

Agenda Item	5.
Report No	SCC/17/24

Committee: Sutherland County Committee

Date: 12 November 2024

Report Title: Adoption of the Modified Core Paths Plan (Caithness and Sutherland) Amended

Report By: Assistant Chief Executive - Place

1 Purpose/Executive Summary

- 1.1 This report summarises the review of The Highland Council Core Paths Plan in Sutherland with respect to the candidate core paths consulted upon in the amended plan consultation (18 December 2017 – 30 March 2018), the modified amended plan consultation (26 April 2019 – 31 May 2019) and the direction of Scottish Ministers (received September 2024) following the Public Local Inquiry report/recommendations of 2 June 2020.
- 1.2 The Highland Council has been directed to adopt the paths in the 2017 consultation, paths modified in the 2019 consultation which were not objected to and also those core paths which the Reporter of the PLI advised should be adopted.
- 1.3 List of candidate core paths to be adopted is shown in **Appendix 2**.
- 1.4 Members are asked to approve core path SU12.25(C) into the Council's Core Paths Plan excluding 6.67m comprising the level crossing at Dunrobin Station as detailed in **Appendix 5** and also to note that core path SU09.20(C) shown in **Appendix 6** is to be only partly adopted with the northern leg omitted.

2 Recommendations

- 2.1 Members are asked to:-
 - i. **Adopt** the candidate core paths as consulted upon, and not objected to, under the amended plan December 2017 to March 2018;
 - ii. **Adopt** the candidate core paths as consulted upon under the modified amended plan April 2019 – May 2019;
 - iii. **Adopt** the candidate core paths into the plan as directed by Scottish Ministers by letter on the 2 September 2024; and
 - iv. Adopt the Sportsmans Walk – A9 candidate core path SU12.25(C) with the exception of the level crossing at Dunrobin Station.

3 Implications

- 3.1 **Resource** – The adoption of new core paths into the Council's core paths plan will require the published maps to be updated which are available through an online map viewer and PDF maps. This will be achieved using existing staff resources. Further implementation of the Core Paths Plan, sign posting, and maintenance is discretionary.
- 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 where directed to be by Scottish Ministers or at a time considered appropriate by The Highland Council to ensure the core paths plan continues to provide the public a reasonable network throughout their area.
- 3.3 **Risk** – There is no risk to the Council in adopting the core paths plan as it is the plan that is adopted not the physical paths. The Council is not accepting occupier liability by including the paths into the plan.
- 3.4 **Health and Safety (risks arising from changes to plant, equipment, process, or people)** – There are no health and safety risks arising from the recommendations of this report.
- 3.5 **Gaelic** – The Highland Council may sign post those core paths which are adopted in the plan and are not already signposted. Gaelic placenames will be used on these signs as per Council policy.

4 Impacts

- 4.1 In Highland, all policies, strategies or service changes are subject to an integrated screening for impact for Equalities, Poverty and Human Rights, Children's Rights and Wellbeing, Climate Change, Islands and Mainland Rural Communities, and Data Protection. Where identified as required, a full impact assessment will be undertaken.
 - 4.2 Considering impacts is a core part of the decision-making process and needs to inform the decision-making process. When taking any decision, Members must give due regard to the findings of any assessment.
 - 4.3 **Integrated Impact Assessment - Summary**
 - 4.3.1 An Integrated Impact Assessment screening has been undertaken on 11 October 2024. The conclusions have been subject to the relevant Manager Review and Approval.
 - 4.3.2 The Screening process has concluded that there are no negative impacts, or where there are negative impacts, these are outweighed by the positive. Most of impact assessment areas are not expected to have any impact. Members are asked to consider the summary below and consider the findings in **Appendix 1** to support the decision-making process.
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4.3.3	Impact Assessment Area	Conclusion of Screening/Full Assessment Modified Core Paths Plan (Caithness and Sutherland) Amended
	Equality	<ul style="list-style-type: none"> • Children and Young People – <i>no impact</i> • Children affected by disability – <i>no impact</i> • Older adults –<i>no impact</i>
	Socio-economic	<i>Positive</i>
	Human Rights	<i>Positive</i>
	Children's Rights and Well-being	<i>no impact</i>
	Island and Mainland Rural	<i>no impact</i>
	Climate Change	<i>Positive</i>
	Data Rights	<i>no impact</i>

5 Core Paths Plan Review Procedure

- 5.1 The development of the existing Core Paths Plan is part of The Highland Council's duties provided by the Land Reform (Scotland) Act 2003 (LR(S)A 2003). The existing plan was adopted by the Full Council in September 2011 after it had been through the statutory consultation process and also a Public Local Inquiry (PLI).
- 5.2 The Highland Council Core Paths Plan (Caithness and Sutherland) Amended was approved by the Caithness Area Committee on 16 June 2017 and the Sutherland Area Committee 23 June 2017. The amended core paths plan was published on 18 December 2017 and was open to public consultation until 30 March 2018.
- 5.3 The Highland Council responses and proposed actions in Sutherland have been considered by the Sutherland Local Access Forum at meetings on 5 November 2018.
- 5.4 Modifications to the Amended plan were approved by the Sutherland Area Committee on 25 February 2019 and the modified amended plan was subject to public consultation for 30 days in May 2019.
- 5.5 The Modified Core Paths Plan (Caithness and Sutherland) Amended was submitted to Scottish Ministers via the Planning and Environmental Appeals Division on 23 August 2019.
- 5.6 The Planning and Environmental Appeals Division undertook a Public Local Inquiry in Spring 2020 and the reporters findings and recommendation were made to Scottish Ministers on the 2 June 2020 as detailed in **Appendix 4**. The core path SU09.20(C) shown in **Appendix 6** is detailed to be only partially adopted omitting the northern leg that passess adjacent to a piggery.
- 5.7 Scottish Minsters directed The Highland Council by letter on 9 September 2024 to adopt, partially adopt or not adopt, the candidate core paths as recommend by the PLI report and also not adopt the routes which use a railway level crossing as detailed in **Appendix 3**.

