

Agenda Item	4
Report No	WRSL/004/20

HIGHLAND COUNCIL

Committee: **Wester Ross, Strathpeffer and Lochalsh Area Committee**

Date: **15 October 2020**

Report Title: **West Highland and Islands Amended Core Paths Plan Review**

Report By: **Executive Chief Officer Infrastructure and Environment**

1. Purpose/Executive Summary

- 1.1 This report is to present the results of the consultation on the Amended Core Paths Plan for the Wester Ross, Strathpeffer and Lochalsh area and to recommend the Committee approve an Amended Core Paths Plan and modifications for further consultation.

2. Recommendations

- 2.1 Members are asked to:
- i. Approve the Amended Core Paths Plan for the Wester Ross, Strathpeffer and Lochalsh area of the West Highland and Islands with outstanding objections on 7 proposed core paths outlined below.
 - ii. Modify the amended core paths plan to include changes to 1 proposed core path and the removal of 1 proposed core path.
 - iii. Approve a six-week public consultation on the modifications to the Amended Core Paths Plan.

3. Implications

- 3.1 Resource: Advertisement of the formal consultation, notifying landowners and respondents, adoption notice and publication of the modified amended core paths plan are statutory duties and will incur costs and staff resource to The Highland Council. Further staff costs and time will be come from the resulting Public Local Inquiry. The Highland Council has agreed to signpost core paths at an average cost of £200 per path.
- 3.2 Legal: The Highland Council has a statutory duty to produce a core paths plan sufficient for the purpose of giving the public reasonable access throughout their area.

The Plan must be reviewed and amended at such times as appropriate, a period of between 5 and 10 years is deemed appropriate.

- 3.3 Community (Equality, Poverty and Rural) implications - Improvement and promotion of Core Paths increases community connectivity, encourages healthy lifestyles and are available to all users equally.
- 3.4 Climate Change / Carbon Clever: Improvement and promotion of Core Paths can contribute to reduced car usage.
- 3.5 Risks arising from this report are minimal. Scottish Ministers will decide whether to direct The Highland Council to adopt the plan where there are outstanding objections, or they may cause a Public Local Inquiry to be called at their cost. The existing Core Paths Plan remains in place and used to promote and protect the public's access rights.
- 3.6 Gaelic: Where installed, signs to direct users to core paths will be bilingual subject to consultation with Community Councils.

4. Introduction

- 4.1 The development of a Core Paths Plan is one of The Highland Council's duties under the Land Reform (Scotland) Act 2003 [the Act]. The existing plan was adopted by Full Council in September 2011.
- 4.2 A review and amendment of the Core Paths Plan is to be undertaken by the Local Authority when considered appropriate or when directed to by the Scottish Government. Following an informal review for the West Highlands and Islands area in 2016, The Highland Council began a formal consultation on an Amended Core Paths Plan for the area between July and October 2019.
- 4.3 The Wester Ross section of that Draft Amended Core Paths Plan was approved by the Ross and Cromarty Local Access Forum, a statutory consultee, and the Wester Ross, Strathpeffer and Lochalsh Area Ward business meeting in January 2019, prior to public consultation.
- 4.4 The formal public consultation ran between July and October 2019.
- 4.5 Regarding the Wester Ross part of the West Highlands and Islands consultation, 86 comments were received on 27 routes [**Annexes 1 and 2 – Wester Ross Consultation Responses**]. Of those responses, 66 were supportive, 10 neutral and 10 were objections. The 10 objections related to 9 proposed routes.
- 4.6 On 7 of the proposed routes that were objected to, we maintain that the original proposals are supported by the Local Access Forum and recommend that they should go forward to the Scottish Government as outstanding objections. Those, and any objections to the proposed changes in the Draft Modified Amended Core Paths Plan (below), will be submitted to the Scottish Government and will likely result in a Public Local Inquiry by written submissions.
- 4.7 In the other 2 cases, our proposed responses to this feedback involve changes to the original Amended Core Paths Plan, both of which have been informed and supported

by the Local Access Forum. Changes approved by this committee will be presented as a Draft Modified Amended Core Paths Plan and be the subject of further statutory public consultation which will last 6 weeks, along with changes in Lochaber and Skye.

5. The Amended Core Paths

The following routes received objections from landowners or their agents and some of these routes also received comments of support. When the Ross and Cromarty Local Access Forum considered these routes, they did not accept the objections and advise the Council to support the original proposals.

5.1 RC20.08C - Little Garve to Aultguish (Annex 3 and Map RC20)

The proposal is to include the old right of way between Little Garve and Aultguish. The proposal was objected to by Forestry and Land Scotland (FLS), whilst supported by The Scottish Rights of Way and Access Society (Scotways) and Strathvaich Estate. FLS own approx. 3km of the route at the south-eastern end and object as they believe it would make management of the route more difficult as there is no room for diversions if closure is needed. Scotways support the route's inclusion as its records show a long history as a Heritage route as part of the Fish Road to Ullapool. Strathvaich Estate, who own approx. 3.5km at the north western end, support the route as being 'eminently sensible' and although some parts are under peat it would not deter a determined walker. The route was waymarked in 2004 by a Council project with the then Forestry Commission Scotland agreement.

5.2 RC28.06C - Coulin Pass (Annex 4 and Map RC28)

Network Rail objected to this proposal as it crosses the railway line at Achnashellach Station. Scotways support inclusion of the route. Network Rail objected to the route during the initial core path consultation in 2010 and their position has not changed. They do not think it safe to permit crossing of the railway tracks. The route is a long-standing public right of way, signposted with kissing gates at the railway crossing. It is the access route for 2 Munros and 1 Corbett and it is included on an increasingly popular Cape Wrath Trail and circular mountain bike route to Glen Torridon. The Reporter of the Public Inquiry at the time stated that Scottish Government should decide the issue following a report by The Scottish Law Commission. That report was finalised in 2013 and still no decision has been made by the Government on the issue. It was felt that our interest in designating the route should be re-stated during this review and expected Network Rail to similarly object.

5.3 RC29.10C – Craig to Scardroy (Annex 5 and Map RC29)

Network Rail objected to this proposal as it crosses the railway line at Craig near Achnashellach. This route was not proposed during the initial core path consultation in 2010. However, it is proposed within this review as a result of the Reporter of the Public Inquiry suggesting that the Highland area should include more longer routes when the Core Path Plan was next reviewed. Network Rail's objection is similar to the objection of RC28.06C. The route is a long-established public right of way linking the east to west coasts. It is often used by Scouts and Duke of Edinburgh Award adventure groups. There is a FLS car park at Craig for users to access a walk through the Allt a

Chonais pinewood across the railway line, a route promoted in a local walk's booklet and on the Walk Highlands website. The route also provides the best access to 6 Munros and 2 Corbetts

5.4 RC44.01 Strathconon (Annex 6 and Map RC44)

This route was objected to by the forestry agent of the owner but was supported by the local community council. The route had been proposed in 2010 but objected to as it would interfere with forest management. As much of forest has now been felled it was considered to note the interest in proposing this route again for designation as a core path.

5.5 RC45.12C Strathpeffer to Knockbain (Annex 2 and Map RC45b)

This route was objected to by one of the four landowners along the route. Much of this route is a part of the ongoing development of The Peffery Way to link Strathpeffer and Dingwall as a cycle and all abilities path. The route is supported by the group developing the Way and received 46 other comments of support. The section objected to is part of the old Strathpeffer railway line and so has a firm base raised above the surrounding fields. Remnant fences are still in place, but sheep do pass through and graze the area. Alternative routing was considered but deemed unsuitable.

5.6 RC45.13C – Bottacks to Loch Garve (Annex 3 and Map RC45c)

This route was objected to by FLS as it is mainly on high usage roads and the designation would make work more difficult as there is limited room for diversions. The route was supported by 2 members of the public who see it as an important link to Garve avoiding a busy and dangerous road for cyclists. The route was signposted in 1990's and part of a long circular route around Strathpeffer.

5.7 RC49.07C - Inverlael Circuit (Annex 3 and Map RC49a)

FLS objected to this route being designated a core path as it is an old route which they no longer waymark, check or maintain. The route was established in 2010 with the Forestry Commission Scotland support as a result of community benefit from a hydro scheme being established. A footbridge was specifically built above a hydro pipe for the route along with 200m of linking path to connect with existing forest tracks. A car park with interpretation board also serve this route. The car park is used by hill walkers but the shorter route appeals to local users, dog walkers and the less able. The route is promoted in a walks booklet 'Easier access paths in Ross and Cromarty'

6. Amended Core Paths Proposed for Modification

The following routes received objections from landowners and were accepted by the Local Access Forum. They advise The Highland Council to propose these routes as modifications to the Amended Core Paths Plan. These changes will require a further period of consultation and will then be either accepted or, if objected to, will be submitted to the Scottish Government with those objections outstanding.

6.1 RC19.11C - Cemetery to Flowerdale House (Annex 1 and Map RC19)

The landowner objected to the originally proposed route but has suggested an alternative, slightly west, that he would install. The proposed route has been part of a

walk in a local walks leaflet for many years. However, at that time the main house was not occupied and now it is. The landowner is prepared to meet all costs of re-aligning the route and has a letter of support from the local community council. The Local Access Forum accepted the landowner's proposal provided it was installed as detailed and until such time the original route continues to be the accepted route, and thereafter continues to have access rights.

6.2 **RC49.01E – Dun Canna (Annex 7 and Map RC49b)**

Bidwells, the land agents for the landowner and Scottish Land and Estates both objected to this proposed extension of an existing core path. The proposal was to create a loop path to the existing route to Dun Canna. This extension used a vehicle width estate track. However, it enters an area recently included in a deer farm operation. Whilst the Estate accept access rights apply there are certain restrictions, they feel would be necessary at certain times of the year, i.e. rutting and calving. Given these restrictions the Local Access Forum agree it would not be compatible with a core path designation, and as access rights would continue to apply, advise The Highland Council to accept the objection and remove the proposal from the Amended Core Paths Plan.

