

# **PAPER I:**

**(Boat of Garten Housing Application)**

## **APPENDIX F**

**Late Third Party Representations  
For Planning Report  
7 January 2011**

**Cairngorms National Park Authority**

Planning Application No. 08/272/CP

**REPRESENTATION**

ACKNOWLEDGED 23.02.11

20 February 2011

Birchens  
Kinchurdy Road  
Boat of Garten  
PH24 3BP

The Cairngorms National Park Authority  
Albert Memorial Hall  
Station Square  
Ballater AB35 5QB

Cairngorms National  
Park Authority

23 FEB 2011

SPWR [Signature] Jm

Dear Sirs

Your ref. 08/272/CP

I have recently received details of a proposed development of 72 houses and 5 building plots near the football ground and Craigie Avenue in Boat of Garten.

My concerns about such a development are as follows:-

1. The development would seem an unduly high percentage increase over the existing number of houses in the village. It is questionable how many local people will be able to afford to buy these houses with the probability that many properties would become merely holiday homes and therefore of not much benefit to the village community. Has the demand for such properties **by local people** in the area been properly assessed? Also, no commitment has been made to actually build a new school. If it is deemed to be required, building the school should be a **condition** for the development to go ahead.
2. The plan supplied to me earlier shows that access to the site from Deshar Road actually **crosses** the cycle path that runs along Deshar Road to the existing school. Deshar Road is the main road in and out of Boat of Garten (well used) and the cycle path, during term time, is, at peak hours, is also busy. The thought of the traffic generated by up to 77 houses crossing this cycle path raises major safety concerns. This assuming a new school will not be built.
3. The development would place a large extra load on the existing infrastructure. I was given to understand that water supply, sewage and electricity facilities are already stretched and without improvement their ability to cope is questionable. Has this been accounted for in the proposal? The water supply in particular has been extremely unreliable with over 150 failures in the last seven years (these are Scottish Water's own figures).

4. It appears that a sizeable amount of scarce native Scots pine will be destroyed with consequent loss of habitat to already rare wildlife. Many visitors to the area come to see wildlife species that can be found nowhere else in Britain. I have photographed in my garden pine martens, red squirrels and crested tits who live in the woodland you are contemplating allowing developers to destroy. I, and many others, consider this destruction to be a crime for which future generations will hold the CNPA responsible. If these houses have to be built, surely a development located on the open ground on the opposite side of Deshar Road to Craigie Avenue would provide both housing while at the same time preserving the pine forest for present and future generations to enjoy.
  
5. Unless the issues raised above have been taken into account and thoroughly assessed in the decision making process, I feel that the National Park Authority would be failing in its duty, as sole custodians of an irreplaceable resource, to allow this and other major developments within the Park to proceed.

For the reasons above I am opposed to this development going ahead.

Yours faithfully,



**Martin Young**

**Pip Mackie**

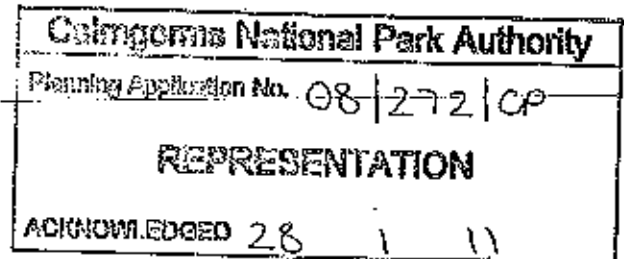
**From:** FRANK JOHNSTONE [REDACTED]  
**Sent:** 27 January 2011 23:09  
**To:** Planning  
**Subject:** Re: application for development Boat of Garten



Thank you. I should have included this.

Midwood, 97B Kinchurdy Road  
Boat of Garten, PH24 3BP

Regards  
Frank Johnstone



**From:** Planning <Planning@cairngorms.co.uk>  
**To:** Frank Johnstone [REDACTED]  
**Sent:** Tuesday, 25 January, 2011 1:02:00  
**Subject:** RE: application for development Boat of Garten

Dear Mr & Mrs Johnstone

Thank you for your email. In order to acknowledge your representation and keep you informed of various stages in the determination of the application, it would be appreciated if you could provide us with your full postal address.

Regards,  
Pip Mackie

**From:** Frank Johnstone [mailto:[REDACTED]]  
**Sent:** 22 January 2011 23:26  
**To:** Planning  
**Subject:** application for development Boat of Garten

For the attention of Andrew Tait

Dear Mr Tait

We wish to add our objections to the proposed housing development in Craigie Wood, Boat of Garten.

Our reasons for objecting are similar to those that have been so clearly and expertly articulated in the objections you have already received from a wide range of people, and in the very thorough and detailed document which you produced.

There are two further points that we would emphasise.

Firstly, the wood is a place of beauty and tranquillity, where the play of light and the seasonal changes are a delight to all who walk there, local people and visitors. This development would be a huge loss of amenity, and very injurious to the village's reputation as a centre of environmental tourism, with subsequent economic consequences. There may be a case for some affordable homes, but not at the expense of a beautiful woodland, with its iconic species (we have seen capercaillie several times between the site and the track crossroads) within a National Park!

Secondly, reporting by the local newspaper seems to suggest the village is solidly in favour of this housing scheme. This is an overstatement. Our experience has been that people in the village seem to value highly the immediate environment, and many have serious reservations about this development. Perhaps, as has been stated, it may be true that a third of people support it, a third are against it, and a third are not expressing an opinion. But there is

certainly a body of opinion that would see this as a destructive act, quite out of keeping with the high nature value of the surroundings and the ethos of the National Park.

Yours sincerely

Frank and Liz Johnstone

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**Julie Millman**

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**From:** Andrew Tait  
**Sent:** 05 January 2011 08:59  
**To:** Julie Millman; Marie Duncan  
**Subject:** FW: Objection Boat of Garten

Cairngorms National  
Park Authority  
- 4 JAN 2011  
SRP RECEIVED JM

Additional objection.

Andrew

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**From:** [REDACTED]  
**Sent:** 04 January 2011 18:04  
**To:** Andrew Tait  
**Subject:** Objection Boat of Garten

Cairngorms National Park Authority  
Planning Application No. 08/272/CP  
**REPRESENTATION**  
ACKNOWLEDGED 28 1 11

Gartenmore  
Boat of Garten

Dear Sir

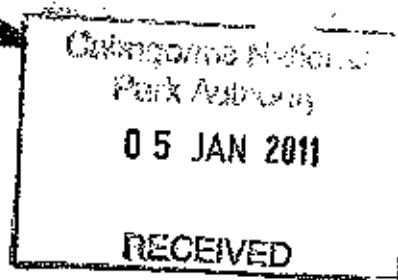
I am writing to object to the proposed housing development in Boat of Garten which far exceeds any possible local housing needs. This village has for many years welcomed visitors who have chosen to stay in a rural village, many of whom have a special interest in the local natural heritage. I consider the scale of the proposal to be totally inappropriate for such a village of this size within a National Park. I am concerned about the the impact on wildlife and landscape.