- 5.8 The routes which use a railway level crossing, however are more complicated. The Council has received legal opinion that is contrary to the reasoning behind the Scottish Government direction and the Council may wish to challenge this. It has also been noted that Scottish Government officers have stated that, in their opinion, only the railway level crossing does not have access rights and a core path up to the crossing gates would be acceptable. We propose to write to Scottish Government to confirm this position and propose retaining the core path at Dunrobin Station with the level crossing section removed. This may require re-labelling into two core paths.

6 Next Steps

- 6.1 Following adoption of the reviewed Caithness and Sutherland Core Path Plan, the mapping for The Highland Councils core path plan will be updated. The core path data is a constraint for development control.
- 6.2 The core paths plan is available for public viewing through the Arc GIS online page at www.highland.gov.uk/corepathsmap and the data set provided to the Spatial Hub, for publishing by third parties, will also be updated.
- 6.3 The Highland Council has the power to signpost the core paths and where paths and tracks are not already signed the Council may install new fingerposts to promote the core paths.

Designation:	Assistant Chief Executive - Place
Date:	16 October 2024
Author:	Matt Dent, Access Officer - Caithness and Sutherland
Background Papers:	Core Paths Plan Review (Caithness and Sutherland)
Appendices:	Appendix 1 - Integrated Impact Assessment Appendix 2 – Table of Core Paths reviewed to be adopted Appendix 3 – Scottish Minister’s letter to The Highland Council Appendix 4 – Report to Scottish Ministers from Planning and Environmental Appeals Division Appendix 5 – The Highland Council Core Paths Plan – Dunrobin Appendix 6 - The Highland Council Core Paths Plan – Embo

Integrated Impact Assessment Screening

About proposal

What does this proposal relate to? Redesign or change to existing service

Proposal name: Modified Core Paths Plan (Caithness and Sutherland) Amended

High level summary of the proposal: Adoption of new core paths into the Councils existing plan

Who may be affected by the proposal? all Council residents and visitors

Start date of proposal: 01/06/2013

End date of proposal: 01/12/2024

Does this proposal result in a change or impact to one or more Council service? Yes

Which Council services will be impacted by this proposal? Place

Does this relate to an existing proposal? Yes

Provide details of the existing proposal: The Highland Council published a core paths plan covering its area, apart from that area within the Cairngorm National Park Authority, in September 2011.

Author details

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Service: Place

Responsible officer details

Name: Andrew Puls

Job title: Environment Team Leader

Email address: Andrew.Puls@highland.gov.uk

Sign off date: 2024-10-18

Equalities, poverty, and human rights

Protected characteristics

Select what impact the proposal will have on the following protected characteristics:

Sex: No impact

Age: Positive

Disability: Positive

Religion or belief: No impact

Race: No impact

Sexual orientation: No impact

Gender reassignment: No impact

Pregnancy and maternity: Positive

Marriage and civil partnership: No impact

Protected characteristics impact details:

Poverty and socio-economic

What impact is the proposal likely to have on the following?

Prospects and opportunities: Positive

Places: Positive

Financial: No impact

Poverty and socio-economic impact details:

Human rights

Which of the below human rights will be affected by this proposal?

What impact do you consider this proposal to have on the human rights of people? Positive

Human rights impact details: Core paths reinforce the public's right of responsible access as provided by the Land Reform (Scotland) Act 2003, though access rights are not generally enhanced on core paths. This is positive though some people object to these rights where they may be exercised close to their dwelling or more generally on land they own.

Equalities, poverty and human rights screening assessment

What impact do you think there will be to equalities, poverty and human rights? No impact

Is a Full Impact Assessment required? No

Children's rights and wellbeing

What likely impact will the proposal have on children and young people?

Which of the below children's rights will be affected by the proposal?No children's rights will be affected

Explain how the children's rights selected above will be affected:

Children's rights and wellbeing screening assessment

What impact do you think there will be to children's rights and wellbeing?No impact

Is a Full Impact Assessment required? No

Data protection

Will your proposal involve processing personal data? Yes

Is any of this data already processed by the Highland Council?Yes

What is the purpose of the personal data being processed?Duty to notify land owners of changes and new additions to the core paths plan.

Is there an up-to-date privacy notice available on the Highland Council website? No

Data protection screening assessment

What change will there be to the way personal data is processed?No significant change to current processing

Is a Full Impact Assessment required? No

Island and mainland rural communities

Does your proposal impact island and mainland rural communities? Yes

Could people in island and mainland rural communities be affected differently?No

Have any negative impacts been identified?No

Island and mainland rural communities screening assessment

What impact do you think there will be to island and mainland rural communities?No difference

Is a Full Impact Assessment required? No

Climate change

Does the proposal involve activities that could impact on greenhouse gas emissions (CO₂e)? Yes

Does the proposal have the potential to affect the environment, wildlife or biodiversity? Yes

Does the proposal have the potential to influence resilience to extreme weather or changing climate? No

Provide information regarding your selection above:

Climate change screening assessment

Have you identified potential impact for any of the areas above or marked any as not known? No

Is a Full Impact Assessment required? No

Table of Core Paths covered by this review and report

The following core paths shall be modified, removed or adopted into The Highland Council Core Paths Plan.