Designation: Executive Chief Officer Infrastructure and Environment

Date: 24 September 2020

Author: Philip Waite, Access Manager - Ross, Cromarty, Skye and Lochalsh

Background Papers:

- Annex 1 - Consultation Responses
- Annex 2 - Consultation Responses for RC45.12C Strathpeffer - Knockbain
- Annex 3 - Consultation Responses from Forestry and Land Scotland
- Annex 4 - Network Rail objection to RC28.06C Coulin Pass
- Annex 5 - Network Rail objection to RC29.10C Craig - Scardroy
- Annex 6 - Olsson Forestry agent objection to RC44,01C Dalnacroich
- Annex 7 – Bidwells and SLE objections to RC49.01E Dun Canna

- Map 1-RC20 - Little Garve
- Map 2-RC28 - Achnashellach
- Map 3-RC29 - Craig to Scardroy
- Map 4-RC44 - Strathconon
- Map 5-RC45b - Strathpeffer- Millnain
- Map 6-RC45c - Strathpeffer Bottacks
- Map 7-RC49a - Inverlael
- Map 8-RC19 - Gairloch
- Map 9-RC49b - Dun Canna
- All maps can be found in the link below:

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ANNEX 1 Consultation Responses

THE HIGHLAND COUNCIL AMENDED CORE PATHS PLAN (WEST HIGHLAND AND ISLANDS) 2019

Responses to formal consultation for Wester Ross, Strathpeffer & Lochalsh Ara Committee 15th October 2020

SUMMARY: 38 comments, 18 Supportive, 10 Objections, 10 Neutral

Map Ref.	Path Ref.	Path name	Portal ID/E-mail date	Response	Respondent	Comments summary	Response Action
RC19	RC19.11C	Cemetery to Flowerdale House	157/WR1	Object	Landowner	<p>This is not a technical objection more of an alternative proposal which is as follows. Proposal To create a new circa 250 metre long 1.8 metre footpath through the Flowerdale arboretum. This path would be located circa 60 metres West of the existing/proposed core path and would link up with the circular arboretum to beach path approximately 60 metres West of the current path immediately adjacent to Flowerdale House. This would leave the proposed core path as a vehicular access to the rear of Flowerdale House (as previously used) now fully occupied year round. The south end of the path would run off the existing arboretum path above where it crosses the main drive thereby continuing the loop/circular path network. The new footpath will be sympathetically constructed and blended into the woodland avoiding the need for felling of any mature trees bar some branch cutting to enable the path to follow the topography of the woodland. All costs will be met by Gairloch Estate and the new path will be in equivalent or better condition than the existing route. Expressions of initial support for the project have been expressed by Gairloch Community Council. Schedule. Works are scheduled to commence in Spring 2020 (subject to approval by The Highland Council). Materials etc will be sourced locally and small low impact machinery will be used for the duration of the project. The attached plan is a draft route subject to micro</p>	Accept change to proposed route on condition that installed as stated. Also that access rights continue to apply to original route

Map Ref.	Path Ref.	Path name	Portal ID/E-mail date	Response	Respondent	Comments summary	Response Action
						siting to enhance the walk, protect trees and account for localised ground conditions. Appropriate new signage will be produced and erected.	
RC28b	RC28.07C	Coulin to Kinlochewe	14/WR2	Support	Landowner Agent	This consultation is submitted on behalf of Coulin Estate (owned by the Hon PR Smith 1971 Settlement Trust). I am acting as their agent via Galbraith LLP. The estate welcomes public access and the estate is already well used by walkers and cyclists. We therefore support the adoption of the core path as proposed. However, we would like to highlight concerns about deer movement over the marches between Coulin and Kinlochewe. This area is well known for deer movement. Coulin has young native woodland enclosed within a deer fence and thus any adoption of a core path would require appropriate signage and instructions ensuring that all gates are correctly shut. We would welcome liaison with the local access officer on this matter. We would also note that the path is rough in places and that any use is based upon its current standard and condition and that there would be no requirement upon the estate to upgrade the path.	Noted
RC28b	RC28.06C	Coulin Pass	WR3	Object	Network Rail	See separate document Annex 1	With regards your objection on the grounds of the Council acting prematurely by including the above routes in the core paths plan, the Council does not consider this to be the case. The Scottish Law Commission report clearly states that Local Authorities <i>can</i> designate a core path over land which falls within Section 6 of the Land Reform (Scotland) Act 2003, which includes railways. The draft bill, to which the Scottish Law

Map Ref.	Path Ref.	Path name	Portal ID/E-mail date	Response	Respondent	Comments summary	Response Action
							Commission report leads, does not propose to give Local Authorities this power. This is clarified in para. 5.60 of the report; stating the proposed bill <i>confirms</i> this position (as opposed to creating such a power or new form of access rights). As directed by Scottish Ministers in July 2011 the Council has only reconsidered the above routes inclusion into the core path plan after the Scottish Law Commission report has been published.
RC28b	RC28.06C	Coulin Pass	146/WR4	Support	Lochcarron Community Council		Noted
RC29a	RC29.08C	Kirkton Wood	147/WR5	Support	Lochcarron Community Council	An important community project is involved	Noted
RC29c	RC29.11C	Coulags to Annat	148/WR6	Support	Lochcarron Community Council	Important link	Noted
RC29a	RC29.09c	Croft Rd to Kirkton Rd	124/WR7	Support	Lochcarron Community Council	We recently cried out a local questionnaire survey and 35 people said they would use this footpath if it is upgraded. Many of these people already use this path and we think it is a useful shortcut which encourages people to walk instead of using their cars.	Noted
RC29a	RC29.09c	Croft Rd to Kirkton Rd	79/WR8	Support	Individual	I've been helping with a local questionnaire survey and many respondents have said that they use this path and would like to see some upgrading.	Noted
RC29b	RC29.10C	Craig to Scardroy	49/WR9	Object	Network Rail	See separate document Annex 2	See RC28.06C above
RC44	RC44.01C	Dalnacroich to Bridgend	7/WR10	Object	Landowner Agent	See separate document Annex 3	Proposed as much felling completed and re-stating local desire for designation

Map Ref.	Path Ref.	Path name	Portal ID/E-mail date	Response	Respondent	Comments summary	Response Action
RC45a	RC45.01D	Kinellan Viewpoint	130/WR11	Neutral	Individual	This is an established mountain bike decent route and I'm concerned it is not compatible for walkers when there is an short alternative that could be developed to the north.	Noted
RC45a	RC45.11c	Ord Wood Ridge	129/WR12	Support	Individual	Ord Wood is such a great amenity to have in the village with great views down the Strath, if we can get this new core path made it would re-establish the network we used to have before the FC cleared the plantation, but it needs maintained as a lot of the newly planted saplings are getting swamped by whin & broom	Noted
RC45	RC45.12c	Strathpeffer to Knockbain	Various/WR13	Object 1 Support 46	Landowner Community Public	See separate document Annex 2	S
RC45c	RC45.13c	Bottacks to Loch Garve	WR14	Support	Individual	I thought that this path/way had dropped off the radar so it would be great to see it being resurrected as a new core path.	Noted
RC45c	RC45.13c	Bottacks to Loch Garve	WR15	Support	Individual	An important link to Garve that avoids a dangerous windy road.	Noted
RC49b	RC49.01E	Dun Canna	170/WR16	Object	Landowner Agent	See separate document Annex 5	Temporary proposed restrictions incompatible to core path designation but access rights retained
RC49b	RC49.01E	Dun Canna	170/WR17	Object	Organisation	See separate document Annex 6	Temporary proposed restrictions incompatible to core path designation but access rights retained.
RC49c	RC49.12c	Glen Achall Ullapool to Oykel Bridge	163/WR18	Neutral	Individual	RC49.12C Ullapool -the proposed path runs through the Rhidorroch Woods SSSI and SAC. There is a proposed large enclosure going up at East Rhidorroch. The fence will straddle the current path to Oykel Bridge and consideration will be needed in terms of managing access through this section and the need for gates etc	Noted
RC20a	RC20.01	Silverbridge circuit	WR20	Neutral	Forestry & Land Scotland		Noted
RC20b	RC20.08C	Little Garve to Aultguish (Fish Road)	WR21	Object	Forestry & Land Scotland	Core path designation would make forest management work more difficult. No room for diversions if closure is needed.	Well established Right of Way and signposted route

Map Ref.	Path Ref.	Path name	Portal ID/E-mail date	Response	Respondent	Comments summary	Response Action	
RC28b	RC28.06C	Coulin Pass	WR22	Neutral	Forestry & Land Scotland		Noted	
RC29b	RC29.10C	Craig to Scardroy	WR23	Neutral	Forestry & Land Scotland		Noted	
RC45a	RC45.11C	Ord Wood Ridge path	WR24	Neutral	Forestry & Land Scotland		Noted	
RC45a	RC45.04E	Blackmuir Woods	WR25	Neutral	Forestry & Land Scotland		Noted	
RC45c	RC45.13C	Bottacks to Loch Grave	WR26	Object	Forestry & Land Scotland	Mainly on high usage roads. Core path designation would make forest management work more difficult as there is limited room for diversions.	Well used by cycles as part of extensive network	
RC49a	RC49.07	Inverlael circuit	WR27	Object	Forestry & Land Scotland	This is an old trail which we no longer waymark, check or maintain.	Promoted in leaflets and after FCS agreement. Part of community benefit of hydro scheme	
RC49a	RC49.09C RC49.10C	Cuileag Gorge Coffin Road to Dundonnell Inverbroom	20/7/19/WR 28	Unclear	Landowner	Landowner notification letter sent 22/07/19 Reply email for landowner on 30/07/19- states not consulted and questions process requests further information in FOI. Responded with further information on 20/08/19. No further correspondence	Response sent	
RC20C	RC20.06C RC20.07C RC20.08C	Strathvaich Strathrannoch Aultguish	21/8/19/WR 29	Support	Landowner	All seem eminently sensible, with the paths to the north of the main road all stoned as part of the access to SSE's Conon scheme reservoirs Parts of the drover's road are less easy to navigate, as some sections closest to the hotel have been swallowed over the years by peat; but there is nothing that would deter a determined walker with a compass. I might ask your advice if the core paths are adopted over any additional measures you would like the estate to take to host signage or	Response sent	