Yours sincerely

Elizabeth Matthews

Marie Duncan

From: Jamie Whittle  
Sent: 04 January 2011 10:21  
To: Planning  
Subject: FAO Andrew Tait - 08/272/CP - Boat of Garten



Dear Sirs

Planning Application 08/272/CP

Badenoch & Strathspey Conservation Group

Proposed development by Davall Developments for the erection of 73 houses; formation of 6 house plots; provision of primary school site; associated amenity ground, roads and footways at a site 200m west of Boat of Garten football field

**OBJECTION**

On behalf of and as instructed by the Badenoch & Strathspey Conservation Group, we hereby intimate our clients' further objection to the proposed development by Davall Developments for the erection of 73 houses, the formation of 6 house plots, and the provision of a primary school site and associated amenity ground, roads and footways at a site 200m west of Boat of Garten football field.

The proposed development will in our clients' view create an unacceptable adverse environmental impact to the area, will breach European and national environmental law, finds no support from the Cairngorms National Park Local Plan 2010 and has not been adequately assessed in terms of its potential environmental impact. It is our clients' strong submission that in the absence of thorough scientific evidence showing that there will be no adverse impact upon protected habitats and species, the Precautionary Principle must apply and planning permission be refused.

The principal version of this submission is being sent under separate cover to the National Park Authority by post and fax.

This submission adds to (but does not replace) previous submissions made by our clients directly to the Cairngorms National Park Authority ("CNPA"), and specifically addresses objections raised on legal and policy aspects, as follows:

Cairngorms National Park Authority
Planning Application No. 08/272/CP
<b>REPRESENTATION</b>
ACKNOWLEDGED 5/1/11

1. The Cairngorms National Park Local Plan 2010 ("the Local Plan")

- 1.1 As the CNPA will recall, the application and its potential adverse environmental impacts principally to capercaillie (*Tetra urogallus*) were considered extensively by one of the Reporters in the Local Plan inquiry (matter 56 of the report). Based upon "serious concerns" about the impact posed to one of Scotland's most threatened species, the Reporter recommended deletion of policy BG/H1 (paragraphs 56.31 and 56.34).
- 1.2 The Reporter also considered the application to be unacceptable in terms of its negative impact on the landscape character of Boat of Garten.
- 1.3 CNPA did not include BG/H1 in the Local Plan. As such, the application can find no support from the Local Plan.
- 1.4 Furthermore, the application is incompatible with policy 5 (biodiversity) of the Local Plan. Species present on and adjacent to the site and listed in either the Cairngorms Local Biodiversity Action Plan, the UK Biodiversity Action Plan or the Scottish Biodiversity List include: capercaillie, crested tit, Scottish crossbill, red squirrel, small heath butterfly, northern brown Argus butterfly, Cousin German moth, Grey Carpet moth, narrow headed wood ant, hairy wood ant, netted mountain moth, narrow-bordered bee hawk moth, blackberry bee, great spotted woodpecker, lapwing, pipistrelle bat, pine marten, roe deer, Juniper and such endangered tooth fungi as Drab Tooth (*Banckera fuligineoalba*), Devil's Tooth (*Hydnellum peckii*), Scaly Tooth (*Sarcodon squamosus*), Blue Tooth (*Hydnellum caeruleum*) and Greenfoot Tooth (*Sarcodon glaucopus*). Vulnerable biodiversity interest is also reflected in such records as that of the slender groundhopper at the north of its UK range, and the pinewood orchid Creeping Lady's tresses (*Goodyera repens*).
- 1.5 With such important biodiversity present of local, national and indeed international importance, the proposed development can find no justification to proceed. Adverse impacts to the important interests can not be avoided, and mitigation measures already proposed by the applicant are ineffective. Moreover, the applicant has failed to carry out a comprehensive level of monitoring and assessment.

1.6 The application also finds no support from policy 6 (landscape) of the Local Plan.

2. National Parks (Scotland) Act 2000 ("the 2000 Act")

- 2.1 It is submitted on behalf of our clients that the development fails to achieve any of the four aims contained at section 1 of the 2000 Act.
- 2.2 In any event, the first aim of the National Park – "to conserve and enhance the natural and cultural heritage of the area" – must take precedence, as per section 9(6) of the 2000 Act (or Sandford Principle).

3. Wildlife & Countryside Act 1981 (as amended) ("the 1981 Act")

- 3.1 Capercaillie, crested tit and crossbills (Scottish and parrot) are present on the site and are all protected under schedule 1 of the 1981 Act.
- 3.2 Red squirrel is present on the site and protected under schedule 5 of the 1981 Act.

4. Nature Conservation (Scotland) Act 2004

- 4.1 Given the important biodiversity interests on the site, it is submitted that the CNPA would be failing its statutory duty under section 1 of the Nature Conservation (Scotland) Act 2004 to further the conservation of biodiversity were the application to be approved.



5. European Directive 2009/147/EC ("Wild Birds Directive")

5.1 Capercaillie present on the site are afforded special protection under Annex 1 of the consolidated Wild Birds Directive.

6. European Directive 92/43/EEC ("Habitats Directive")

6.1 As highlighted by the Reporter (paragraphs 56.12 – 56.15) in the report on the Local Plan, an appropriate assessment is required to be carried out in respect of capercaillie present on the site and which species forms part of the qualifying interest of four nearby Special Protection Areas in terms of article 6(3) of the Habitats Directive.

6.2 It has been noted by Scottish Natural Heritage that the site forms an important strategic habitat for the meta-population of capercaillie in Strathspey, and which population forms over 60% of the UK numbers of this protected species.

6.3 The recent appropriate assessment carried out by CNPA in terms of regulation 48 of the transposing Conservation (Natural Habitats &c.) Regulations 1994 of the Habitats Directive has indicated that this development is inappropriate.

6.4 The habitat which would require to be destroyed in order to facilitate this application is Caledonian pinewood, a priority habitat in terms of Annex 1 of the Habitats Directive. Any removal of this priority habitat would run contrary to the principal aim of the Habitats Directive, that being (Article 2) to ensure biodiversity through the conservation of natural habitats. Accordingly, this habitat should be afforded appropriate protection.

For the above reasons, we respectfully urge the Cairngorms National Park Authority to refuse this application so that important biodiversity and landscape interests may be protected in alignment with the aims of the National Park.

Yours faithfully

Jamie Whittle

**Jamie Whittle**  
**Partner**  
**For and on behalf of R & R Urquhart LLP**

**2 Ardross Street, Inverness, IV3 5NN**  
**tel: 01463 714477 fax: 01463 718867 mobile: [REDACTED]**  
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Members: Colin Whittle, W.S., Jane Ferguson, W.S., James Hotchkiss W.S., Will Cowie, W.S.  
Alexandra Maclean, Jamie Whittle, W.S. and Lesley Clark

Cairngorms National  
Park Authority  
05 JAN 2011  
PW RECEIVED JAD

Badenoch & Strathspey Conservation Group  
Fiodhag, Nethybridge, Inverness-shire PH25 3DJ

Scottish Charity No. SC003846

Cairngorms National Park Authority  
Planning Application No. 08/272/CP  
REPRESENTATION  
ACKNOWLEDGED 5/1/11

Andrew Tait  
CNPA  
Ballater

4.1.11

Dear Andrew

Objection to proposed housing development, Boat of Garten 08/272/CP

Please find below some further observations that form part of BSCG's objection to the above proposal.