Core Path No.	Status	Path Name/Route	Map Reference	Path Name on Consultation Map if Different	Consultation Date	Candidate Core Path Reference	Length (kms)
SU03.05	Modified existing core path	Badvoon Forest, Allt Eiteachan Path	SU 21b Ardgay & Culrain	n/a	December 2017	SU03.06	1.18
SU03.15	New core path	Gledfield – Cona Creag	SU 21b Ardgay & Culrain	n/a	December 2017	SU03.15(C)	6.30
SU08.04	Extension to existing core path	Loch a'Choire	SU 21b Ardgay & Culrain	n/a	December 2017	SU08.04(C)	2.69
SU17.06	New core path	Ardvreck Castle and Calda House	SU 3d Ardvreck	n/a	December 2017	SU17.06(C)	0.70
SU04.08	Delete Section of existing core path	Armadales – A836	SU 12b Armadale	n/a	December 2017	SU04.08(D)	0.47
SU04.25	New core path	The Unknown, Borgie Forest	SU 10c Borgie	The Unknown	December 2017	SU04.25(C)	1.10
SU04.25	Delete Section of existing core path	Borgie Glen	SU 10c Borgie	n/a	December 2017	SU04.25(D)	2.48
none	Delete Section of existing core path	Jubilee Walk (East)	SU 15b Brora	n/a	December 2017	SU06.06(D)	0.31
SU06.07	Modified existing core path	Brora Links, Shore Route	SU 15b Brora	n/a	December 2017	SU06.07	0.04
SU11.12	New core path	Ceannabeinne Township Trail	SU 8b Ceannabeinne	n/a	December 2017	SU11.12(C)	0.62

Core Path No.	Status	Path Name/Route	Map Reference	Path Name on Consultation Map if Different	Consultation Date	Candidate Core Path Reference	Length (kms)
SU23.04	New core path	Clashnessie Falls	SU 2f Clashnessie And SU 2g Clashnessie	n/a	December 2017 And April 2019	SU23.04(C)	1.27
SU10.05	New core path	Oldany Jetty	SU 2e Drumbeg	n/a	December 2017	SU10.05(C)	0.59
SU10.06	New core path	Port Dhrombaig	SU 2e Drumbeg	n/a	December 2017	SU10.06(C)	0.32
RC15.10	New core path	Hill of Edderton	SU 19b Edderton	n/a	December 2017	RC15.14(C)	4.11
RC15.11	New core path	Edderton – Tarlogie	SU 19b Edderton	n/a	December 2017	RC15.11(C)	0.52
RC15.12	New core path	Dounie Hill Fort	SU 19b Edderton	n/a	December 2017	RC15.12(C)	1.04
SU09.03	Modified existing core path	Embo – Coul Links Railway Track	SU 18c Embo And SU 18d Fourpenny	n/a	December 2017 And April 2019	SU09.03	0.13
SU09.20	New core path	Embo Muir – Embo Links	SU 18c Embo	Part of Embo Muir/Tinkers Drive – Railway* And Railway Line – Embo Links *-see appendix 6	December 2017	SU09.20(C) and SU09.23(C)	1.74
SU19.09	New core path	Forsinain Trail	SU 13e Forsinain	n/a	December 2017	SU19.09(C)	6.23
SU19.04	Modified existing core path	Dubh Lochan Trail	SU 13r Forsinard	n/a	December 2017	SU19.04	0.62
SU21.14	New core path	Glen Einig – Ullapool	SU 24b Glen Einig	n/a	December 2017	SU21.14(C)	7.14
SU07.02	New core path	Glencalvie - Gleann Mor - Strathvaich - Black Bridge	SU 26 Glencalvie and Gleann Mor	n/a	December 2017	SU07.02(C)	12.33

Core Path No.	Status	Path Name/Route	Map Reference	Path Name on Consultation Map if Different	Consultation Date	Candidate Core Path Reference	Length (kms)
SU07.03	New core path	Strathrusdale – Glencalvie	SU 26 Glencalvie and Gleann Mor And SU 26b Glencalvie	n/a	December 2017 and April 2019	SU07.03(C)	7.47
SU07.04	New core path	Eas Charron	SU 26 Glencalvie and Gleann Mor	n/a	December 2017	SU07.04(C)	0.50
SU12.24	New core path	Loch Lunndaigh	SU 16b Golspie	n/a	December 2017	SU12.24(C)	2.39
SU12.26	New core path	West Drummie – Beinn Bhraggie Forest	SU 16b Golspie	n/a	December 2017	SU12.26(C)	0.36
SU22.07	New core path	Handa	SU 5d Handa	n/a	December 2017	SU22.07(C)	5.57
None	Delete Section of existing core path	Old Helmsdale – Old Caithness Road	SU 14b Helmsdale	n/a	December 2017	SU13.05(D)	0.49
SU13.05	New core path	Navidale Cycle Path	SU 14b Helmsdale	n/a	December 2017	SU13.09(C)	1.40
SU13.09	New core path	Seaweed Road	SU 14b Helmsdale	n/a	December 2017	SU13.10(C)	1.00
SU04.26	New core path	Coille na Borgie Cairns	SU 11c Invernaver	n/a	December 2017	SU04.28(C)	0.15
SU04.27	New core path	Achcoillenaborgie Broch	SU 11c Invernaver	n/a	December 2017	SU04.29(C)	0.19
SU04.28	New core path	Achanlochy	SU 11c Invernaver	n/a	December 2017	SU04.30(C)	0.30
SU13.10	New core path	Baile a Or	SU 14c Kildonan	n/a	December 2017	SU13.11(C)	1.00
SU25.05	New core path	Kylestrome/Maldie Burn – Loch More	SU4 4b Kylestrome – Achfary And SU 4c Lochmore	n/a	December 2017 and April 2019	SU25.05(C)	14.91