Map Ref.	Path Ref.	Path name	Portal ID/E-mail date	Response	Respondent	Comments summary	Response Action	
						make other improvements.		
RC29a	RC29.09C	Lochcarron Croft Road to Kirkton Wood	29/08/19/W R30	Neutral	Landowner	<p>I received a letter dated 22nd July 2019 about the intention to make the path behind our garage a core path.</p> <p>Who would be responsible for maintaining the path as it is rather steep and dangerous for a core path.</p> <p>My main concern is I plan to build a house behind the garage I already had planning permission and let it lapse but intend to do it in the future. I have no intention on there not being a path there or blocking it but I had planned to move it a bit back to make it less steep. If it is designated as a core path does that mean it would be harder to get planning permission or to move it.</p>	Response sent	
RC10b	RC10.09C	Glen Marksie	14/11/19/W R31	Neutral	Landowner	<p>The Glen Marksie road does have some traffic from the cottage and much more frequently by the Hydro staff. I would just point out that we are in the process of some substantial timber extraction on the track on the south side of the route and that area is also a place where we have to undertake a continuing cull of Sika deer as part of our Deer Management plan agreed with SNH. We are very happy that there are a few regular walkers on this route and i have no idea whether the formal designation will increase the numbers , but given the above activity i wonder if the designation is necessary . I imagine that the Hydro can close the dam off without notice should it be necessary for maintenance or possible emergency which is an added complication.</p> <p>I would be grateful if you would take these comments on board in any assessment that you are making.</p> <p>Thank you again for allowing the extension,</p>	Response sent	
	RC01.02E	Reiff	WR32	Support	Scottish Rights of Way &	Scotways supports the proposed extension to the Rieff core path. Our records indicate that this is a locally valued and well used route	Noted	

Map Ref.	Path Ref.	Path name	Portal ID/E-mail date	Response	Respondent	Comments summary	Response Action	
					Access Society			
	RC20.08C	Little Garve to Aultguish (Fish Road)	WR33	Support	Scottish Rights of Way & Access Society	Scotways supports the proposed new core path from Little Garve to Aultguish (Fish Road). The route uses right of way HR46 promoted by our Heritage Paths project as the Fish Road. It also forms part of a route described in our book Scottish Hill Tracks	Noted	
	RC28.06C	Coulin Pass	WR34	Support	Scottish Rights of Way & Access Society	Scotways supports the proposed new core path from Glen Carron to Glen Torridon (Coulin Pass). The scale used on the consultation map is very small but the route appears to use rights of way HR81pt, HR39pt, and HR80. Much of the route is promoted by our Heritage Paths project as the Coulin Pass and in our book Scottish Hill Tracks	Noted	
	RC28.07C	Coulin to Kinlochewe	WR35	Support	Scottish Rights of Way & Access Society	Scotways supports the proposed new core path from Coulin to Kinlochewe. The route uses right of way HR39pt and is promoted by our Heritage paths project as part of the old route via the Coulin Pass	Noted	
	RC29.08C	Kirkton Wood	WR36	Support	Scottish Rights of Way & Access Society	Scotways supports the proposed new Kirkton Wood core path. The route uses right of way HR64 pt. Our records indicate that this is a locally valued route.	Noted	
	RC29.11C	Coulags to Annat	WR37	Support	Scottish Rights of Way & Access Society	Scotways supports the proposed new core path from Coulags to Annat. The route uses right of way HR58pt promoted by our Heritage Paths project as the Loch Torridon Drive Road. It is also used by routes described in our book Scottish Hill Tracks.	Noted	
	RC49.10C	Dundonnell to Croftown	WR38	Support	Scottish Rights of Way & Access Society	Scotways supports the proposed new core path from Dundonnell to Croftown (Coffin Road). The route uses right of way HR22 promoted by our Heritage Paths project and the Old Kirk Road. It is also a route described in our book Scottish Hill Tracks	Noted	

ANNEX 2 Consultation Responses for RC45.12C Strathpeffer to Knockbain

THE HIGHLAND COUNCIL AMENDED CORE PATHS PLAN (WEST HIGHLAND AND ISLANDS) 2019

Responses to formal consultation for Wester Ross, Strathpeffer & Lochash Area Committee 15th October 2020

SUMMARY: **Support** 46 responses (1 landowner, 2 Community group, 43 individuals)

Object 1 response (landowner)

Map Ref.	Portal ID/ Email date	Response	Respondent	Comments summary	Response	Action
RC45b	116/WRPW 1	Object	Landowner	<p>As landowner of Millnain Croft which takes in land on the amended core paths plan, reference above, I write to object to the proposed route being included.</p> <p>Prior to citing my reasons for objecting I wish to highlight a pertinent observation raised by the original group who proposed the formation of what is now known as the Peffery Way back at the beginning of this whole process: In 2009 there was a feasibility study 'Strathpeffer to Dingwall Community Link', Strathpeffer Community Council 2009, which stated that 'all affected parties must be comfortable' with the route as proposed, and the manner of its provision, in order for it to go forward.</p> <p>It should be recognised that the proposed route is unlikely to be achieved if strongly opposed by a relevant party, for example by a landowner as it crossed their land. Strathpeffer to Dingwall Community Link, Strathpeffer Community Council 2009.</p> <p>The Peffery Way applied for planning permission, over our land, describing the old railway line as overgrown and unused, which is obviously not true. The old railway line is a field, part of Millnain Croft and is registered as a land parcel on my croft. This field currently provides much needed grazing and shelter for livestock kept on the Croft. The suggested route, as part of the Core Path Network, will be destructive to the croft, in many ways. In my opinion the LR(S)A 2003 provided the public with the right to roam throughout our beautiful towns, cities & Countryside but at the same time imposed serious burdens on the Country's Land Managers non more so than those owning and charged with managing smaller parcels, like myself, who are materially prejudiced far more than the larger estate owner or the like. The proposed route runs through the middle of our land, effectively cutting it in half. Altering its use, as part of the croft, would seriously impacts its viability, management and as a result devalue it.</p> <p>Our business should not be devalued and the crofter should not have to reorganise his working plan, which obviously adheres to best crofting practice, because of this proposal. We would advise that a burden placed upon us by the landlord at the time of acquisition was to close off the line to enable it to have a boundary at each end. Trees and bushes at the boundary ends provide shade and shelter for the animals. Making this into a Core Path would require</p>		

Map Ref.	Portal ID/ Email date	Response	Respondent	Comments summary	Response	Action
				<p>considerable work and expenditure which will then mean that a local croft, which has been in existence for a very long time, will be detrimentally affected.</p> <p>Access through the middle of a working croft can cause distress and unnecessary stress, anxiety and additional work for the land manager, and the animals. For example, sheep lying under the trees for shade are disturbed and not allowed to act naturally when runners, walkers and other animals appear and walk through the middle of them. In addition to pedestrians Cycling, horse riding and the like going through the middle of a working croft does not lend itself to the land manager being able to able to operate his business in a productive manner, if they are going to be regularly disturbed, particularly at key times such as tugging, lambing or shearing. The crofter works on the land every day looking after their stock and requires to be able to manage it, without constant interruption and disregard from others to what they are doing. Perhaps planning law doesn't take this into account, but in terms of a greener, fairer society that the Scottish Government claim they want, and equity for all, it should be considered that in order for a crofter to continue to provide for the public, through food production, a path running through the middle of it does not allow this to happen</p> <p>As a land manager of the area suggested for a Core Path, my family has had to endure constant upheaval to family life and been made to feel bullied and harassed by individuals and organisations who think this would be a good idea, without any real thought for the adverse effect it is having on the land owner. As has been highlighted by myself throughout this whole process there are other routes which already exist, in the close vicinity, and can be used right now for walking, cycling and other activities (wheelchairs, trikes, horse riding etc). These routes are easily accessible by all wishing to use them and provide a much closer and useable solution for all communities situated between Dingwall & Strathpeffer who currently have limited access points without firstly having to travel along the busy main road which it is claimed is the main reason for the proposed paths existence.</p> <p>In summary: 1. The route in question is not currently a formal footpath and has never been a formal footpath 2. The area in question is a fully functioning integral part of my croft 3. The area in question provides essential shade and shelter for my livestock 4. To remove my right to disturb my land in the interest of good land husbandry is wrong. We have to accept the Right to Roam (LR(S)A 2003) exists and people will use the proposed route, irrespective of its legal status, as they make their way, however, to make this a core path and restrict my use and control of the land is something I have to object to in the strongest possible terms.</p>		
	4/PW2	Support	Individual	<p>This is a brilliant facility for the local people and many visitors to the Strathpeffer area. Being able to safely walk along this path rather than walking on the Strathpeffer - Dingwall road is fantastic. It will encourage walkers, dog walkers, runners and children to be more active in our own area.</p>		Noted

Map Ref.	Portal ID/ Email date	Response	Respondent	Comments summary	Response	Action
				The path is easily accessible for all and is long overdue. I would certainly wholeheartedly support this!		
	5/PW3	Support	Individual	Excellent route between Strathpeffer and Dingwall which when completed will mean no longer need to cycle along the busy main road.		
	6/PW4	Support	Individual	My wife and I live in Jamestown and would like to be able to safely cycle from home to Dingwall. We wouldn't do so using the main roads as we don't feel safe due to car speeds and road widths. We sometimes walk going up Cnoc Mor, Knockfarrel and Knockbain but this is quite strenuous and long especially if making a return journey on foot. The use of a lower level purpose built walk/cycle way would be most beneficial for us to have a straightforward, healthy and safe means of accessing Dingwall's numerous and varied facilities.		Noted
	8/PW5	Support	Community Group	<p>The proposed route provides an essential link from Strathpeffer towards Dingwall for a superb all-abilities and all-ages route clearly defined by the former railway track bed and known as the Peffery Way. It seems a major omission that this route connecting the towns of Strathpeffer and Dingwall as well as the communities' in-between was not included as an essential core path originally. It has been a long held and strongly wanted community route for at least 20-years that both Dingwall and Strathpeffer communities have tried extremely hard to make happen. The Peffery Way Association is now making that vision a reality and has at least 15no. letters of support including from all schools (primary, secondary and special), local politicians, community councils etc and c.300no. completed questionnaires as at mainly from local residents as well as visitors to and people interested in the area. Some of the key statistics to date include:</p> <ul style="list-style-type: none"> • 97% of those surveyed said that they would use the path when it is completed; • 90% said the main benefit of developing a completed path was that the path would avoid the main road; • Main uses of the path would be: 82% for cycling, 72% would walk, 34% for dog walking specifically; and more than 40% of respondents would use the path to access other routes in the area; Over 50% said that they would use the Peffery Way weekly and 27% would use it monthly; 41% of people use part of the path or paths that can be accessed nearby; and In addition, it would help to bring the community together through volunteering opportunities and strengthen the community. <p>Some of the comments from the questionnaires include:</p> <ul style="list-style-type: none"> • I help organise health walk groups across the Highlands and all of our local walkers would benefit from this Dingwall/ Strathpeffer path as they weekly go on local walks ideally accessible to those with reduced mobility and I'm sure this addition as a local accessible path would be utilised by them at times as part of their programme of risk assessed routes. In addition I know some of our walk leaders and walkers do cycle, so any 		Noted