Best wishes

Gus Jones  
Convener

Juniper *Juniperus communis* (UK Priority Species, Scottish Biodiversity List Species and Key Cairngorms Species)

On the current application site BSCG has recorded 4 Juniper bushes (see photos)

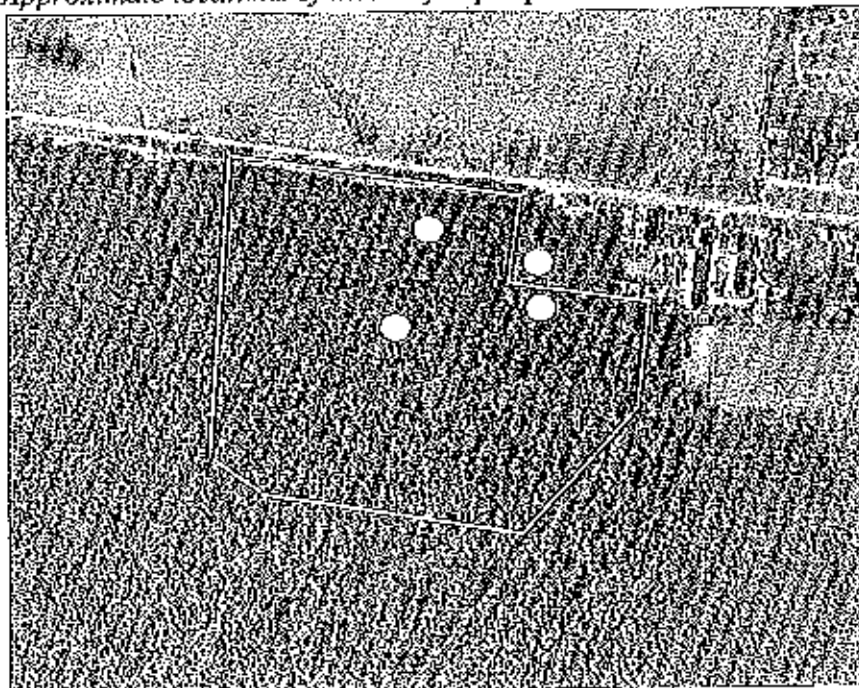
*Photographs taken on 2.1.2011 of 2 different juniper bushes within the MBEC survey area at NH 934189 and NI1935189; the second of these is believed to be a specimen first noted by BSCG in September 2002)*



*Photographs taken on 4.1 2011 of 2 further juniper bushes within MBEC survey area at NI 93522 18927 and NH 93467 18967*



*Approximate locations of these 4 juniper plants in and near to the proposed development site*



The Report dated November 2010 by MBEC misleadingly indicates that Juniper is not present on the application site or its surroundings ("MBEC have checked the current proposed development area and neither [Juniper and Creeping lady's tresses] has been seen within it or on its immediate surroundings" (Paragraph 4.3.1 p14 ).

For Juniper this statement conflicts with assertions made on page 33 of the MBEC report :- "only one small plant [of Juniper] was found growing within the study area for the proposed development site" (Paragraph 3.6.2) and "An MBEC botanist specifically looked for this [creeping lady's tresses] and any other noteworthy species on the site and did not find it or any other noteworthy species present, with the exception of one small bush of juniper" (Paragraph 3.6.3).

In an objection to an earlier application for housing development in woodland at Boat of Garten (reference 02/230/OUTBS that was for a partly different proposed development site and a larger number of houses) BSCG wrote in a letter of 10.9.02 to Robert Cameron (IIC Area Planning and Building Control Manager, Badenoch and Strathspey) "our own limited observations (in September [2002]) have revealed the presence of juniper, a UK Priority Species".

There has been growing appreciation of the conservation importance of Juniper, that has its own Action Plan and supports 42 species of invertebrate and a suite of fungi and lichens. On 24 April 2009 the Environment Minister, Roseanna Cunningham, commented "juniper is a species ...in need of help" (see <http://www.forestry.gov.uk/newsrele.nsf/WebPressReleases/BFF7B9EBDCD28B198025758C002A106D>).

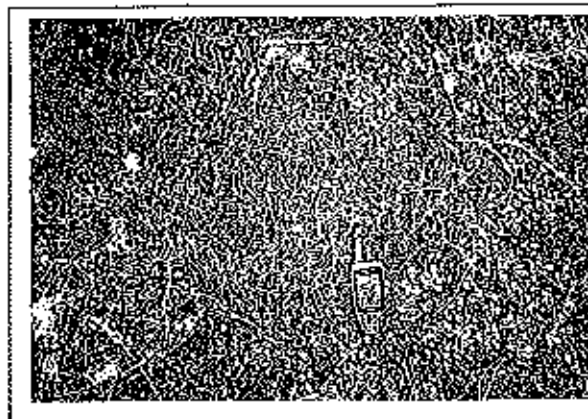
## Wood Ants

MBEC reports the results of a "full" survey of wood ant nests indicating locations of 5 nests. Two additional nests were noted in a brief visit by BSCG on 3 January 2011 (see photos). As one of these was earlier located by BSCG on 12 May 2009 it appears the MBEC survey in September 2009 missed this nest.

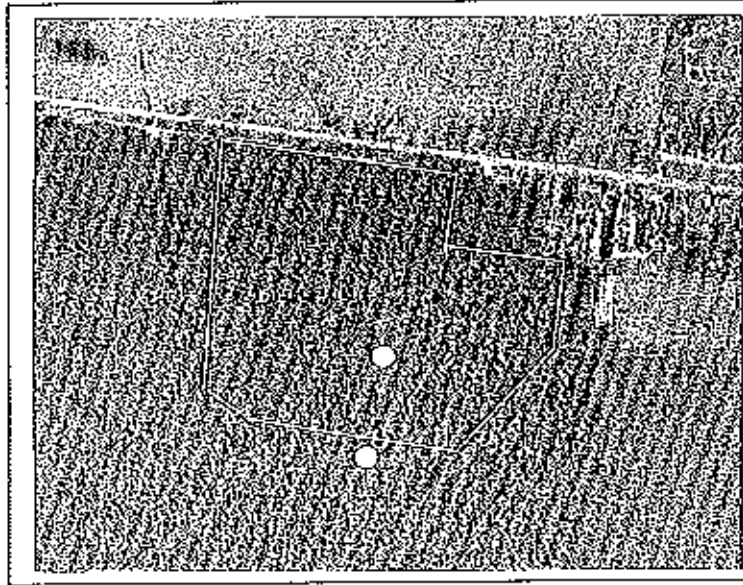
A sizeable nest of wood ant (*Formica rufa* group i.e. *F. aquilonia* or *F. lugubris*) photographed on 3 January 2011 at NH93473 18835. BSCG recorded a nest at this location on 12 May 2009; however, MBEC did not report any wood ant nest at this location in their September 2009 survey.



A sizeable nest of wood ant (*Formica rufa* group i.e. *F. aquilonia* or *F. lugubris*) photographed on 3 January 2011 at NI93455 18730 at a location not corresponding to any of the 5 wood ant nests reported by MBEC.