Core Path No.	Status	Path Name/Route	Map Reference	Path Name on Consultation Map if Different	Consultation Date	Candidate Core Path Reference	Length (kms)
SU16.10	New core path	Loch Craggie	SU 22c Lairg	n/a	December 2017	SU16.10(C)	5.89
SU16.11	New core path	Little Loch Shin Dam	SU 22c Lairg	n/a	December 2017	SU16.11(C)	0.24
SU17.05	New core path	Loch an t-Sabhail	SU 3c Little Assynt	n/a	December 2017	SU17.05(C)	3.83
SU09.19	New core path	Achvaich – Loch Buidhe	SU 18b Loch Buidhe	n/a	December 2017	SU09.19(C)	7.68
SU02.01	New core path	Grummore	SU 25 Loch Naver	n/a	December 2017	SU02.01(C)	0.98
SU02.02	New core path	Grumbeg	SU 25 Loch Naver	n/a	December 2017	SU02.02(C)	0.54
SU19.10	New core path	Rubha Bra	SU 13d Portskerra	n/a	December 2017	SU19.10(C)	0.32
SU19.11	New core path	Windyknowe	SU 13d Portskerra	n/a	December 2017	SU19.11(C)	0.22
SU20.01	Modified existing core path	Meall Mor Fire Track	SU 17b Rogart	n/a	December 2017	SU20.01	0.85
SU08.05	New core path	Loch Mhic Mharsail	SU 23b Rosehall	n/a	December 2017	SU08.05(C)	3.13
SU21.01	Delete Section of existing core path	Ravens Rock Forest Walk	SU 23b Rosehall	n/a	December 2017	SU21.01(D)	0.58
SU21.08	Delete Section of existing core path	Achness Waterfall	SU 23b Rosehall	n/a	December 2017	SU21.08(D)	0.25
SU22.06	New core path	Leathad Woodland	SU 5c Scourie	n/a	December 2017	SU21.06(C)	1.24
SU04.24	New core path	Sleiteil	SU 11e Sleiteil	n/a	December 2017	SU04.24(C)	1.13
SU09.21	New core path	A'Chraisg – Spinningdale	SU 20b Spinningdale	n/a	December 2017	SU09.21(C)	1.71
SU09.22	New core path	Fairy Glen	SU 20b Spinningdale	n/a	December 2017	SU09.22(C)	0.40
SU06.16	New core path	Sciberscross Cemetery	SU 15c Strathbrora	n/a	December 2017	SU06.16(C)	0.66

Core Path No.	Status	Path Name/Route	Map Reference	Path Name on Consultation Map if Different	Consultation Date	Candidate Core Path Reference	Length (kms)
SU04.29	New core path	Skiall Chambered Cairn	SU 11d Strathnaver	n/a	December 2017	SU04.26(C)	0.04
SU04.30	New core path	Red Priest Stone	SU 11d Strathnaver	n/a	December 2017	SU04.27(C)	0.14
SU04.23	New core path	Swordly – A836	SU 11b Swordly	n/a	December 2017	SU04.23(C)	0.80
SU24.09	New core path	Loch A'Mhuilinn	SU 9b Tongue	n/a	December 2017	SU24.09(C)	0.92
SU24.10	New core path	Coldbackie Beach	SU 9b Tongue	n/a	December 2017	SU24.10(C)	0.31
SU24.11	New core path	Loyal Terrace – Braetongue	T SU 9b Tongue	n/a	December 2017	SU24.11(C)	0.91

The following candidates core path will be adopted into the Highland Core Paths Plan, with changes see Appendix 5

Core Path No.	Status	Path Name/Route	Map Reference	Path Name on Consultation Map if Different	Consultation Date	Candidate Core Path Reference	Length (kms)
SU12.25	New Core Path	Sportmans Walk – A9	SU 16c Dunrobin	n/a	December 2017	SU12.25(C)	0.30

The following candidates core paths will not be adopted into the Highland Core Paths Plan, as directed by Scottish Ministers

Core Path No.	Status	Path Name/Route	Map Reference	Path Name on Consultation Map if Different	Consultation Date	Candidate Core Path Reference	Length (kms)
None	None	Uamh an Tartair	SU 3e Elphin and SU 2f Elphin	n/a	December 2017 and April 2019	SU17.07(C)	3.37
None	None	part of Embo Muir/Tinkers Drive – Railway Line*	SU 18c Embo	n/a	December 2017	SU09.20(C)	0.81
None	None	Loch Merkland - Gobernuisgach	SU 8c Gobernuisgach	n/a	December 2017	SU11.13(C)	15.76



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Mr Philip Waite
Mr Matt Dent
Access officers
Highland Council

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9 September 2024

Dear Philip and Matt,

HIGHLAND COUNCIL CORE PATHS PLAN (CAITHNESS AND SUTHERLAND)

I refer to the Highland Council draft Core Paths Plan (Caithness and Sutherland), and all documentation relevant to the outstanding objections, which were forwarded to Scottish Government Planning and Environmental Appeals Division (DPEA). I am now writing, on behalf of Scottish Ministers, to direct the Highland Council to adopt certain elements of the draft Core Paths Plan.

A copy of Ms Coard's Inquiry Report is attached for your information. The Inquiry Reporter recommended the following:

Core Paths to be Adopted from the Draft Core Paths Plan

- that the following nine candidate core paths should be designated as core paths:
 - CA07.16c – John O' Groats to Ness of Duncansby
 - SU09.22(C) – Fairy Glen
 - SU20.01 – Meall Mor Fire Track
 - SU02.01(C) – Grummore
 - SU02.2c – Grumbeg
 - SU03.15(C) – Gledfield – Cona Creag
 - SU13.09(C) – Navidale Cycle Path
 - SU13.10(C) – Navidale Farm Track
 - SU16.10(C) – Loch Craggie
- the following two candidate core paths should be designated as core paths, in line with the amended Core Paths Plan provided they are included as modified by the 'Modified Core Paths Plan (Caithness and Sutherland) Amended' which was published in April 2019:



- SU23.04(C) – Clashnessie Falls
- SU25.05(C) – Kylestrome/Maldie Burn – Loch More

Core Paths Not to be Adopted from the Draft Core Path Plan

- that the three following candidate core paths should not be designated:
 - SU09.20(C) – Embo Muir/Tinkers Drive – Railway Line
 - SU17.07(C) – Uamh an Tartair
 - SU11.13c – Loch Merkland – Gobernuisgach

Scottish Ministers have accepted those recommendations made by the Inquiry Reporter.