Map Ref.	Portal ID/ Email date	Response	Respondent	Comments summary	Response	Action
				<p>improvements in a safe cycling track are warmly welcomed.</p> <ul style="list-style-type: none"> Although I live in Knockbain i work in Dingwall and would use the path at break times for exercise. having lived in Strathpeffer I think this would be great to get cyclists off the main road, maintaining the safety of both car drivers and cyclists A good walking route for users of all abilities - suitability for mobility scooter and wheelchair users would be brilliant for locals in particular. Strathpeffer hills can be quite challenging for the less fit and able. Step it Up walkers (P4w) would definitely incorporate it in our walking programme! As long as dog walkers are responsibly taking poo bags home then there should be no problems with any landowners. Would be great to have a safe way for my teenage son to cycle to Strathpeffer from Dingwall. <p>However the charity struggles with being entirely voluntary to secure sufficient resources, managing cashflow with retrospective funding and is likely to face long term maintenance issues. The Highland Council should adopt this path route to secure and ensure it's future. It is extremely disappointing that repeated intimidation, blockages/significant obstacles and threatening as well as inaccurate signage takes place along part of this route without being addressed by those with the powers and authority to do so. Many members of the community are scared off using this otherwise excellent route as result. The code of responsible access provides an excellent means to ensure access provided is mis-used. The route has the potential to form an obvious, easy to use connection between Strathpeffer and towards Dingwall, especially as the children at Strathpeffer go to secondary school in Dingwall. The only other options are the busy, fast and dangerous A834 without a pavement, a blind dangerous narrow bend under a railway bridge where there have been a number of accidents and no usable verge with rough roadside edges and large hedges along most of the route. The only other off-road route(s) involves very steep climbs, a live railway line, muddy tracks and the very busy, fast, narrow main road. 1 in 7 households in Strathpeffer do not have access to a car whilst in Dingwall this figure rises to 24% (source: Scottish Index of Multiple Deprivation and the Understanding of Scottish Places website 2019). There is extremely poor and very limited, expensive public transport provision. The local authority as the access authority should do all it can to remove the existing barriers to easy access by foot and non-motorised wheels as well as stop the intimidation that occurs. The full conversion of the former railway line route to an all-abilities, all ages safe and easy route between Dingwall and Strathpeffer cannot happen soon enough.</p>		
	9/PW6	Support	Individual	This is a natural link between Strathpeffer and Dingwall and will give a safe pedestrian and		Noted

Map Ref.	Portal ID/ Email date	Response	Respondent	Comments summary	Response	Action
				bicycle route between the two making use of the old railway line. A lot of great work has been done already although, sadly, a key part of the route is blocked in such a way as to make access difficult; the landowner is certainly not welcoming to the idea, which is a shame. I currently cycle between Strathpeffer and Dingwall most week days. It is a fast route and not all drivers are courteous to cyclists and the occasional brave pedestrian. A safe route would be welcome. Such a path has been proposed for many years. I would have happily taken my children this way but it seems they will all be fully grown by the time this route comes to fruition. Declaring this a core route will raise the profile and maybe the small number of landowners who have put hurdles in the way (both physical and legal) will be persuaded of the benefits of this path to their communities.		
	11/PW7	Support	Individual	As a regular user of the Round Dingwall walk, I have longed for a long distance walk that could allow me to take quiet paths between Dingwall and Strathpeffer as it could link me to great walks around Strathpeffer without using my car. It is also a walk that would appeal to many visitors to the area due to the points of interest, history, archaeology, etc. I generally have 3-4 families visit from overseas each year and this walk way would really enhance visitor's enjoyment of the area and, I believe, give them another reason to keep coming back. I truly hope the path extension will be approved.		Noted
	12/PW8	Support	Individual	Currently there is no way to travel on foot or by cycle between the two villages of Dingwall and Strathpeffer without having to go over very steep hills via Knockbain and Knockfarrel or going along the main road which is very fast has no verges and one very bad corner under the railway bridge or going through Docharty Farm yard and Brae Farm yard followed by a level crossing followed by the main road again. The route of this proposed core path is flat and will be suitable to all levels of abilities following the old railway line and avoids, steep hills, crossing the Kyle railway line, crossing the River Peffery and crossing the A834, in a word it will be SAFE. It will be a tremendous asset to the locality. It really is a 'no-brainer' that this route should become a core path.		Noted
	16/PW9	Support	Individual	Recognising this brilliant community path as a core path would help in bringing it to the attention of the wider community and increase its use in the future and hopefully allow its completion. It's a no brainer!		
	19/PW10	Support	Individual	The path will allow safe access to Dingwall and beyond without having to use the main busy road. This path should be suitable for access by disabled people as well as able-bodied people. It allows access to other existing core paths and provides a easy access track for people to use.		
	20/PW11	Support	Individual	This path will provide a fantastic all-abilities resource and the current (illegal) obstacles to open end-to-end access need removed as soon as possible. There is currently no low-level and safe way for non-motorised travel along the Strath without using the busy and dangerous A834.		Noted

Map Ref.	Portal ID/ Email date	Response	Respondent	Comments summary	Response	Action
	28/PW12	Support	Individual	This addition to the core path will benefit the communities of Dingwall, Fodderty, Blairninich and Strathpeffer. Allowing the current path to be upgraded will allow people from every walk of life and ability to use the path for commuting as well as leisure and recreation. The local area is crying out for a safe way to travel between the villages/town rather than rely on environmentally unfriendly cars on a very unsafe road. I fully support this route being included on the core path group.		
	29/PW13	Support	Individual	Core path designation for the Peffery Way is vital in securing end-to-end unobstructed access. Folk in the community have wanted access along the disused railway for over 20 years. There is a huge support for this route among the folk living in Dingwall, Strathpeffer and the communities in between. Designating the route as a Core Path will ensure access and encourage maximum use by locals and visitors alike. It will ultimately be the only relatively flat, all ability route between Dingwall and Strathpeffer and could make a significant contribution to reducing car use along the Strath and I fully support it's inclusion.		
	30/PW14	Support	Individual	This path will be a vital link to allow pedestrians and cyclists to safely travel between Strathpeffer and Dingwall, avoiding having to use the busy, and often dangerous, A834.		
	53/PW15	Support	Individual	I use this path for dog walking. It is also accessible for my elderly mother who cannot manage uneven and hill walks. It is ideal and I would definitely use it to get to Dingwall safely on my bicycle. I do not feel safe on the road from Strathpeffer to Dingwall.		
	59/PW16	Support	Individual	This route is already partially upgraded to an all abilities access joining the communities of Strathpeffer and Dingwall. Upgrading the route to a Core Path will enable the completion of a project which has been needed for a long time. The provision of a safe cycling and walking route between the two communities will encourage people to reduce car usage and improve their health.		
	60/PW17	Support	Individual	The community has worked for several years to create this path which will safely connect Strathpeffer to Dingwall. Currently it is virtually impossible for a family to do this journey in anything other than a car, as the road is dangerously twisty and narrow with little or no additional room on the highway. The distance between the two settlements lends itself well to a good but achievable walk or cycle for individuals and families - a great addition to the options for carbon-free exercise which is the priority of numerous Government initiatives. Both settlements could offer this as an attractive activity for tourists, giving cafe businesses at either end of the path a good boost. All in all, this is a fantastic opportunity that I know, as a former editor of the local newspaper, carries a huge amount of local support.		
	61/PW18	Support	Individual	Fantastic addition to local network. Good for health & wellbeing of local community. Contribution to lowering carbon emissions by reducing car journeys between Dingwall & Strathpeffer Visitors will enjoy the surroundings.		

Map Ref.	Portal ID/ Email date	Response	Respondent	Comments summary	Response	Action
	67/PW19	Support	Individual	This proposed path from Strathpeffer towards Dingwall could be a wonderful all-abilities route in an area that has good paths but many of these involve steep climbs and are often muddy and narrow tracks. This section would be level and suitable for cycling and wheelchair use as well. If this were extended right into Dingwall it would connect Strathpeffer and Dingwall with a great path that could be used by all abilities and which would avoid the very busy A834.		
	76/PW20	Support	Community Group	This path will open up opportunities for people to commute to work and cycle to school along a safe traffic free route. The main road A834 between Strathpeffer and Dingwall is not suitable for walking or cycling as it has no footpath and has a speed limit of 60mph. This path has been spoken about for thirty years and is long overdue. It is great to see it being progressed at last and I would welcome it becoming a core path.		
	77/PW21	Support	Individual	Providing a safe walking and cycling link between Strathpeffer and Dingwall that avoids the use of the dangerous A834 main road is essential.		
	80/PW22	Support	Individual	This is an essential off main road link, between Strathpeffer and Dingwall. The A834 is not a safe route for either cycling or walking as the traffic is often heavy and moving at speed, there is no footpath for safe refuge for pedestrians or cyclists. This path will enable those who commute, walk, cycle and shop to travel safely and healthily in an environmentally sustainable manner between the two towns. The route takes one through very pleasant countryside and whether your journey is for pleasure or other, it is an enjoyable journey. The sooner the route is completed the better for all.		
	83/PW23	Support	Individual	The Peffery way is an all ability footpath that goes from Strathpeffer to Dingwall and follows the old railway. The path is great for prams, wheelchairs, bikes, walkers and Runners. Why I am so keen to have this path completed is because it would be a good way for me to cycle to school. I am a keen biker and at the moment there is not a safe road to travel along for a bike. The cars go too fast and too close to me, so I am not allowed to cycle to school which is a pity.		
	84/PW24	Support	Individual	please get the path finished because it would get me more active on cycling for heath and it would be safer to cycle on than the main road		
	85/PW25	Support	Individual	It would be good for cyclists, walkers and prams.		
	86/PW26	Support	Individual	The Peffery way is an extraordinary walk they want to build from Strathpeffer to Dingwall following the old railways road. This path would be suitable for everyone including people in wheelchairs. Since it made from gravel. The path is 3 miles long and is very safe because it doesn't go on the road. People can volunteer to help build, raise money and clear the path.		
	87/PW27	Support	Individual	Please get the path finished because I really want to walk my dog down it .		
	88/PW28	Support	Individual	Please get the path finished because it will help people to get to school by bike or walking. It will be safe. I visited the path and it is beautiful. People would like to get far away from cars and the		

