use of remote sensing technology can be of great benefit to surveying and monitoring animals, much more research is needed to refine the techniques to produce a robust methodology that is widely accepted by relevant experts. At present the thermal imaging technique described in the report presents too many questions for it to be a robust methodology. Crucially a control drey with a squirrel inside has not been identified therefore there are no heat patterns with a squirrel present available to compare those without squirrels. MBEC also state that the survey is limited as " red squirrels are not static in their habitats and can change their drey on a frequent, even daily, basis. For this reason, a study such as this only provides a "snapshot" of the situation". In addition, ambient air temperature had a significant impact upon the use of this technique with higher temperature rendering it unusable. The trial study identified large gaps in the current knowledge such as how the effect of heated air within the drey from sunlight would effect the study, what the heat signature of a drey with a squirrel present is, how quickly does a drey lose the heat signature when a squirrel has left the drey. In addition the SLU directorate has several concerns that require more study into this technique, including does the thickness of drey wall effect the heat signature and more critically how long does a squirrel need to be absent from a drey before it can be classified as unused. Indeed SNH guidelines indicate that a drey can only be deemed not functional as a place of protection or shelter if daylight can be seen through the structure.

It is also suggested in the report submitted by the applicant that the dreys could be surveyed post felling by a remote camera to identify if a drey is currently being used by a red squirrel. Whilst the SLU directorate recognises the benefit of this technology; at present there is insufficient research to establish a robust methodology and it does not counter the fact that a drey is protected whether it is occupied or not. Indeed Dr Mel Tonkin has undertaken radio tracking of red squirrels and found that a red squirrel will not use a drey for weeks or months at a time, before returning to use it, indicating that inactivity for several months does not mean that the drey is no longer functioning as a place of protection or shelter.

To prevent disturbance of a squirrel drey the standard guidelines state that felling should not occur within 30m of a drey, which increases to 50m during the breeding season if the drey is suspected of being a maternity drey. Connectivity must also be conserved between functioning dreys. The site layout provided by the applicant is not acceptable to ensure compliance with the WCA 1981. The dreys are distributed throughout the proposed development area which means that disturbance or drey removal would need to occur to allow for the development. For example the access road is within a few meters of a drey and the road to the south of the development linking to the village hall is within 30m of 5 dreys. It must be borne in mind that the squirrel survey is over a year old, so it is possible that more dreys on site which could further hinder development of the site. In addition, the mitigation proposed for red squirrels within this development does not negate for the loss of this valuable red squirrel habitat.

*Summary of red squirrel issue*
In summary the SLU directorate recognises the use of remote sensing techniques such as thermal imaging and remote cameras to monitor red squirrel dreys. However, at present a drey is protected whether it is occupied or not and arguably only unprotected when it is no longer able to function as a place of protection or shelter. In addition the red squirrel is protected from disturbance within its place of shelter requiring a minimum of a 30m buffer around the drey, therefore making the proposed site plan unacceptable. Therefore we conclude that the methodology proposed by the applicant does not ensure compliance with the WCA 1981 (as amended by Nature Conservation (Scotland) Act 2004).

**Plants**
BSCG have written an objection stating that creeping ladies tresses are present within the proposed development site. MBEC have countered the argument by stating that no creeping ladies tresses are present on site. BSCG have submitted a further report in December with photographic evidence of this species being recorded within the site. Due to the close timing restraints and severe weather conditions it has not been possible for a CNPA Ecologist to investigate these claims on site. The photographic evidence puts doubt on the accuracy of the MBEC survey and statement that no creeping ladies tresses are present on site. As it has not been possible for a CNPA Ecologist to survey the site it is recommended that the precautionary principle is adopted and that creeping ladies tresses may be present on site. This is a nationally scarce species and if this application proposal was approved it is recommended that a full flora survey of the site would be required to

determine the true botanical value of this site and establish what mitigation is required.

**Inverts**

Five Scottish wood ant *Formica aquilonia* nests of were recorded by MBEC on a survey during September 2009. One being within the proposed development site and the other 4 within 50m of the development boundary. Scottish wood ant is listed on the Scottish Biodiversity list. The Scottish Biodiversity is a list of flora, fauna and habitats that Scottish Ministers considered to be of principal importance for biodiversity conservation. The list was produced to fulfil requirements of The Nature Conservation (Scotland) Act 2004.