Approximate locations of two wood ant nests not reported by MBEC. Both are within the MBEC survey area.



The species of wood ant that MBEC report they have found on the development site is the Scottish wood ant *Formica aquilonia*. It is noteworthy that the Highland Biological Recording Group database for this site includes records of the northern or hairy wood ant *Formica lugubris* but lacks records of *Formica aquilonia*. Both species are on the Scottish Biodiversity List.

## Badgers

MBEC found no evidence of badgers using the application site and concluded that badgers "are not resident within the proposed development area or its immediate surroundings" (paragraph 4.4.1 p14 Ecological Supporting Information).

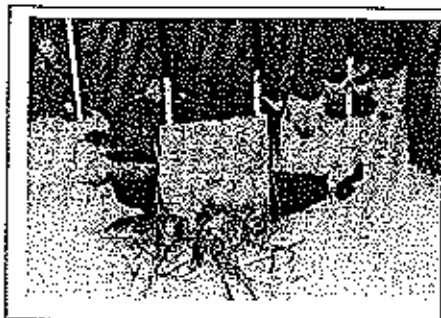
However, badgers are known to use the application site. BSCG has recorded badger foraging signs (excavated wasp nests) within the site in 2009. Another reliable observer has made a similar observation within the application site on another date. A resident adjacent to the application site has had nightly visits from badgers into their garden from the woodland to the extent that they installed a badger gate (see photo).

A currently active sett (see photo) was photographed on 4.1.11 approximately 1.7km from the application site.

MBEC refer to badgers being "well known to avoid setting in areas of regular dog activity". The current proposals will increase the levels of dog activity deeper into the wood with potentially adverse impacts on badgers.



A currently active badger sett.  
Muddy tracks of badger at a sett within  
approximately 1.7km of application site.  
Photographed on 4.1.11



Badger gate in garden fence adjacent to  
application site

### Habitat Fragmentation

MBEC Report (paragraph 3.6.4 p33 Ecological Survey Report) states "Addressing a further point made by Jones (2002) [BSCG's letter of 10.9.02] in relation to habitat fragmentation, the suggestion that the development would cause habitat fragmentation is unrealistic. To be considered to be fragmented, the habitat would require to be separated or divided in some way. The proposed development is for an area on the edge of the woodland, immediately adjacent to Deshar Road: the woodland would remain continuous from Kinachurdy Road through to the western edge near the A95. The development would not affect the continuity of the canopy in any way. The design specifications for the development also involve the retention of as many trees as is practicable, in order to maintain a woodland character on the edge of the residential area."

In relation to the present application site, BSCG considers it is self-evident that the woodland habitat would be fragmented, and the continuity of the canopy would be significantly diminished.

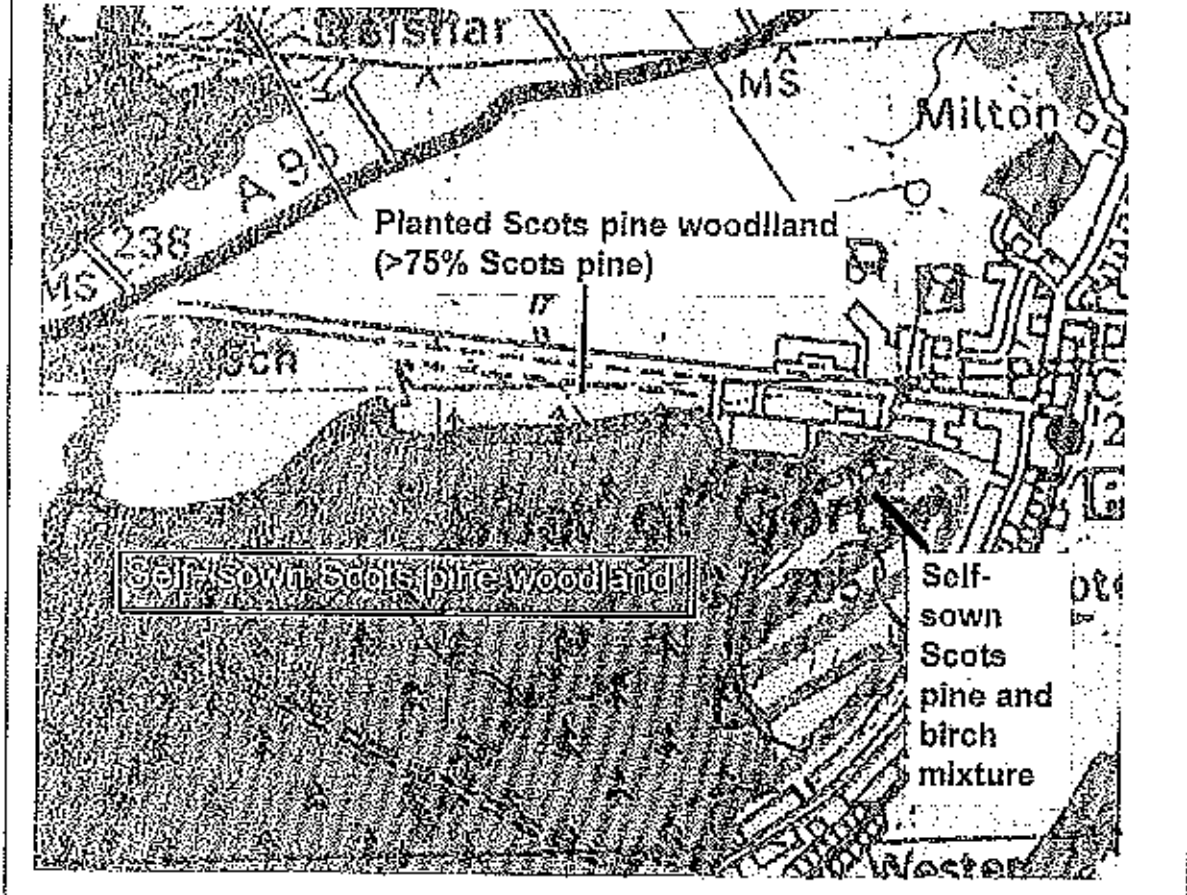
The following are examples of how the proposals would fragment woodland habitat and reduce canopy continuity:

- The roads, buildings and gardens of the application would all serve to reduce woodland habitat and break up canopy continuity.
- The school and community areas would be bordered on the west and south by housing, and so fragmented from the rest of the woodland.
- The woodland strip that would be retained between the application site and Deshar Road would be fragmented from the rest of the wood and lose canopy continuity with the rest of the wood along its southern border.
- The woodland to the west of the central part of the proposal would be bordered on 3 sides by housing and so would be more fragmented from the rest of the wood and lose canopy continuity with the rest of the wood except to the west.



## Woodland Origin

Extract from Map 10 (Kinveachy, Duthil, Docharn and Granish),  
Dunlop BMS 1994 'The native woodlands of Strathspey',  
Scottish Natural Heritage Research Survey and Monitoring Report No  
33



The 1994 report by the former Forester for Seafield Estates, Basil Dunlop (also former CNPA Board member and HC Councillor), illustrates that most of the application site is self-sown Scots pine woodland (green), rather than plantation woodland. The only plantation woodland (yellow) is the area closest to Deshar Road. This report was undertaken for SNH.