Map Ref.	Portal ID/ Email date	Response	Respondent	Comments summary	Response	Action
				noise of cars. It would be relaxing to walk there.		
	89/PW29	Support	Individual	The Peffery way is a path that goes threw Dingwall to Strathpeffer. The Peffery Way is where the old rail way route was. It is a gravel path with a few bridges along the way. The Peffery Way is suitable for walking , wheelchairs, running and bikes . The path is 3 miles long .The people that make the path are volunteers and don't get paid they need some get so help them get the path finished its only half way done		
	90/PW30	Support	Individual	I really would like to see this path completed because I would like to cycle on it. I live in Strathpeffer and when the weather is good I would definitely cycle to school. At the moment I can't do this because when I try it's very bumpy and dangerous. My mum doesn't allow me to cycle on it because it's very narrow.		
	91/PW31	Support	Individual	Please get the path finished so people can travel safer without passing any busy roads or rivers .		
	92/PW32	Support	Individual	Please finish the path because it would benefit all cyclists, runners and walkers. The path could help people get to work in a healthy way or get to a certain destination from one side of the path to the other. This path will benefit peoples their physical health due to getting exercise but also their mental well-being will be raised due to people having a safe place to walk in the countryside. This is healthy for environmental health.		
	93/PW33	Support	Individual	I think this would be amazing to get finished because it benefits a variety of people. What I mean is that people will get healthier by walking and/or cycling to and from Dingwall and Strathpeffer. The road itself is extremely fast and this path would be a far more safer alternative.		
	94/PW34	Support	Individual	Please could you adopt the path so that people can walk instead of going on the road. People would like that so they can get to school or where they are going because it would avoid cars. The path is not busy and there are no cars. The path is good because people get to see the view and the beautiful trees.		
	95/PW35	Support	Individual	I think this is much better and safer than paths near roads or other dangers. I also think that the bit of the path that has been done already is really smooth and really suitable for bikes, walking, prams, wheelchair etc. If this path was finished i would use this path for a really calm walk or cycling because it is a really nice place with beautiful plants and rivers.		
	96/PW36	Support	Individual	I think this path should get finished so people have more access between Dingwall and Strathpeffer. I think the road is very dangerous between Strathpeffer and Dingwall as the cars go very fast, and close to you if you are walking at the side of the road, so a safe walkway would be amazing for the locals to have. This would help everybody to start to become healthier as they would be exercising more. It also would be good for families to go for a safe family walk, and it will do everyone good getting out in the fresh air.		
	121/PW37	Support	Individual	I think this is a hugely valuable resource for so many in the community. If adopted and		

Map Ref.	Portal ID/ Email date	Response	Respondent	Comments summary	Response	Action
				maintained effectively it will be accessible for all abilities.		
	122/PW38	Support	Individual	As a cyclist, I am in support of the path as it would enable me to cycle more confidently and safely as it is a fast road with corners. It would also help me in my working life as a Project Worker at Velocity. I have recently started working with schools within the Dingwall cluster. For Dingwall Academy's Bike to School Week we delivered led rides for children to actively travel to school from Conon Bridge to Dingwall Academy. Unfortunately we could not offer led rides to children from Strathpeffer as there is no shared path. This path would enable us to support children from Strathpeffer to participate and experience the benefits of active travel.		
	126/PW39	Support	Individual	This path, when complete, will provide a safe, scenic and enjoyable route between Strathpeffer and Dingwall for walkers, cyclists and horse riders. It will encourage travel by these modes and will therefore reduce the carbon footprint attributable to journeys between these two settlements and also the intervening hamlets of Fodderty and Blairninich. It will also promote the health and wellbeing of residents along the route. The route will be accessible to all abilities. Development of this route is consistent with policy 4.176 of the Inner Moray Firth Development Plan.		
	127/PW40	Support	Individual	excellent path that will encourage people getting out and about - promoting increased activity		
	128/PW41	Support	Individual	My children will eventually attend Dingwall academy and this route will provide an important safe and environmentally friendly route between Strathpeffer and Dingwall. The road route is relatively narrow for cyclists relative to the road speed.		
	131/PW42	Support	Individual			
	141/PW43	Support	Individual			
	144/PW44	Support	Individual	The path will be a great way to connect Strathpeffer, Jamestown and Contin to Dingwall without having to use the A834 thus encouraging walking and cycling in the area. Great though the paths network is, no traffic-free route for human-powered movement currently exists between these places. The provision of this route has the potential to benefit commuters, school pupils, business and leisure users by better connecting the above places and reducing the use of fossil fuels to move people between them.		
	155/PW45	Support	Individual	This is such a good route for all kind of users bike, walk, run, flat route for all, given that we all need to be healthy and promoting good mental health this is just what is needed. In future kids will cycle to school, groups will be walking, running groups, dog walkers, will be able to use this path and take in our beautiful landscapes. It's a natural path following the old railway line and it is sad that it is not being used to its full potential. Tourists are so much safer walking the path instead of down the main road out of Strathpeffer.		
	156/PW46	Support	Individual	This connection of this new core path plan would allow the hard work of the Peffery Way team to		

Map Ref.	Portal ID/ Email date	Response	Respondent	Comments summary	Response	Action
				continue to complete the walk way between Strathpeffer and Dingwall allowing great access for local and visitors alike to enjoy the area whilst also preserving wildlife and farming. With a move to more sustainable living, and people becoming more aware of their carbon footprint, allowing a safe route, off the road, between Strathpeffer and Dingwall would allow locals a way to shop and work locally. This path network is such a huge asset to the area and I am in full support of its completion and believe this must be pushed forward.		
	email 24/7/19/P W47	Support	Landowner	Many thanks for the Core Path proposal re. the above. We at Knockbain and Fodderty have no problem with that and I hope that, once adopted, the obstructions at Millnain can be minimised. I get regular reports of walkers being intercepted and asked for the names and details, which I consider unacceptable.		

ANNEX 3 Consultation Responses from Forestry & Land Scotland

THE HIGHLAND COUNCIL AMENDED CORE PATHS PLAN (WEST HIGHLAND AND ISLANDS) 2019

FLS Responses

11/10/19

Path Ref.	Map Ref.	Path name	Length (kms)	FLS Response	FLS comments
RC10.06E	RC10a	Contin to Strathgarve	0.43	Neutral	
RC20.01	RC20a	Silverbridge circuit	0.5	Neutral	
RC20.08C	RC20b	Little Garve to Aultguish (Fish Road)	9.5	Object	Core path designation would make forest management work more difficult. No room for diversions if closure is needed.
RC28.06C	RC28b	Coulin Pass	12	Neutral	
RC29.10C	RC29b	Craig to Scardroy	20	Neutral	
RC45.11C	RC45a	Ord Wood Ridge path	1.0	Neutral	
RC45.04E	RC45a	Blackmuir Woods	0.7	Neutral	
RC45.13C	RC45c	Bottacks to Loch Grave	7.8	Object	Mainly on high usage roads. Core path designation would make forest management work more difficult as there is limited room for diversions.
RC49.07	RC49a	Inverlael circuit	1.6	Object	This is an old trail which we no longer waymark, check or maintain.

SL01.02	SL01	Strome Wood	0.5	Neutral	
SL02.10C	SL02B	Ard Hill	2.0	Neutral	It was agreed to use the waymarked route and drop the non-maintained spurs.
SL03.06E	SL03a	Broadford Forest	2.9	Neutral	
SL04.03E	SL04	Glenbrittle Forest network	4	Object	This additional designation would lose flexibility for forest management work, as the parallel route is already a core path.
SL18.02E	SL18	Kyleakin Forestry	2.8	Neutral	No objection to waymarked routes being used. Spur to the west needs to be dropped as the bridge is temporary.
SL02.11c		Balmacara		Neutral	
SL12.08c		Moyle		Neutral	

ANNEX 4 - Objection from Network Rail to Candidate Core Path RC28.06C Coulin Pass

Wester Ross, Strathpeffer & Lochalsh Area Committee 15th October 2020

West Highland & Islands Core Path Plan Review 2019 Wester Ross section

I refer to the above and enclose herewith Network Rails objection to the proposed Coulin Path (Glen Carron to Glen Torridon) core path where it crosses the railway at Achnashellach Level Crossing (RC28.06C).

Public administrative law concerns Network Rail has set out its position on this matter previously and has consistently objected to the addition of this Core Path route over this private accommodation user level crossing since 2008. Scottish Ministers in their Direction issued in July 2011 to The Highland Council on the previous Proposed Core Paths Plan determined that: it was premature to direct that Core Paths crossing active railway lines should be included in the Core Path Plan until the review of the legal framework for level crossings led by the Scottish Law Commission was completed; and the Council should not reconsider the position until following the publication of Scottish Law Commission Report.

Objection on the Grounds of Prematurity and Lack of Force of Law

Network Rail notes that the Law Commission Report was published in 2014 however the findings of the Law Commission Report are expressly stated to be recommendations and expressly state that legislation is required. They therefore do not equate to legislation and have no legislative effect or force of law unless and until implemented. Consistent with public administrative law, it would be inappropriate for the Council to usurp the position of Parliament in this matter especially given the significant potential implications of some of the Law Commission's findings on Network Rails operations. Considering in more detail the reasonableness of the Council seeking to place any reliance on the legal standing of the Law Commission recommendations, in 2014 the Scottish Law Commissions press release accompanying the publication of the Joint Level Crossings Report stated: The Scottish Government is considering the recommendations, including those relating to rights of way and access issues in Scotland, and is liaising with the Department for Transport in connection with the preparation of the action plan. Since that time, it is important to note that we are now in 2019 and there has been no formal response or action plan from the Scottish Government on the findings of the Law Commission Report since its publication and therefore no indication of their intentions or acceptance of its findings in this regard. The Law Commission's findings, while important as a summary of the position and providing a recommendation to Government, clearly have no persuasive legal standing to inform a decision of this nature. Network Rail remains of the opinion that these crossings of the railway are not suitable for inclusion in an amended Core Path Plan.

Impact on Network Rail

Network Rail was reclassified as an arm's length body of the Department for Transport in 2014 and must comply with the requirements of the Managing Public Money guidance issued by the Treasury and ensure it achieves value for money in the discharge of our operations. In addition, Network Rail must also comply with the terms of our Network Licence which is regulated by our independent economic and safety regulator, the Office of Road and Rail. The Council must also have regard to the public sector funding requirements and cannot impose or transfer a burden onto another public body such as Network Rail. Given this, we have potential concerns in respect of the Managing Public Money' guidance as including these crossings in a Core Path Plan could result in the Council placing a burden on another public body.