BSCG have reported records of Slender ground hopper and two slug species (ash-grey slug and lemon slug) with the proposed development site. MBEC has investigated these sightings and state that the habitat of the proposed development is unsuitable for slender ground hopper and that the slug species are classified as scarce by the Conchological Society of Great Britian & Ireland, however, MBEC state that this species is unlikely to be present on site.

This site is of high ecological value for a number of species including invertebrates, demonstrated by the presence of Scottish wood ant and the debated presence of ash-grey slug, lemon slug and slender ground hopper. If this application proposal was approved it is recommended that a invertebrate survey would be required and suitable mitigation implemented for any species of conservation concern present.

**Mammals**

No mammal species (other than red squirrels ) of conservation concern were recorded by MBEC during various surveys. Therefore they are not considered further.

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| Site: Boat of Garten | | |
| Development: Housing | | |
| Application Reference: 08/272/CP | | |
| Planning Case Officer: Andrew Tait | Frances Thin | |
| Date Received: Dec 2010 | Response date: 016/12/10 | |

**Landscape Context**

The site is within young pine woodland on the western approaches to Boat of Garten. This pine woodland is important in terms of its contribution to the local landscape character and experience of the area, the landscape setting of the village and the sense of arrival from the west. The pine woodland also has an amenity value as a well-used recreational resource. The reporter in the local plan PLI concluded that development of this site would have a significantly negative impact on the landscape character of Boat of Garten.

Since the PLI the scale and configuration of housing on the site has been modified and in my view the wooded and relatively flat nature of this site means that in landscape terms it would be possible for some housing to be accommodated without significant adverse effects. However, in order that the proposal meets the dual objective to complement and enhance the existing character of this part of the National Park it is crucial that;

- the siting and design of built development is of a very high quality from an architectural and sustainable design perspective
- the layout, design and landscaping within the development contribute to building a distinctive identity with a high amenity value for both those living there and those passing through, and an internal character that builds on the prevailing characteristic of a settlement within woodland
- the layout of the roads, housing, retained woodland and planted areas, new and existing footpaths/cycleways, fosters a high level of interaction with the natural environment,
- the arrangement of the components of the development on the site create a strongly defined sense of arrival from the west.

**Siting and Design of Built Development**

Built development should be consistent with the SPG on sustainable design. Careful placement and orientation of each individual house will be necessary to optimize solar gain, and reduce the likelihood of residents subsequently wishing to remove trees. Detailed site plans should show appropriate siting to optimize solar gain. Detailed plans should show design details for entrance ways, boundary structures, footpaths, edge treatments, surfacing and signage.

**Internal layout and landscaping**

Substantial areas of woodland should be retained, with smaller areas of retained and planted woodland permeating through the development, particularly from east to west. This will help to break up the extent of built development, provide landscape connectivity and a high level of amenity. The 'dome' of woodland that pushes into the development from the west is important in this respect, but should be continued, along with a connecting footpath, through to the road, and link up with other woodland areas as far as the school site.

Footpath connections are vital to fostering an interaction with the natural environment and enhancing the sense of place. An additional footpath link from the roundabout at the north of the site through to the forest track west of the site would increase the opportunities for circular walks and give a westerly connection to the cycle track/school route.

**Sense of Arrival from the West**

Maintaining and developing the woodland setting of the Boat of Garten settlement is partly dependent upon lessening the landscape and visual impact of the new build through design, and partly through the screening provided by the roadside trees. The ongoing management of these trees is critical to providing a screen, but they also provide an opportunity to create a strong woodland feature that could emphasize the entry to the settlement, and draw the eye along the road rather than into the development behind. This strip, at less than 20m (though very difficult to be clear exactly how wide it is from the plans I have), is relatively narrow and contains an existing cycleway. The detail of its management in the short to long term is important in providing a robust outcome.

**Landscape Method Statement**

An objective-based landscape method statement should be produced for the ongoing management of all retained and proposed woodland, individual trees (where appropriate) and other landscaped areas within the site. This should include a tree protection plan which would be in force during construction, species and planting specifications and protection measures.

**Conclusion**

There is scope for some housing development on this site without significant adverse landscape effects. However, it will only be possible for this development to complement and enhance the landscape character and setting of Boat of Garten if major efforts are made to secure a high quality design solution. I would advise that the applicant make some minor revisions to the layout proposal and provide drawings and details taking account of the issues described above.