MBEC in their Report (see e.g. paragraph 4.2.1 p13) state that the application site is wholly planted. The report author, when consulted by BSCG on 4.1.11, confirmed that the green area on the map was definitely self sown and not planted, the seed source for the natural regeneration being nearby native granny pines that had been left. He clarified that there was later some minor infill planting in some bits of the forest to bring the natural tree density up to forestry standards.

MBEC also state that the application site is ploughed (paragraph 4.2.1 p13). However, it is self evident on the ground that most of the application site has not been ploughed. Moreover, the most evident example of past ploughing in the vicinity of the site is outwith the application site in the north part of the C1 allocation (in the CNP Local Plan) between the

school site and the lorry park. The author of the report confirmed that ploughing had been restricted to limited parts of the edge of the wood.

**Bearberry *Arctostaphylos uva-ursi***

**Foodplant for netted mountain moth *Macaria carbonaria* UKBAP species, Red Data Book 3**

BSCG has recorded bearberry on the west side of the track that forms the eastern boundary of the proposed housing, on 2.1.11, and near the cycle track near the proposal site on 4.1.11, grid references and photos available.

BSCG reported the presence of bearberry in response to the earlier Doat of Garten application in a letter of 10.9.02 to Robert Cameron (Area Planning and Building Control Manager, Badenoch and Strathspey) "The proposed development site is Scots pine woodland with a rich understorey of dwarf shrubs (cowberry, ling, blackberry, crowberry and locally bearberry)."

The MBEC report asserts that bearberry is not present, stating that: "BSCG also mention bearberry (*Arctostaphylos uva-ursi*) as being present [referring to the earlier application, letter 10.9.02]. It is respectfully suggested that the surveyor must have got their identification wrong – to the inexperienced eye this species can be confused with cowberry, which is a common and present species. An MBEC botanist has confirmed that there is no bearberry present within the proposed development site or its immediate surrounds, however, it could be present further south on edge habitat approximately 1km south of the proposed site but even this is not ideal habitat and not where it would be expected to be found" (paragraph 4.3.1 p14 Ecological Supporting Information).

Bearberry is the food plant for the Netted mountain moth, which is a UK BAP and Red Data Book 3 species. This moth has been recorded in the km squares west and east of the proposal site, and it is reasonable to envisage that it may visit the bearberry beside the cycle path and on the eastern edge of the application site.

Duncan Bryden  
Chairperson  
Calngorms National Park Planning Committee  
Albert Hall  
BALLATER

28<sup>th</sup> December 2010

Calngorms National Park Authority	
Planning Application No.	08/272/CP
<b>REPRESENTATION</b>	
ACKNOWLEDGED	5/1/11

Dear Duncan and members

As you will be aware, I have recently chaired the Boat of Garten Housing Group. The group was set up by the park authority in response to very widespread fear in the community as to a viable future if affordable housing could not be provided in the near future.

The village, led by its community council, are extremely concerned to maintain a healthy age balance, in the face of the very high level of second homes, the rising percentage of older people and the falling school roll.

I feel the meeting of 19<sup>th</sup> October was valuable and constructive. The group, using the considerable local and specialist knowledge within our ranks discussed various alternatives to the application before the planning committee and whilst one or two might be worthy of some further investigation, all would bring their own set of constraints and inevitably cause delay, and none offered affordable housing at anything approaching the numbers in the current application.

I am writing to clarify the issues raised and conclusions reached in the minute of that meeting, though I do so in my capacity as a Highland Councillor representing the area. In my view, refusal of the current application would put funding for any affordable housing

at grave risk of being lost for years to come. I believe this was made very clear in comments from the Highland Council housing service representative and from the officers from the housing associations.

The various natural heritage issues are of great importance; at our meeting I became convinced that, with proper mitigation and woodland conservation enhancement measures throughout the large woodland adjoining the actual housing site, any detriment to the natural heritage could be minimised and even completely negated. The landowners appeared to be more than willing to discuss and implement such measures.

It is my view that, at the very least, mitigation can bring any remaining detriment down to a level to balance with the strong public interest in affordable housing in Boat of Garten. The committee will have to make that judgement after hearing from all represented parties at the planning meeting. However, might I respectfully point out that the percentage of affordable housing on offer with this application is exceptional and would do much to alleviate the significant housing need that has been proved to exist in Boat of Garten?

Scottish Water has given me an assurance that they have the funding for a new waste water treatment plant if this application is approved. If the application is turned down they will not be able to support this investment and will have to carry on with ad hoc repairs to their current plant. A situation that Boat of Garten residents will not find satisfactory.

In conclusion, the alternatives discussed would not offer anything like the scale of affordable housing that is proposed in the application before you and would not be delivered on a time scale to ensure the funding on offer at this time.

The natural heritage issues are important but I believe that, given the size of the adjoining woodland, these can be resolved. The first aim of the national park must be given its proper weight in determining this application but so must the other aims and the public interest. The site sits within the local plan as inside the settlement boundary of Boat of Garten. There is a presumption in Scottish planning guidance in favour of development within settlement boundaries.

As a Highland councillor for Boat of Garton I firmly believe that a large majority of the village now support this application, this is reflected in the comprehensive and thorough response by the community council and, with proper safeguards, I hope the committee can give this community the lifeline it deserves.

Yours sincerely,

A black rectangular redaction box covering the signature of the councillor.

Cllr. FDS Black

Cairn

MD

Park

05 JAN 2011

Cairn National Park Authority

Planning Application No. 08/272/CP

Marie Duncan

From:

RW

[Redacted]

REPRESENTATION

Sent:

04 January 2011 10:13

To:

Planning

ACKNOWLEDGED

sh/11

Subject:

Future of Boat of Garten. Affordable housing in Boat of Garten - application for housing

Dear Mr Bryden,

Future of Boat of Garten. Affordable housing in Boat of Garten - application for housing

I am writing in my capacity as the constituency MSP for Inverness East, Nairn and Lochaber constituency, which includes the whole of Badenoch and Strathspey, which area I have represented for the past 12 years.

I am aware that this Friday the CNPA will consider an application which is very strongly supported by the Community council, and one on which I, as the local MSP, have been lobbied by various individuals that I represent to support, and to make such support known to the Park board members and members of the planning committee.

This is an opportunity to sustain the community of Boat of Garten which I hope will be grasped. It will provide a massive number of affordable homes. The report by Mr Tait shows that this will be the case. It records that there will be no less than 32 affordable homes - 16 for rent - and 16 shared equity. In addition there will be 5 plots for building.

This will allow an opportunity for young people to obtain a home of their own in their own part of Scotland. This is not an opportunity which will arise again for the following reasons:

\*The working group set up recognised that there are no other sites in Boat which could provide anything approaching the same number of homes. Indeed, there are no sites at all, in my view as someone who lives in the area, which are suitable for more than a few homes.

\*These additional affordable homes are urgently needed. This is plain to myself as the elected representative, from surgeries which I hold in the constituency. It is also, I believe, the view of local councillors, such as Dave Fallows and Stuart Black, both of whom, I gather, strongly support the application.