Public right of access

It is noted that the Council have indicated that they consider that there is a public right of way at the private level crossing at Achnashellach. It is also noted that the crossing has been signed as a right of way by the Scottish Rights of Way Society. This perceived existing legal right to cross the

railway' appears to be an important justification for the Council to consider that this level crossing was suitable to be part of the Core Path Plan.

Having reviewed the legal position, we respectfully disagree and remain of the view that there is no valid public right of way in respect of this crossing. Further objective evidence of the accuracy of Network Rail's position can be seen in the Law Commission Report which is considered further below. The Law Commission's Recommendations on Public Rights of Way over Private Level Crossings Network Rail does not consider that it is possible to acquire public rights of way to cross the railway by prescription. The Law Commission report identified two conditions which would need to be satisfied in order for a public right of way to arise over a private level crossing by prescriptive use. The first derives from the operation of the general law of prescription, while the second derives from the set of specialities relating to railways.

As to the general law of prescription, the requirement that the usage be open, peaceable and without judicial interruption would have to be met. Moreover, the public right of way would have to run from one public place to another. As regards railway specialities, the consultation paper noted that there are two main lines of argument against the operation of prescription in this context the argument that it is outside the powers of the railway owner to grant a right of way, and the criminal trespass argument.

The first argument operates on the basis that a railway owner lacks the power to grant a public right of way across the railway, and that there is accordingly no possibility of a right of way being created by prescription. The criminal trespass argument states that given that section 55 of the British Transport Commission Act 1949 effectively criminalises the use of private level crossings by persons other than the authorised user, any usage by the public would not be peaceable. The criminal nature of trespass was also highlighted by Lord Justice Clerk Macdonald in Caledonian Railway Company v Walmsley. He noted that under legislation then in force railway companies had a power to impose a fine upon any person who trespassed on the railway track.

Notwithstanding the fact that the Law Commission's findings have no legal standing until implemented by legislation, it is noted that the Law Commission in considering whether the public use of a private level crossing should be capable of giving rise to a public right of way through the operation of prescription (see paras. 5.45-5.51 of the Law Commission report), concluded that: the acquisition of public rights of way by prescription should be excluded, based on safety and operational concerns resulting. These operational and safety concerns are: That the acquisition of public rights of way by prescription would amount to a significant change in the use of level crossings, bringing with it a considerable increase in safety risk; and It would not be easy to monitor the creation of new rights of way through operation of prescription and as such to ensure an appropriate risk assessment which took account of the safety issues presented by a change in use.

In addition to these concerns, it is also important in this regard to have consideration to Network Rail's Network Licence obligations which include obligations to grow the network and improve service for customers. While this may include infrastructure changes, often these improvements are delivered by way of changes to the operation of the railway that might be needed, including potential changes to line speed and these changes introduce different safety considerations in the context of level crossings.

The Law Commission considered that the exclusion of the acquisition of public rights of way by prescription should apply to the whole of the railway track in Scotland, except for disused railways. Again, while this does not have force of law, it is consistent with Network Rail's position and assessment of the legal position to date. Given the weight of evidence we would respectfully invite the Council to reconsider its position.

The Law Commission's Recommendations on Access Rights under the Land Reform (Scotland) Act 2003 In paras. 5.52 - 5.59 of the Law Commission's report it was concluded that the most likely provision to have the effect of excluding access rights over private level crossings was section 6(1)(d) of the 2003 Act. This was based on the fact that section 55 of the British Transport Commission Act 1949 effectively creates an offence of trespassing on the railway, providing a warning notice against

trespass is displayed at the nearest station. Accordingly, it was provisionally concluded that, in terms of the current law, access rights do not apply in respect of a private level crossing over the operational railway.

The Law Commission recommended that clarification (not creation of new statutory provision) of the application of access rights under the 2003 Act in relation to railways is needed. They considered that in the interests of enhancement of safety, this clarification should be to the effect that access rights do not extend across any private level crossing. This recommendation is also consistent with the Scottish Outdoor Access Code, published by Scottish Natural Heritage under the 2003 Act, which provides that access rights do not apply in places like railways.²

Precedent in England & Wales While not binding, it may be useful for consideration to be given to a recent English judicial review involving the so-called Zulu Level Crossing. A copy of the decision is attached to the letter that is being emailed under separate cover.

In summary, the Ramblers Association asserted a prescriptive right. However, the Order Decision and Determination support Network Rail's position confirms that where a claim of prescriptive use for the creation of a public right of way is asserted: Network Rail was found to be incapable of dedicating a way as a highway across the Crossing on the basis that it is incompatible with its statutory purposes - to run a safe and efficient railway network; and Claimed public use of the crossing where it was not "as of right" amounted to trespass in terms of section 55 of the British Transport Commission Act 1949. Network Rail's legal assessment was upheld following a Judicial Review.

Site Specific Safety Objections

Achnashellach is a private accommodation level crossing which is located on the Kyle railway line between Achnasheen and Strathcarron. It is located within Achnashellach station and provides access to a residential property and forestry track located on the north (up) side of the railway. The north (up) side has two separate approaches, one leading from the old station house and the other from the forestry track. The south (down) side leads from a single track to the main road. As a private level crossing, access is permitted for authorised users and their invitees only. The level crossing has both private vehicular and private pedestrian access gates to the crossing.

The authorised users of this crossing are the nearby residential property and the Forestry Commission with forestry staff using the crossing on occasions with a 4x4 vehicle. There is an alternative access to the forest via a bridge one mile south of the crossing and this is the preferred access for forestry staff. Irregular users of the crossing (defined as users of the crossing who are not the authorised user nor invited by the authorised user), such as hillwalkers sometimes use the crossing.

The train service over Achnashellach level crossing currently consists of passenger trains only. Achnashellach is a request stop railway station with 8 trains per day currently running over the crossing (between the hours of 07:12 and 19:34). The current highest permissible line speed of trains is 40mph. Trains are timetabled to run for 12 hours per day. An estimated census of traffic carried out by Network Rail's Level Crossing Manager in December 2018 indicates that there are presently 2 road vehicles and 1 pedestrian/and cyclist using the crossing per day. All available information from the camera footage and discussions with the authorised user indicate there are not currently a high proportion of irregular or vulnerable users.

Achnashellach level crossing is provided with telephones and authorised users are aware of the protocols for using the level crossing safely. At present these protocols involve training the authorised users how to safely use the level crossing. In the case of vehicular crossings this protocol involves phoning Inverness Signalling Centre and requesting permission to cross. If the user makes a decision to cross with a vehicle without phoning for permission, then they are putting themselves and their passengers at risk of collision with a train. While this protocol is safe and appropriate for the limited private use it was intended for (and the crossing has been appropriately risk assessed on this basis), it would not be appropriate for this use to be extended to the general public without these safety issues being addressed by a competent safety professional. Leaving aside the support

set out above for the view that it is not legally competent, it would not be safe for the public to be encouraged to use the crossing without considering what changes would be necessary to ensure the safety of the public.

Our main concern would be the (unquantified) increased level of safety risk arising if a Core Path is located over this level crossing as this would encourage an increase in the numbers of people using the crossing as well as a change in the type of users that would cross in this location. This includes users who are not familiar with the relevant safety protocols for using the crossing and also a possible increase in vulnerable users of the crossing (examples of this are young children, elderly people and dog walkers who may cross more slowly or be unable to interpret signage and who are therefore at greater risk in using the crossing). Any increase in use raises the likelihood of potential misuse or incident and going forward would be likely to adversely affect safety and performance of the railway.

Conclusion

Network Rail wants to work in partnership with Local Authorities where possible to support the delivery of our respective statutory obligations. It will be understood that Network Rail has statutory duties to ensure the safety of users of the railway and among other things this requires us where appropriate to constructively challenge decisions which could adversely impact on safety. The Zulu case referred to above is an example where we have taken such steps. Having carefully considered matters, Network Rail (having regard to its statutory duties) remains of the view that it must object to the creation of a Core Path over the railway in this location as the decision is inappropriate for the reasons explained in this note.

In addition, if this decision was implemented it would promote a public right of access and encourage more frequent use of a Level Crossing that is a private crossing intended only to be used for the purpose of preserving a private access right, without having given appropriate consideration of the safety issues associated with the decision. As stated in the consultation documentation the aims of the review of the Core Paths Plan is to improve connectivity of the current plan by utilising existing routes and to ensure that current routes can be used, at a minimum standard of pedestrian use without significant impediment, by the general public.

As well as the sufficiency of network the council is required to have a statutory regard to the following points when reviewing the core path plan: the likelihood that persons exercising rights of way and access rights will do so by using core paths; the desirability of encouraging such persons to use core paths; and the need to balance the exercise of those rights and the interests of the owner of the land in respect of which those rights are exercisable. This type of level crossing was designed only for a low level/specific type of use and was never intended to be used by the general public. It is not an existing route' over which the public can legally exercise a right of access and there are impediments to its use as detailed above. Also, as detailed above there is no existing legal right for the general public to cross the railway at this point as it is not a public right of way and access rights under the Land Reform (Scotland) Act 2003 do not apply in respect of a private level crossing over the operational railway.

Therefore, the proposed creation of a Core Path in this location is likely to result in a significant change in the use of the level crossing. It is not desirable to encourage this change in use as it brings with it an increase in safety risk and is incompatible with our statutory purpose - to run a safe and efficient railway network. This is a passive crossing with protection control appropriate to use i.e. specifically training the authorised user on how to use the crossing. This would be impossible to offer members of the general public. It also creates a new safety and financial risk to Network Rail which is inconsistent with the requirement of public policy and funding of public bodies. We would respectfully request that the route of this proposed Core Path is either further amended to avoid crossing a private railway level crossing or else this section of the route is removed from the proposed core path plan.

ANNEX 5 - Objection from Network Rail RC29.10C- Craig to Scardroy

Wester Ross, Strathpeffer & Lochalsh Area Committee 15th October 2020

West Highland & Islands Core Path Plan Review 2019 Wester Ross section

I refer to the above and enclose herewith Network Rail's objection to the proposed Craig to Scardroy core path where it crosses the railway at Craig Level Crossing (RC29.10C). Public administrative law concerns Network Rail has consistently objected to the addition of Core Path routes being designated over private accommodation user level crossing in the Highlands Council area. Scottish Ministers in their Direction issued in July 2011 to The Highland Council on the previous Proposed Core Paths Plan determined that: 'it was premature to direct that Core Paths crossing active railway lines should be included in the Core Path Plan until the review of the legal framework for level crossings led by the Scottish Law Commission was completed; and 'the Council should not reconsider the position until following the publication of Scottish Law Commission Report.