- The Inquiry Report also recommended the following two candidate core paths should be designated:
 - CA01.05(C) – (Altnabreac – Forsinard)
 - SU12.25(C) – (Sportmans Walk – A9 - Dunrobin).

Both of these routes cross private level crossings (PLCs) at track level on the Inverness to Wick railway and both PLCs require users of the path to manually open a gate and cross over the tracks. In the Scottish Government's view, core paths cannot be designated over private level crossings.

While the Inquiry Reporter concludes that these core path amendments fulfil the purpose of giving the public reasonable access throughout the authority's area, she also acknowledges that a second primary consideration is the safety of exercising access rights across an operational railway on which trains run at around 75 mph. Scottish Ministers have concluded that these two paths should not be designated as core paths.

I am therefore writing on behalf of Scottish Ministers to direct the Highland Council to adopt the draft Core Paths Plan as set out above.

I will ask DPEA to place a copy of the Inquiry Report on the Scottish Government website, and will write to all the objectors informing them of Ministers' decision, providing them with the website link.

Yours sincerely,



Malcolm Duce

Report to the Scottish Ministers

LAND REFORM (SCOTLAND) ACT 2003 SECTIONS 17 & 18 CORE PATHS PLAN

Report by Allison Coard a Reporter appointed by the Scottish Ministers

- Case reference: CPP-270-1
- Core Paths Plan for The Highland Council (Caithness and Sutherland)
- No of objections: 23
- Main issues raised in objections:
 - Paths should not be directed over railway lines
 - Concerns over potential damage to historic sites
 - Preferable alternative paths available
 - Lack of parking
 - Path damaged and unsuitable
 - Land not subject to access rights
 - Security and safety concerns
 - Disturbance to operational activities and management
 - Biosecurity concerns
 - Privacy and amenity
 - Non-compliance with criteria for identification as a core path

Date of this report and recommendation: 2 June 2020

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2. Path specific objections, conclusions and recommendations:	
Reference and Location	Objectors
CA07.16c John O Groats to Ness of Duncansby	Andrew Sinclair William and Clara Steven c/o Macleod and Macallum Mrs Laura Munro Mr William GS Steven Mrs Anne Mackenzie
	6
CA01.05(C) – Altnabreac – Forsinard	Network Rail
	9
SU12.25(C) – Sportmans Walk- A9-Dunrobin	Network Rail
	9
SU09.22(C) – Fairy Glen	E David Morgan
	15
SU20.01 – Meall Mor Fire Track	John E Moodie Tressady Sporting Estate (Archie Maclellan)
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SU02.01(c) – Grummore	North Loch Naver Estate, c/o Sebastian Green, Greens Chartered Surveyors
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SU03.15(C) – Gledfield – Cona Creag	Gledfield Estate, Mr Gernot Langes- Swaroski c/o Neil Cameron Associates (Scotland) Ltd
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Reference and Location	Objectors	Page
SU09.20(C) – Embo Muir/Tinkers Drive – Railway Line	Trustees for Firm of Embo Mains Farm (John Mackenzie Mackintosh) c/o MacIaod and Macallum	19
SU13.09(C) Navidale Cycle Path	Philip Davidson	21
SU13.10(C) Navidale	Philip Davidson	21
SU16.10(C) – Loch Craggie	Highfield Forestry Ltd, Mr Iain Peddie	23
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Scottish Government
 Planning and Environmental Appeals Division
 4 The Courtyard
 Callendar Business Park
 Falkirk
 FK1 1XR

DPEA case reference: CPP-270-1

The Scottish Ministers
 Edinburgh

Ministers

In accordance with my minute of appointment I have conducted an inquiry in relation to the Modified and Amended Highland Council Core Paths Plan (Caithness and Sutherland).

The main question for the inquiry, in compliance with Section 18(4) of the Land Reform (Scotland) Act 2003 was whether the changes, if adopted, fulfil the purpose mentioned in section 17(1) of providing a system of paths sufficient for the purpose of giving the public reasonable access throughout the authority's area. My conclusions have also drawn on the other relevant sections of the Act and on the guidance contained in the Scottish Outdoor Access Code and Part 1 Land Reform(Scotland) Act 2003: Guidance for Local Authorities and National Park Authorities both of which were published in 2005.

Under section 20 of the Act, local authorities have a duty to review the core path plan if Ministers require them to do so or when considered appropriate for the purpose of ensuring the plan continues to give the public reasonable access throughout the area. A review was initiated by Highland Council of the Core Paths in the Caithness and Sutherland area in June 2013. The following summarises the process since then:

- Consultative reports, detailing proposed changes/new core paths were published for informal representation in late 2014.
- The amendments to the core path plan for the area were published in December 2017 as The Core Paths Plan (Caithness and Sutherland) Amended.
- Representations were accepted until 30th March 2018.
- After consideration by council officers and discussion with responders a summary of the comments and council responses was presented to the relevant area council committees in February 2019.
- The Modified Core Paths Plan (Caithness and Sutherland) Amended was published and open for representations from the 26th April to 31st May 2019.
- The Amended and modified amended core paths plan were submitted to Ministers in August 2019.

My consideration is of the amended plan, as published in December 2017, when read with the further modifications as published in April 2019 but only in so far as issues are raised in unresolved objections.