The existing housing in Boat of Garten is a mix of former local authority homes, and private housing - much of which are second homes and or holiday homes. There are few homes that come up for rent - and few that are within affordable reach of young people locally. This is a simple fact which the Reporter does not seem to have taken on board, or, which if he did, he appears to have the view that they could go elsewhere in the Strath. Where that is - I most certainly do not know, as the shortage of housing is manifest throughout the whole Strath area.

\*It is highly unusual for an application of this scale to include such a high proportion of affordable homes. This is recognised to some extent at least in the Report which notes that 42% of the homes would be affordable. This is a once in a generation opportunity for a generation who, unless this application proceeds with permission granted in due course, will be unable to live in their own part of Scotland - to get a home to call their own in their own community. Surely this is an opportunity that must be grasped by the CNPA

\*Cairn Housing has the funding for the homes now. If the planning is not granted, then this money cannot be used for Boat, and will probably be used elsewhere. There is no guarantee that such funding will be available again, as it is very difficult to garner such funding together, as CNPA members may know.

\*The future of the school at Boat is uncertain unless there are more children to attend the local school. This application would see, potentially, 37 local families, and therefore would surely secure the future for the

school. By contrast a refusal would place a shadow and a question mark over the school's future. (This is whether the school continues to operate from its current position, or at a new location nearer the village, as envisioned in the application)

\*There is very strong local support for the application.

\*The application would secure the provision of an adequate sewerage system for Boat. Conversely, it is believed that Scottish Water would not be able to justify the provision of the improved system, unless this application proceeds. If that is the case, and I shall check this with SW, then it would see the continuance of the problems suffered in Boat, where raw sewerage has escaped, causing massive pollution, risks of disease and a blot on the environment locally.

This matter has not been fully canvassed in the report to the members, and they should be aware that local opinion is that unless the application is granted, then the community may continue to suffer from the escape of raw sewage in Boat. I would suggest that this matter must be relevant to the "environment" and am surprised that it has not, apparently, been more fully investigated so that those making the decision are apprised of all relevant facts.

So, there are compelling reasons to grant this application - and I felt very strongly, having read the recommendations from the CNPA planning department, that these reasons are not sufficiently well stated.

I would comment on the key reasons which led to the recommendation being to refuse.

First - SNH objections.

It is clear that these objections may be removed - SNH say that they envisage this may happen with a bit more work. I am hugely disappointed that the mitigation measures which have been brought forward have not been accepted by SNH. That said, however, I hope that they can be persuaded to do so, and, unusually, they say that this may occur. It is up to the applicants to decide whether to seek a deferral of the application. I hope that they do so, in order to carry out the necessary work.

I hope that the Park will assist in this.

Second - the layout objections. Once again these appear to be marginal and finely balanced. It would seem hugely disproportionate to reject an application when there is little difference between the parties, and again I hope that these matters can be resolved and resolved swiftly.

Third, I respectfully disagree that the application is contrary to the aims of the Park, in the legislation. I would suggest that the Report to members places one interpretation on these aims - but that is all it is.

The development is of a very very small area of the total area of the forest. It is not designated. Indeed, I understand that it is a commercial plantation, where a felling licence could be obtained! The area concerned is not an SPA. The mitigation measures - the provision of a domed area - and other measures, including the work to survey drains, as per the papers submitted, have been extensive, and no doubt expensive to procure.

It is very difficult to prove a negative - that there would be no impact on caper or red squirrels at all - and I am not aware of any legal provision which requires that to be done. Indeed that does not appear to be the position of SNH with regard to this matter, presumably because this forest is not Rothiemurcus - and is not designated - and is used by many locals, myself included for walks.

The park's four aims include conservation - but what the interpretation placed by the Park report does is to call in effect for preservation. Surely to conserve the natural environment is to keep what is best - not to keep things as they are? Yet that is how the law appears to be interpreted.

The other aims of the park allow members to consider the sustainability of local communities in the park. In my view this application would sustain Boat of Garten probably for the next 50 years and possibly more. To refuse it, may threaten its sustainability as a viable community, and in particular cast a shadow over the future in the long term, of the local primary school.

I do not consider that this application is contrary to any of the four aims. But, even if it is thought by others, to be contrary to the first and third aims, then the duty of the Park is to use every effort to resolve the conflict by agreement. This was the interpretation placed on the wording of the legislation by the Minister, Sarah Boyack, when defending the Sandford Principle. This, I know, because I argued that the Sandford principle should not apply - and I am aware that the Chief Executive of the CNPA will be familiar with this section of the debate in the Scottish Parliament, as she was then the civil servant leading the Bill team! I would therefore respectfully draw members attention to the very clear requirements of the law and practice of interpreting the law, where there is conflict, in the hope that the relatively minor points which prevent the application from being recommended for acceptance can be further discussed.

Perhaps the CNPA could let me know if this interpretation of what is required re the Sandford principle is accepted? I can readily provide the reference to the debate in the Scottish Parliament which occurred at Stage 2 of the Bill.

In conclusion, I submit, on behalf of my constituents, that this application is essential for the future of Boat of Garten, and to allow generations of young people from Boat to have a reasonable chance to live in their own community.

I hope that these views will be taken into account, and I would seek an opportunity to put these views to the CNPA by way of an oral submission.

Yours sincerely  
Fergus Ewing MSP

Norman Will  
Office Manager to Fergus Ewing MSP  
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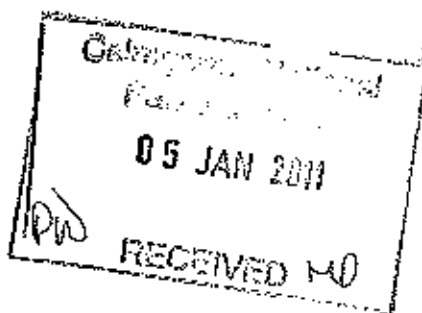




## BOAT OF GARTEN COMMUNITY HALL

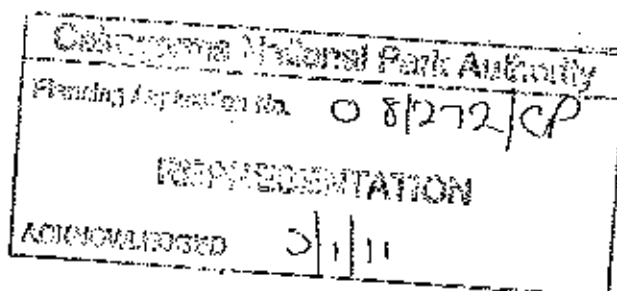
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Kinchurdy Rd  
Boat of Garten  
PH24 3BP

3<sup>rd</sup> January 2011



Don McKee  
CNPA  
Albert Memorial Hall  
Station Square  
Ballater  
AB35 5QB

For the attention of Andrew Tait  
Email [planning@cairngorms.co.uk](mailto:planning@cairngorms.co.uk)



08/272/CP(08/00188/FULBS)

Planning Application by Davall Developments for erection of housing in Boat of Garten  
To be heard on 7/1/2011

I write on behalf of the Directors of Boat of Garten Community Hall. It has been brought to my attention as the newly elected Chairperson of the Hall Committee, that the letter written by my predecessor, the late Iain Murray, dated 21/7/2008, remains on record for this planning committee as part of your third party representation information (CNPA Paper 3985, pages 14-15).