Objection on the Grounds of Prematurity and Lack of Force of Law

Network Rail notes that the Law Commission Report was published in 2014 however the findings of the Law Commission Report are expressly stated to be recommendations and expressly state that legislation is required. They therefore do not equate to legislation and have no legislative effect or force of law unless and until implemented. Consistent with public administrative law, it would be inappropriate for the Council to usurp the position of Parliament in this matter especially given the significant potential implications of some of the Law Commission's findings on Network Rail's operations. Consistent with public administrative law, it would be inappropriate for the Council to usurp the position of Parliament in this matter especially given the significant potential implications of some of the Law Commission's findings on Network Rail's operations. Considering in more detail the reasonableness of the Council seeking to place any reliance on the legal standing of the Law Commission recommendations, in 2014 the Scottish Law Commission's press release accompanying the publication of the Joint Level Crossings Report stated: 'The Scottish Government is considering the recommendations, including those relating to rights of way and access issues in Scotland, and is liaising with the Department for Transport in connection with the preparation of the action plan.' Since that time, it is important to note that we are now in 2019 and there has been no formal response or action plan from the Scottish Government on the findings of the Law Commission Report since its publication and therefore no indication of their intentions or acceptance of its findings in this regard. The Law Commission's findings, while important as a summary of the position and providing a recommendation to Government, clearly have no persuasive legal standing to inform a decision of this nature. Network Rail remains of the opinion that these crossings of the railway are not suitable for inclusion in an amended Core Path Plan.

Impact on Network Rail

Network Rail was reclassified as an arm's length body of the Department for Transport in 2014 and must comply with the requirements of the Managing Public Money guidance issued by the Treasury and ensure it achieves value for money in the discharge of our operations. In addition, Network Rail must also comply with the terms of our Network Licence which is regulated by our independent economic and safety regulator, the Office of Road and Rail. The Council must also have regard to the public sector funding requirements and cannot impose or transfer a burden onto another public body such as Network Rail. Given this, we have potential concerns in respect of the 'Managing Public Money' guidance as including these crossings in a Core Path Plan could result in the Council placing a burden on another public body.

Public right of access

It is noted that the Council have indicated that they consider that there is a public right of way at the private level crossing at Craig. It is also noted that crossing has been signed as a right of way by the Scottish Rights of Way Society. This perceived existing 'legal right to cross the railway' appears to

be an important justification for the Council to consider that this level crossing was suitable to be part of the Core Path Plan.

Having reviewed the legal position, we respectfully disagree and remain of the view that there is no valid public right of way in respect of this crossing. Further objective evidence of the accuracy of Network Rail's position can be seen in the Law Commission Report which is considered further below. The Law Commission's Recommendations on Public Rights of Way over Private Level Crossings Network Rail does not consider that it is possible to acquire public right of way to cross the railway by prescription. The Law Commission report identified two conditions which would need to be satisfied in order for a public right of way to arise over a private level crossing by prescriptive use. The first derives from the operation of the general law of prescription, while the second derives from the set of specialities relating to railways.

As to the general law of prescription, the requirement that the usage be 'open, peaceable and without judicial interruption' would have to be met. Moreover, the public right of way would have to run from one 'public place' to another. As regards railway specialities, the consultation paper noted that there are two main lines of argument against the operation of prescription in this context – the argument that it is outside the powers of the railway owner to grant a right of way, and the criminal trespass argument.

The first argument operates on the basis that a railway owner lacks the power to grant a public right of way across the railway, and that there is accordingly no possibility of a right of way being created by prescription. The criminal trespass argument states that given that section 55 of the British Transport Commission Act 1949 effectively criminalises the use of private level crossings by persons other than the authorised user, any usage by the public would not be 'peaceable.'

The criminal nature of trespass was also highlighted by Lord Justice Clerk Macdonald in *Caledonian Railway Company v Walmsley*. He noted that under legislation then in force railway companies had a power to impose a fine upon any person who trespassed on the railway track.

Notwithstanding the fact that the Law Commission's findings have no legal standing until implemented by legislation, it is noted that the Law Commission in considering whether the public use of a private level crossing should be capable of giving rise to a public right of way through the operation of prescription (see paras. 5.45-5.51 of the Law Commission report), concluded that: 'the acquisition of public rights of way by prescription should be excluded, based on safety and operational concerns resulting.

These operational and safety concerns are: 'That the acquisition of public rights of way by prescription would amount to a significant change in the use of level crossings, bringing with it a considerable increase in safety risk; and 'It would not be easy to monitor the creation of new rights of way through operation of prescription and as such to ensure an appropriate risk assessment which took account of the safety issues presented by a change in use. In addition to these concerns, it is also important in this regard to have consideration to Network Rail's Network Licence obligations which include obligations to grow the network and improve service for customers. While this may include infrastructure changes, often these improvements are delivered by way of changes to the operation of the railway that might be needed, including potential changes to line speed and these changes introduce different safety considerations in the context of level crossings.

The Law Commission considered that the exclusion of the acquisition of public rights of way by prescription should apply to the whole of the railway track in Scotland, except for disused railways. Again, while this does not have force of law, it is consistent with Network Rail's position and assessment of the legal position to date. Given the weight of evidence we would respectfully invite the Council to reconsider its position.

The Law Commission's Recommendations on Access Rights under the Land Reform (Scotland) Act 2003 In paras. 5.52 - 5.59 of the Law Commission's report it was concluded that the most likely provision to have the effect of excluding access rights over private level crossings was section 6(1)(d) of the 2003 Act. This was based on the fact that section 55 of the British Transport Commission Act

1949 effectively creates an offence of trespassing on the railway, providing a warning notice against trespass is displayed at the nearest station.

Accordingly, it was provisionally concluded that, in terms of the current law, access rights do not apply in respect of a private level crossing over the operational railway.

The Law Commission recommended that clarification (not creation of new statutory provision) of the application of access rights under the 2003 Act in relation to railways is needed. They considered that in the interests of enhancement of safety, this clarification should be to the effect that access rights do not extend across any private level crossing. This recommendation is also consistent with the Scottish Outdoor Access Code, published by Scottish Natural Heritage under the 2003 Act, which provides that access rights do not apply in 'places like railways.'

Precedent in England & Wales While not binding, it may be useful for consideration to be given to a recent English judicial review involving Zulu Level Crossing. A copy of the decision is attached. In summary, the Ramblers Association asserted a prescriptive right. However, the Order Decision and Determination support Network Rail's position confirms that where a claim of prescriptive use for the creation of a public right of way is asserted: 'Network Rail was found to be incapable of dedicating a way as a highway across the Crossing on the basis that it is incompatible with its statutory purposes - to run a safe and efficient railway network; and 'Claimed public use of the crossing where it was not "as of right" amounted to trespass in terms of section 55 of the British Transport Commission Act 1949. Network Rail's legal assessment was upheld following a Judicial Review.

Site Specific Safety Objections

Craig is a private accommodation level crossing which is located on the Kyle railway line between Achnasheen and Achnashellach. There are no stations visible at the level crossing. It is located off the A890 road and provides access to forestry land. As a private level crossing, access is permitted for authorised users and their invitees only. The level crossing has both private vehicular and private pedestrian access gates to the crossing. The authorised users of this crossing are the Forestry Commission. Irregular users of the crossing (defined as users of the crossing who are not the authorised user nor invited by the authorised user), such as hillwalkers sometimes use the crossing. The train service over Craig level crossing consists of passenger trains. There are 8 trains per day. The highest currently permissible line speed of trains is 45mph. Trains are currently timetabled to run for 12 hours per day. An estimated census of traffic carried out by Network Rail's Level Crossing Manager in January 2015 indicates that there are presently 2 road vehicles and 4 pedestrians and cyclists using the crossing per day. All available information from the camera footage and discussions with the authorised user indicate there are not currently a high proportion of irregular or vulnerable users. There are known issues with foliage and track curvature that can impair visibility of the crossing, crossing equipment or approaching trains.

Craig level crossing is provided with telephones and authorised users are aware of the protocols for using the level crossing safely. In the case of vehicular traffic, users are required to phone Inverness Signalling Centre and requesting permission to cross. If the user makes a decision to cross with a vehicle without phoning for permission, then they are putting themselves and their passengers at risk of collision with a train. While this protocol is safe and appropriate for the limited private use it was intended for (and the crossing has been appropriately risk assessed on this basis), it would not be appropriate for this use to be extended to the general public without these safety issues being addressed by a competent safety professional.

Leaving aside the support set out above for the view that it is not legally competent, it would not be safe for the public to be encouraged to use the crossing without considering what changes would be necessary to ensure the safety of the public.

Our main concern would be the (unquantified) increased level of safety risk arising if a Core Path is located over this level crossing as this would encourage an increase in the numbers of people using the crossing as well as a change in the type of users that would cross in this location. This includes users who are not familiar with the relevant safety protocols for using the crossing and also a

possible increase in vulnerable users of the crossing (examples of this are young children, elderly people and dog walkers who may cross more slowly or be unable to interpret signage and who are therefore at greater risk in using the crossing). Any increase in use raises the likelihood of potential misuse or incident and going forward would be likely to adversely affect safety and performance of the railway.

Conclusion

Network Rail wants to work in partnership with Local Authorities where possible to support the delivery of our respective statutory obligations. It will be understood that Network Rail has statutory duties to ensure the safety of users of the railway and among other things this requires us where appropriate to constructively challenge decisions which could adversely impact on safety.

The Zulu case referred to above is an example where we have taken such steps. Having carefully considered matters, Network Rail (having regard to its statutory duties), remains of the view that it must object to the creation of a Core Path over the railway in this location as the decision is inappropriate for the legal reasons explained in this note.

In addition, if this decision was implemented it would promote a public right of access and encourage more frequent use of a Level Crossing that is a private crossing intended only to be used for the purpose of preserving a private access right, without having given appropriate consideration of the safety issues associated with the decision. As stated in the consultation documentation the aims of the review of the Core Paths Plan is to improve connectivity of the current plan by utilising existing routes and to ensure that current routes can be used, at a minimum standard of pedestrian use without significant impediment, by the general public.