My understanding from the council's submissions is that both the proposed amendments to the plan and subsequent modifications were published for consultation. The finalised Core Path Plan as proposed by the council, if approved, would contain those changes as proposed in 2017 in so far as those remain unaltered by the subsequent 2019 changes. Where changes are proposed in the modified 2019 version these would supersede any previous proposal representing the result of the council's further consideration and consultation.

The council has confirmed that it consulted with community councils. Local access forums were consulted through meetings and any comments recorded. Where any issues were raised on the paths subject of this inquiry these were recorded in the relevant council response. The one community council objection received was subsequently resolved.

Statutory consultation responses were received including from Scottish Natural Heritage and Historic Environment Scotland as part of the original Strategic Environmental Appraisal (SEA) process. An updated SEA report along with Appropriate Assessment was submitted in the late stages of this examination process. The relevant documents are attached at Appendix One to this report. The attention of Ministers and the Highland Council is drawn to the relevant statutory provisions regarding publicity and consultation. These would apply prior to any adoption of the proposed changes to the core paths plan.

Following the advice of paragraph 14 of the Code of Practice for Local Inquiries into Core Paths Plans and Other Inquiries, I wrote to all objectors on 25 October 2019 indicating that having examined the papers I considered the process could proceed through written submission. Parties were offered an opportunity to indicate if another procedure was considered more appropriate and there was a period of 4 weeks for any comments on the authority's statements.

Further to this I carried out two accompanied site inspections, as detailed in my report, and requested further clarification on issues raised in respect of three of the proposed paths. Two of these related to legal and other matters raised by Network Rail given proposed routing over the railway at Dunrobin and Altnabreac. The other concerned an isolated route which passed immediately adjacent to a residential property. For all other issues I relied on my observations on my unaccompanied site inspections and on the information already contained on the case file.

Subject to any further consideration of the legal issues raised by Network Rail I recommend that Scottish Ministers direct that the proposed amended and any subsequently modified routes, as proposed in December 2017 and April 2019 respectively, be adopted with the exception of:

1. SU09.20(C) – Embo Muir/Tinkers Drive – Railway Line;
2. SU11.13c - Loch Merkland – Gobernuisgach
3. SU17.07(C) – Uamh an Tartair.

1. Schedule of objections with conclusions and recommendations.

Core Path Reference	Respondents
CA07.16c John O' Groats to Ness of Duncansby	Andrew Sinclair William and Clara Steven c/o Macleod and Macallum Mrs Laura Munro Mr William GS Steven Mrs Anne Mackenzie
Summary of Issues raised in responses	
<ul style="list-style-type: none"> • Water damage caused by path. • Path should be on beach as originally. • Questions who is responsible for the path and has liability for it. • Questions who gave permission for the path to be located on this land. • Considers the land is not subject to access rights. • Due regard should be had to Section 17(3) of the Land Reform Act. • Concerns about reduced security on the caravan site. 	
Reporter's Conclusion	
<p>1. This coastal path links the car parking area adjacent to the visitor centre at John O' Groats extending out along the headland of the Ness of Duncansby. Only a short section of the established path down to the shore was originally adopted as a core path in 2011 leaving a disconnect between this area of visitor pressure and the core path on the headland. That said there is an existing path and current directional signage and information which initially leads the walker from the shore close to the visitor centre along a section of path between the adjacent caravan park and the beach. I have taken account of the representations originally received and the further submissions received in November 2019.</p> <p>2. An existing path runs outwith the caravan site on an eroded section of ground between the fence-line and the rocky beach. The proposed 0.74 kilometre core path seeks to establish a connection with the established core path at the Ness of Duncansby. This proposed route would bypass the path currently indicated in the signage to follow a new route through the caravan site and along the top of the beach beyond. At the time of my site visit I noted there was no current signage to this amended route. Whilst I visited in March, when the caravan site was closed, I do not consider this prevented me from appreciating the positioning of the pitches relative to the proposed route.</p> <p>3. Matters raised of a legal nature and any liability for the land or insurance are not matters I can directly address. It would be for the respondent to seek legal advice on these matters. However I understand that the council has no formal interest in the land and designation of a core path or access to land under the terms of the Land Reform Act 2003 does not alter the current status of land-ownership. Matters of litter and dog fouling are addressed by the law and in the Scottish Outdoor Access Code which clearly outlines the responsibilities placed on those enjoying access. Whilst these are understandable concerns, where the council may have a role in</p>	

assisting with future management, they would not prevent designation as a core path. I noted fencing but as there are access gates I am unclear why there should be any consequent damage.

4. From my site visit I appreciate that reliance on the established route above the beach and outwith the caravan site fence would leave it exposed to high tides and wave damage. I understand that the council has discretionary powers to maintain core paths albeit it accepts its limited funding resources mean that such works are normally more minor in nature. I consider that rock armour or other protection might prove effective in protecting a path in this area but I also understand the resource implications of this and potential difficulties with ongoing maintenance. In terms of maintaining a resilient path I can see clear benefits in diverting the initial section of the route through the caravan site.

5. Section 6(1)(b)(iv) of the Act excludes land which is adjacent to a house, caravan, tent or other similar domestic place as is sufficient to give persons living there reasonable measures of privacy and undisturbed enjoyment. I consider this exclusion would apply to land immediately related to individual pitches rather than to the established access through the caravan site. The route through the site, albeit in proximity to pitches, would already be used by caravan site residents and others walking around and through the site. There is no current restriction on public access through the site and nothing to prevent the public walking through the site to access the path beyond. There is already a gate which invites such through access. Consequently I do not consider that the establishment of the core path route would detract to any extent from the established privacy and amenity of the individual pitches on the caravan site.