On behalf of the Directors I wish to clarify that Boat of Garten Community Hall Committee members are in support of the response to the planning application provided by Boat of Garten and Vicinity Community Council and its recommendation of approval.

Our only concern is that the issue of vehicular road access into the community hall car park has not been satisfactorily resolved. As stated in our previous letter, when planning consent was granted for the community hall by the CNPA Planning Committee it made it a condition that vehicular access to the hall car park should be provided separately from Craigie Avenue through the proposed housing development should it proceed.

Following our letter of July 2008, subsequent discussions took place between the community and the developers and we had expected the most recent plans to have indicated road access to the north of the site, directly into the hall car park, as had been in an earlier version of the plans. At present the plans simply indicate an arrow with 'possible access'. We understand the Community Council have raised this matter again with the Developers during the course of December and that communication is on-going.

As a Committee we believe that this housing development is vital to the long term sustainability of Boat of Garten as a community. In order to ensure resolution of this vehicular access issue, we would respectfully welcome the consideration by the Planning Committee of whatever planning condition was considered appropriate to resolve this matter.

I trust this clarifies our position in respect of the Application.

Yours sincerely,

*Beverley Birchwood*

Chairperson

20 Craigie Avenue  
Boat of Garten  
Inverness-shire  
PH24 3BL

Tel: [REDACTED]  
e-mail: [REDACTED]

3rd January 2011

Andrew Tait  
Planning Officer  
Cairngorm National Park Authority

Dear Mr. Tait;

I write to comment (object) on Planning Application 08/272/CP, Proposed Residential Development at Boat of Garten wood, Boat of Garten. I hope that e-mail is acceptable, as due to delays in Christmas post and holidays, a written letter is unlikely to arrive in time.

I also wish to address the Planning Committee, which I believe meets in The community Hall at 10.30pm on Fri 7 Jan.

I run a mountaineering business in Boat of Garten. My clients obviously come here because of the mountains, but there are mountains all over Scotland, so why do they come here? Because Strathspey is (like the mountains) a beautiful venue. And in the evening they often go for a gentle stroll on the footpaths in the woods behind my house. They are hardly going to walk through a housing scheme. Not only my clients, but many other visitors and locals walk in the woods. In winter, the paths and tracks are very popular for cross country skiing. This facility is an important part of the attraction of Boat of Garten.

The same principle of considering the local environment as part of the facilities is what makes national parks such a success for the tourist industry. We want to attract sensitive tourism; wanton destruction of the valley ahead of it defeats the purpose. So I oppose this application because it will directly harm my business.

Boat of Garten is the flagship village in Strathspey for wildlife tourism. In my work around the Scottish hills, I'm often asked where I come from and when I say Boat of Garten, folk have always heard of it, despite its small size. Of course it's famous for ospreys, but it's surprising how many folk know about Capercaillies, Crested Tits, Slavonian Grebes too. And even Herons at the other end of the village. For bird watching holidays, Boat of Garten is one of Scotland's premier venues. So why do these birds like it here? For the same reason I do, and the tourists. Because its landscape is natural.

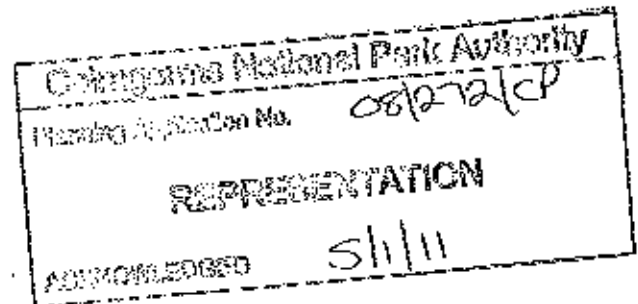
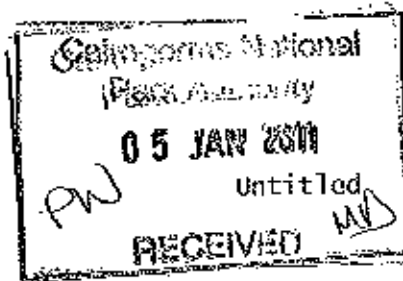
While I understand that affordable housing is urgently needed in Strathspey, this is too big a price to pay. Affordable housing is needed because the tourist industry provides jobs, especially in Boat of Garten. Destroying this wood will damage the very reason for its requirement. Surely let's keep Strathspey attractive to tourists, wildlife and residents.

#### Environmental Issues

I have attached files with sightings of Capercaillie and Notted Mountain Moth made by my wife, the late Gill Nisbet. The Notted Mountain Moth sightings are just outside the boundary of the development but so close that feeding must take place inside. Also some of the Capercaillie sightings are outside but close. I also used to see Capercaillie inside the area (particularly some 200m south-west of Fairy Hill, but have no GPS readings). This was around 2003, and I have not seen them recently, but this indicates to me that they have been moved away by proximity to houses. This new development will drive them even further away and limit their viability in the woods.

In summary, here are my reasons for objection:

1. My tourist business depends on accommodation in an attractive village; a new



Untitled

housing development outside my back door is hardly that.

2. Boat of Gärten in general depends on the tourist industry, and damaging of one of the main walking/birdwatching sites will seriously damage it.

3. Our best wood is being cut down.

4. Now that we have National Park status, development should be more carefully phased and limited, so as to protect the area.

Yours aye,  
Andy Nisbet

Herpetological Survey, 2004, Gill Mickel

Date	Location	100m square	Grid Ref.	Alt.	Weather	Time sampling	Method	Habitat description
17-May-04	Beet of garden cycle track	NHE1	82873 18078	220	Sunny, breezy, cool	30 mins	2:00pm	Late pasture of <i>Arctostaphylos</i> over open bank
17-May-04	Beet of garden, school near	NHE2	82825 18050	223	Sunny, breezy, cool	30 mins	1:00pm	Highly open <i>Arctostaphylos</i> thicket, no large patches of moist, mossy growing undergrowth. Common Health mushrooms.
22-May-04	Tucson near	NHE3	81925 18977	438	Sunny, warm, light breeze	1 hour	2:00pm	Extensive <i>Arctostaphylos</i> in the ridge recently burnt 4/03. Common Health mushrooms, also 1 <i>Gyromitra</i> <i>Hypotrachyna</i> .
22-May-04	Tucson near	NHE4	81850 18410	230	Sunny, warm, light breeze	1 hour	Nemo	Bank with extensive <i>Arctostaphylos</i> , <i>Nematodes</i> <i>Carthagen</i> Health and 1 <i>Gyromitra</i> <i>Hypotrachyna</i> .
27-May-04	Tucson near	NHE5	81825 18438	230	Sunny, warm, light breeze	1 hour	Nemo	Large patches of <i>Arctostaphylos</i> banks near <i>Nematodes</i> <i>Carthagen</i> Health and 1 <i>Gyromitra</i> <i>Hypotrachyna</i> .
27-May-04	Garden near, 2 N railway	NHE6	81530 15948	240	Sunny, warm, light breeze	1-1.5 hours	2:1 sample for or brown	Extensive <i>Arctostaphylos</i> overgrown by <i>Calluna</i> and heavily grazed.
27-May-04	Garden near, N of railway	NHE7	81597 15770	240	Sunny, warm, light breeze	30 mins	Nemo	Very little <i>Arctostaphylos</i> overgrown by <i>Calluna</i> and heavily grazed.
27-May-04	Garden near, N of railway	NHE8	81597 15770	435	Sunny, breezy, warm	1-1.5 hours	Nemo	Only small remnants of <i>Arctostaphylos</i> under tall <i>Calluna</i> .
2-Jun-04	Group of <i>Arctostaphylos</i> and <i>Hedra</i> in N.	NHE9	82234 13278	287	Sunny, breezy, warm	1-1.5 hours	Nemo	5-6cm high <i>Hedra</i> with tiny <i>Calluna</i> <i>Arctostaphylos</i> . <i>Fuchsia</i> also present, probably 1 <i>Myrica</i> .