As well as the sufficiency of network the council is required to have a statutory regard to the following points when reviewing the core path plan: 'the likelihood that persons exercising rights of way and access rights will do so by using core paths; 'the desirability of encouraging such persons to use core paths; and the need to balance the exercise of those rights and the interests of the owner of the land in respect of which those rights are exercisable This type of level crossing was designed only for a low level/specific type of use and was never intended to be used by the general public. It is not an 'existing route' over which the public can legally exercise a right of access and there are impediments to its use as detailed above. Also, as detailed above there is no existing legal right for the general public to cross the railway at this point as it is not a public right of way and access rights under the Land Reform (Scotland) Act 2003 do not apply in respect of a private level crossing over the operational railway.

Therefore, the proposed creation of a Core Path in this location is likely to result in a significant change in the use of the level crossing. It is not desirable to encourage this change in use as it brings with it an increase in safety risk and is incompatible with our statutory purpose - to run a safe and efficient railway network. This is a passive crossing with protection control appropriate to use i.e. specifically training the authorised user on how to use these crossings. This would be impossible to offer members of the general public. It also creates a new safety and financial risk to Network Rail which is inconsistent with the requirement of public policy and funding of public bodies. We would respectfully request that the route of this proposed Core Path is either further amended to avoid crossing a private railway level crossing or else this section of the route is removed from the proposed core path plan.

ANNEX 6 - Objection from Olsson Forestry Ltd Agent to Candidate Core Path RC44.01C Dalnacroich

Wester Ross, Strathpeffer & Lochalsh Area Committee 15th October 2020

West Highland & Islands Core Path Plan Review 2019 Wester Ross section

Whilst very supportive of core paths in principle there are significant time-critical operational (and therefore public safety) concerns for the next 10-15 years connected to the East Strathconon Forest road route shown on this map.

Therefore it is necessary to object to the proposal to create a core path route in the operational forest with harvesting continuous over the next 10-15 years as per the approved Long Term Forest Plan.

Part of the core path proposed uses the main and only eastern forest access used by timber lorries and forest machinery. The steep terrain above and below the forest road and protected species sensitivities means there are no viable options for path diversions during operations. Informal, responsible public access continues to be welcome subject to closures during operations. There are better and safer walking routes available nearby and elsewhere around Strathconon that will provide sufficiency of core paths.

Background: The commercial forest when bought in 2008 was unthinned, even aged and over-mature. The 20-year forest restructuring plan was consulted on, carefully considered then agreed. This was only just beginning, together with some sensitive thinning operations (to try to prolong the longevity) of the standing timber crop, when severe windblow during 2010-12 disrupted the planned operations shifting some scheduled timber harvesting away from the east to the west of the forest. The proposal to create a core path between the main forest entrance eastwards along the forest road will obstruct and prevent the successful completion of the approved 20-year Long Term Forest restructuring Plan which is in it's 9th year of 20-25 years.

An aim being to alter the forest age structure to approximately equal thirds: young, maturing and mature to help reduce the need for large scale felling in future and allow smaller scale thinning operations to take place.

The main issues relate to timber harvesting on the rocky, extremely steep and in places unstable slopes; ongoing timber lorry movements; protected species' sensitivities; and effective deer control all of which are likely to conflict with safe, public access if required at all times. This would make implementation of the time-critical operations underway impractical. Particularly regarding the harvesting needed before the forest is subject to further windblow/butt rot/potential other plant health issues and the essential need to successfully establish the forest replanting programme which is exceedingly vulnerable to deer browsing by Sika, red and roe deer populations.

It is most unfortunate there was no recent, prior contact from the Highland Council about this route before it's publication in this consultation. An early discussion might have prevented the need to object at this stage. We are happy to welcome people walking in the forest (as per the welcome signage in place on main entry gates) who respect the Outdoor Access code and adhere to the necessary 'No Unauthorised Access' signage/barriers related to significant and potentially very dangerous forest operations where public safety best practise necessitates that. It is essential to operations that for periods of time e.g. 6-month harvesting operations, public access is restricted to allow the successful restructuring of Strathconon Forest during this crucial next 10-15 years for the long term benefit to people, wildlife and the economy.

Please do get in touch should it be helpful to discuss any of this further. Thank-you.

ANNEX 7 - Objection from Bidwells and Scottish Land & Estates to Candidate Core Path RC49.01E Dun Canna

Wester Ross, Strathpeffer & Lochalsh Area Committee 15th October 2020

West Highland & Islands Core Path Plan Review 2019 Wester Ross section

Core Path Extension Objection – on grounds of alternative route available, deer management, health and safety and business obstruction

The introduction of the proposed core path extension runs through the middle of Ledmore and Keanchulish Estate's deer farming enterprise. If the core path extension goes ahead this will be detrimental to the deer farm if the riverside pastures cannot be used. There is an extreme Health and Safety risk to the public if the path is open for walking during the period of the rut. There is a current core path which runs adjacent to the deer farm leading to Dun Canna beach. The Estate encourages public access however, the proposed core path extension is not appropriate for the following reasons:

Previous Assurances There was a full discussion with the Access Officer in 2018 regarding the deer farm. During this discussion, the Access Officer did not raise any concerns with our proposal or mention a core path running through the deer farm. At this meeting the use of alternating signs, timings of path closure during the rut and management of the deer was discussed. Alastair Campbell also met with the Lochbroom Community Council to discuss the plans for the Estate's deer farm where the closing of the path during the rut was discussed and there were no issues with this. The meetings minutes were subsequently published in the Ullapool News, again there were no concerns voiced by the public.

Alternative Route The Estate encourages members of the public to explore safely. There is already a core path which runs through the Estate which members of the public can use.

The current core path runs alongside the fence of the deer farm. The Estate wants to encourage the public to explore the beautiful scenery in a safe manner which the current core path provides to Dun Canna beach.

The Scottish Access Code states that 'Access rights extend to fields with farm animals, but remember that some animals, particularly cows with calves but also horses, pigs and farmed deer, can react aggressively towards people. Before entering a field, check to see what alternatives there are.'

As it currently stands the route of the proposed core path extension is open all year round except for the rut which has allowed for the public to explore the area safely. It should be highlighted that the path will continue to remain open to the public all year round except for a short period during the rut.

Deer Management

Animal Welfare The proposed core path extension runs through the middle of Ledmore and Keanchulish's deer farming enterprise. Originally the Estate's deer farm had been run from different pastures on the estate where the grazing and shelter was of poorer quality, this had a detrimental impact on the welfare on the deer and the decision was taken to move them to the riverside

pastures where they are currently situated. The pastures by the river provide the best quality grazing and shelter for deer on the Estate. The quality of grazing and shelter provided in these areas is essential for the hinds to be in good condition during their conception period before and during the rut. There are no suitable alternative options on the Estate which would provide the same quality of shelter and grazing currently available to the deer, if they were to be moved then this would have a severely negative impact on their welfare.

The Access Officer had questioned in our meeting moving the deer during the period of the rut however, for the welfare of the deer it would not be possible to move them during this period.

Calving Period Deer start calving in late May, predominantly June and into July. This time of year is critical for deer to be undisturbed to enable them to give birth and mother their young. If the deer are disturbed during this time the hinds could potentially flee and leave their calves behind which could easily die as a result. The Estate does not want to stop people from walking on the path at this time but wish to exclude dogs for the calving period. The summer months are expected to be busier as more tourists and local members of the public with dogs will be using the paths more frequently. This causes concern that the mothers will abandon their calves, and many will not survive into adulthood if this is the case.

De-horning During the meeting with the Access Officer it was questioned if the stags on the estate would be de-horned.

The stags on the Estate do not have their antlers removed. Ledmore and Keanchulish Estate only employ a single-handed full-time member of staff. De-horning and handling stags would be a significant health and safety risk for a single member of staff. The stags need to be moved to a handling unit for the procedure to be carried out. The removal of antlers needs to be conducted by a veterinary professional, after the procedure the stags need to be separated and monitored for 48 hours. The process of removing the antlers would cause undue stress and pain to the stags, which will heighten their unpredictable behaviour making the process extremely dangerous for everyone involved.

The Estate is currently investigating an educational tourist venture where stags with antlers will be necessary to educate tourists about the native Scottish breed. If the stags were to be de-horned, then this would ultimately put an end to the potential tourist and educational venture.

Health and Safety While there is always going to be a health and safety risk for the public using the path at all times of the year, there is a significant concern for public health and safety during the period of the rut. The period of the rut varies every year from the beginning of September to the end of October. During the rut stags are territorial and become extremely aggressive. The British Deer Farm and Parks Association quotes 'Warning: Farmed stags can be extremely aggressive to humans over the rutting period, even if they appear to be gentle at other times of the year.'

There is an extremely high risk to the safety of members of the public if they can enter the path during the rut period. There are previous examples of people being injured and killed during the rut.

As stated previously, the deer are situated in the riverside pastures as this is the best grazing and shelter for the animals. If they were to be moved at any time of the year, including moving the rut, this would have a detrimental impact on the welfare of the deer, therefore is not an option.

It is worrying that members of the public and tourists some with minimal knowledge of deer will have access to the farm during this period, especially as it is common for tourists to feed deer which appear to be tame. Having no control of opening or closing the path puts walkers in extreme danger at certain times of the year.

Business Obstruction

Deer Farm Ledmore and Keanchulish is a registered deer farming enterprise. The deer are not wild animals and are managed and fed as livestock compared to that of a deer park where the animals are treated as 'wild'.

The Estate carries out the following livestock management: during the winter months the calves are brought into the shed for extra shelter, veterinary treatment is used where necessary though limited, due to the Estate wanting to promote their venison as organically as possible and the Estate is IACS registered as a farming business and the deer are declared as livestock on the annual submission to RPID.

Investment Following on from discussions in 2018 the Estate then invested in the enterprise having had assurance from the Access Officer and support from the community. The Estate has invested in a deer larder, a significant amount of fencing and a processing unit. The Estates employee has put a huge amount of time and effort into this venture. If the proposed core path is introduced, then the fields will inevitably not be able to be used as part of the deer farm, undermining the investment made by the Estate and the viability of the entire venture. This will also potentially jeopardise the Estate's future plans to expand the enterprise including future local employment opportunities.

Attached below is a PDF link to the letter of objections received from Scottish Land & Estates



Annex 7 Amended
CCP RC49.01E Dun Ca