6. Designation of the core path may formalise footpath access for the public, through a defined route, but I do not consider there is evidence to suggest that this would have a detrimental impact on the security of the site or its attractiveness to visitors. Such public access would not be unusual for caravan sites in beachfront locations. Indeed, I consider potentially increased use may enhance surveillance and security particularly in the quieter winter months. Given the public parking and facilities available nearby I am not convinced that there would be significant impacts for parking or use of facilities within the caravan site. In any event I consider there would be ways to manage this if conflicts were to arise. I note that the Caithness Local Access Forum and the Caithness Area Committee discussed this route and that both supported its inclusion within the core paths plan.

7. I note concern about erosion on the path above the shore beyond the caravan park where channels in the path occur as the soil is washed down onto the beach. There is also concern about the safety of a footbridge. It is suggested that a route confined to the beach should be used. Further on the path joins with the established core path.

8. As stated above I have accepted concerns about erosion of the footpath along the frontage of the caravan park. I appreciate concerns on the remaining section and noted some signs of erosion on the path. However it appeared to me to be in a

more reasonable condition. An alternative along the beach appeared difficult underfoot. I consider it likely that walkers would choose to divert to a route above the beach even if directional and other information was to indicate otherwise. As such I am not convinced that a route along the beach provides a reasonable alternative.

9. Taking all of the above into account I consider the amended route contributes to the system of paths in the area. It gives access from the car park at John O' Groats to secure a more resilient route than the clearly eroded one currently signposted along the immediate frontage of the caravan site. Amended information and signage will be required to reflect this change and it may be that the council can assist with future management and maintenance issues along the route including the section beyond the caravan site.

10. The route enables access from a main public arrival point at John O' Groats out to the headland. It affords scenic views along the coast and out towards Orkney. It contributes to the purpose of giving reasonable access throughout the area and has the support of the access forum and area committee.

11. My conclusion has taken into account the interests of those who have made representations given they have interests in the land over which access rights would be exercisable. I consider the path as amended can add to the network of core paths and would meet the criteria for designation.

Reporter's Recommendation

To include the proposed core path referenced CA07.16(C) as shown on Map CA 6c John O' Groats dated November 2017.

Core Path Reference	Respondents
CA01.05(C) – Altnabreac – Forsinard SU12.25(C) – Sportmans Walk- A9	Network Rail (Mrs Lisa Cameron)
Summary of Issues raised in responses	
<ul style="list-style-type: none"> • Premature to direct paths over railway-lines at Altnabreac and Dunrobin given safety concerns. • Contrary to the “Level Crossings Report” by the Law Commission. • Crossings never intended for use by the general public. • 	
Reporter’s Conclusion	
<p>1. I note the level crossings are described as private accommodation user level crossings. Both paths raise issues of crossing the Inverness to Wick railway. Both crossings would involve users of the path manually opening a gate and crossing over the tracks. In terms of my consideration the main issue is the safety of exercising access rights across the operational railway and whether these routes fulfil the purpose mentioned in section 17(1) of providing a system of paths sufficient for the purpose of giving the public reasonable access throughout the authority’s area.</p> <p>2. I understand that trains can be travelling 70-75 mph when passing the level crossings. Network Rail explains that every level crossing is risk assessed in accordance with the “All Level Crossing Risk Model” (ALCRM). This tool gives the opportunity to assess various options / changes at a level crossing and compare the risk score generated.</p> <p>3. The ALCRM calculates risk within two categories; ‘individual’ and ‘collective’ risk. Individual risk is the risk to an individual user of the crossing and the latter collective risk encompasses the risk to the individual, the risk to the train driver, passengers on board the train and the business and industry reputational damage for example. The highest overall risk is ‘A1’ and the lowest risk is ‘M13’.</p> <p>4. The matters in dispute also include whether access can legally be taken over the railway. In that context I have rehearsed below the background and legal issues arising for the consideration of Ministers who may wish to seek their own legal advice.</p> <p><u>Background and Summary of Legal Issues</u></p> <p>5. Scottish Ministers in their Direction issued in July 2011 to The Highland Council on the previous Proposed Core Paths Plan determined that:</p> <ul style="list-style-type: none"> • 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.

6. This direction followed from the recommendation of the reporters on the previously proposed core paths plan to include these routes subject to the consideration by Ministers of the legal issues raised in representation. Since then The Law Commission and The Scottish Law Commission Report on Level Crossings September 2013 has been published.

7. During the course of my examination I issued a request for further information and for a copy of the referenced report. Supplementary submissions were received from Dentons on behalf of Network Rail, Network Rail and the council. A copy of the law commission report is attached at Appendix 1.

8. In summary the case presented by Network Rail is that the council has incorrectly focussed on just one of the findings of the report. Core paths may be created over rail crossings (or any other railway land) and in that event the land becomes subject to access rights (para. 5.57). There are recommendations taken forward in paragraph 5.60 and subsequent wording of a level crossings bill to take this into account.

9. I understand from the submissions that there has been no formal response or action plan from the Scottish Government on the findings of the report since its publication. The objector's legal representatives state that whilst the report's findings are important its recommendations have no persuasive legal standing to inform a decision of this nature. Network Rail does not consider that it is possible to acquire a public right of way to cross the railway by prescription. Legislation would be required to clarify that a right of way over the railway should not be obtainable by the operation of prescription.

10. The primary legal point advanced relates to the Land Reform (Scotland) Act 2003. Network Rail does not accept that sections 6 and 7 enable a core path to pass over the railway. In that regard it disagrees with the views expressed in the law commission report. Section 1 of the 2003 Act provides that access rights are exercisable over land in Scotland, unless section 6 applies.