Date	Grid ref.	Record	Recorder
19-Jan-03	NH93536 18576	Caper flew from tree - roost site. Mass of droppings under Scots pine.	G. Nisbet
19-Jan-03	NH93337 18347	Caper flew from tree - roost site. Mass of droppings under Scots pine.	G. Nisbet
19-Jan-03	NH93337 18350	12 droppings on tree stump at edge of boggy area.	G. Nisbet
19-Jan-03	NH93231 18252	Roost site. Mass of droppings under Scots pine.	G. Nisbet
19-Jan-03	NH93676 18301	A few droppings under Scots Pine near edge of birch wood.	G. Nisbet
19-Jan-03	NH93559 18498	A few droppings under Scots Pine.	G. Nisbet
19-Jan-03	NH93548 18541	A few droppings under Scots Pine.	G. Nisbet
19-Jan-03	NH93529 18550	Approx. 16 droppings in bog.	G. Nisbet
19-Jan-03	NH93551 18478	A few droppings.	G. Nisbet
19-Jan-03	NH93539 18454	A few droppings.	G. Nisbet
19-Jan-03	NH93309 18329	Droppings in heath at edge of boggy area.	A. Bateman
12-Sep-03	Approx. NH929179	Male caper in burnt area with lots of cowberries	A. Nisbet
14-Sep-03	NH937184	Caper flew from tree.	A. Bateman
19-Sep-03	Approx. NH929179	Male caper in burnt area with lots of cowberries	A. Bateman
29-Sep-03	Approx. NH929179	2 caper (1 a male) in burnt area.	G. Nisbet
5-Oct-03	NH928 186	Female caper flew from tree just outside burnt area. (Lot of cowberries in burnt area.)	G. Nisbet
12-Oct-03	NH92812 18468	2 caper droppings, quite fresh. In burnt area with a lot of <i>C. vulgaris</i> shoot regen.	G. Nisbet
12-Oct-03	NH92812 18468	Large pile of small grouse droppings, 4mm diam. Reddish brown with caecal droppings also. ? Black Grouse.	G. Nisbet
29-Mar-04	NH931181	5 caper droppings scattered along track. Fresh. Mature bird.	A. Nisbet
1-Apr-04	NH937184	Caper.	G. Nisbet
27-May-04	NH91851 16691	Male caper flew from trees at side of track.	J. Burr
Jan-05	NH917166	Caper seen twice within a 3 week period near pond beside track.	A. Bateman
4-Nov-05	NH962177	Caper (sex not known). Flew off down track from edge	A. Bateman

08/272/CP

Clr Dave Fallows  
Garden Lodge  
1 School Gardens  
Dulnain Bridge  
PH26 3DE

Duncan Bryden  
Chair, Cairngorms National Park Planning Committee  
c/o planning office  
Ballater  
Aberdeenshire

30<sup>th</sup> December 2010

Dear Duncan and Members

In my capacity as a Highland Councillor representing Badenoch and Strathspey, I wish to make representation in regard to, and in support of, application 08/272/CP, Davall Developments for Boat of Garten.

I have no doubt in my mind that, despite an earlier view that the community did not welcome this development, albeit in a different form, the community view is now quite clearly that the development is necessary to avoid a critical decline in the sustainability of the village. It seems clear to me that the few alternatives available are too small to deliver consistent growth to avoid the critical point being reached, and in any event could not deliver the affordable element that is so sorely needed in anything like appropriate quantity.

With this in mind, it is, in my view, essential to look with an open mind and a willingness to find solutions at those elements of the current application which tend toward the recommendation for refusal.

As I see it, these appear to be threefold:  
The Current SNH position as regards Capercaille  
Red Squirrel populations  
Layout, landscape and heritage

There is also the relatively small matter of vehicular access to the Village Hall

SNH have clearly indicated that whilst they may be objecting to the current application as it stands, they consider in their letter of 17<sup>th</sup> December that "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.**" (my bold text). This is a crucial statement and one which should not be lightly dismissed.

On layout, landscape and heritage, the report goes through a number of issues but concludes: "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." (again my bold text). Again, this statement suggests there is not a million miles between the current proposal and acceptability.

The red squirrel issue is admittedly more difficult, particularly as regards the issue of accurate identification of abandoned dreys, and the legality or otherwise of felling trees which contain abandoned dreys. But again, it seems that careful conditioning could provide a way forward, particularly in regard to the quite obvious ability of red squirrels to cohabit with home sapiens and the number of squirrels in the wider area, as witnessed by the "Strathy's" famous comment in relation to a Carrbridge development - "numerous rare red squirrels"!

As regards the connection to the village hall, I can see no reason why the recommendations of Highland Council's roads department could not be a condition of approval.

The community's undoubtedly have clear concerns about the future of their village - concerns

which in no sense can be ameliorated by the cold comfort offered that "the CNPA has allocated substantial land elsewhere within the Housing Market Area", which offers not one iota of additional population in Boat of Garten. Their own meeting, chaired by Councillor Black on October 19<sup>th</sup> demonstrated that whatever land might be available around Boat of Garten could not of itself possibly deliver enough housing - and especially enough affordable housing, to offset the community's fear of death by slow strangulation.

This a major case of the need to carefully balance the weight given to the aims of the Park - and I would here point out that giving the first aim 'added weight' does not in any sense mean total domination. It means only what it says. I would respectfully request that the planning committee give very careful consideration to the options that may be open to them for either a) approval with appropriate suspensive conditions or b) deferral for further consideration of issues raised. Refusal is not the kind of New Year's present that would be welcomed in Boat of Garten.

Yours sincerely,

Councillor Dave Fallows

email [REDACTED]  
tel [REDACTED]



**Julie Millman**

---

**From:** Pamela Clark [REDACTED]  
**Sent:** 09 March 2011 16:51  
**To:** Planning  
**Subject:** Change of address

Thank you for your letter of 18/02/2011. Your ref: 08/272/CP  
Please note that my address has changed to:

Pamela Clark  
106 Culduthel Park  
Inverness  
IV2 4RZ

Phone: [REDACTED]

I am happy to receive information from you by email, rather than through the post.

**Please do not use my old address: Blackwood, North Kessock, Inverness, IV1 3XD**