11. Section 6 of the 2003 Act defines the circumstances in which access rights are not exercisable: "6. Land over which access rights not exercisable (1) The land in respect of which access rights are not exercisable is land—...(d) to which public access is, by or under any enactment other than this Act, prohibited, excluded or restricted".

12. In relation to railways, section 55 of the British Transport Commission Act 1949 makes it an offence for persons other than authorised users to trespass on the railway. That Act is still in force, and it is on that authority that signs are commonly seen at level crossings warning the public that trespassing is an offence which can lead to a fine of £1,000.

13. Network Rail considers Section 7 of the 2003 Act should not be interpreted to mean that a core path may cross over the railway. All that section 7 provides is that section 6 of the 2003 Act cannot prevent access rights being exercised over a core path. However, that is stated not to affect the applicability of other statutory provisions that restrict public access over the railway. Reference is made to a judicial review case in England “Zulu Level Crossing” where the Rambler’s Association asserted a prescriptive right of access. In that case Network Rail’s assessment was upheld and it was concluded that there was conflict with the statutory purpose of running a safe and efficient rail network.

14. The argument of the council that section 7 of the 2003 Act allows for a core path to cross the railway is stated by Network Rail to be wrong for the following reasons:

a. It would be surprising for a core path to be allowed to cross over the railway in circumstances where a criminal statutory provision still in force makes it an offence to trespass over that land.

b. The 2003 Act does not explicitly repeal section 55 of the 1949 Act, or otherwise disapply it in relation to core paths.

c. There is a presumption against the implied repeal of Acts of Parliament. Section 7 of the 2003 Act cannot be regarded as repealing section 55 by implication, not least because it is not a section that deals explicitly with railways.

d. It is doubtful whether it could have been Parliament’s intention that the decision of a local authority to designate a route as a core plan would have the effect of overriding the provisions of a statute.

e. It is doubtful whether an Act of the Scottish Parliament could lawfully repeal section 55 of the 1949 Act, as railways are a reserved matter.

15. Given the legal nature of these submissions I have not reached any conclusions other than to draw these matters to the attention of Ministers. The council’s position reflects its interpretation of the law commission report. On my reading of Paragraph 1.75, 5.6, 5.57, Section 7.133 and B.161 there would be support for access where there is a core path based on the current wording of Section 7 of the Act. The council has clarified that it is not seeking to assert a public right of way and I agree that this is not the purpose of this current core paths process. I note the law commission report was published some 7 years ago.

16. Ministers may wish to further consider, in light of the above, how provision for core paths is reconciled with Section 6. There is also the question as to how the provision of Section 7 would relate to other legislative provision in terms of a potential offence of trespass on the line where the crossing is considered to be private.

17. Aside from these legal access matters the over-riding concern expressed by Network Rail relates to the duty to protect the public which I consider further below.

Dunrobin

18. I accept the Network Rail evidence that the crossing is some 7 metres wide and will take roughly 6 seconds to cross. I agree that negotiation of opening and closing the gates may cause more difficulty for those with mobility limitations. There is a gate catcher for each gate to hold open whilst in use. There are yellow fixed telephones adjacent to the gate latch. A sign instructs the user to call the signaller for permission to cross but only where with a vehicle. The signaller controlling all train movements determines if it is safe and there is sufficient time to cross. I appreciate that this risk prevention measure is not intended to apply to wider non-vehicular use of the crossing or use other than by authorised users. The ALCRM risk score is D6, with the latest risk assessment dated 20/9/2017.

19. I understand there is one user (the local estate) as authorised by Network Rail. Survey figures from 2017 provided by Network Rail indicate 3-5 pedestrians, no cars and a few vans/HGVs and tractors using the crossing per day and a few cyclists or horse-riders.

20. There is concern that inclusion as a core path will increase use of the crossing and consequently the associated risks. Network Rail indicates that people unused to using such crossings will be more at risk. I visited the adjacent request stop railway station at Dunrobin. It is used for special tourist trains as well as time-tabled Scotrail services. I appreciate this is a popular stop with visitors to Dunrobin Castle. Those visitors may be less aware of the likely speed and frequency of trains using this line. The access on the other side and the location of the adjacent statue may draw visitors across the line. The route links pedestrian access from the station, the castle grounds and the village. I note the route is shown in promotional material submitted by the council and stated to date from the late eighties or early nineties. There is nothing in terms of the current gated access that physically prevents or even discourages the public taking non-vehicular access over the line at this location albeit I note above the objectors reference to trespass over the line for all but authorised users.

21. My attention has been drawn to the possibility of an alternative route whereby users of the core path network in the vicinity could use the underpass closer to the village. However connectivity to either the station (some 230 metres away) or the castle grounds would then rely on walking along the verge on the main road. I took this route on my site visit. In the absence of a pavement I consider the narrow and uneven verge would encourage users to walk on the road with consequent road safety risks. In the absence of a pavement or footpath along the road this does not appear to me to be a viable option at this time.

22. Taking account of all of the above I consider the proposed path would contribute to the sufficiency of the path network given the opportunity to promote connectivity between the village, the rail station and Dunrobin Castle which is an important visitor attraction. Visibility at the crossing is in my view sufficient given the extensive straight section of visible line to enable users to open the gate, walk across and open and close the gate on the other side albeit with due care and attention particularly for anyone with mobility problems.

23. Section 17(3)(b) of the Act requires consideration of the desirability of encouraging people to use the route. I consider the route would be a desirable addition to secure a sufficient network of paths. It is not clear that the core path designation on this route will necessarily attract any unacceptable increase in the level of current use. The matters raised regarding the safe crossing of the railway are not in my opinion substantiated given that the gated crossing point exists and there would be sufficient time to secure safe crossing. I do not consider that inclusion of the route would be either undesirable or unacceptable nor place any additional obligation on Network Rail to carry out improvement works.

Altnabreac

24. As evidenced on my site visit this is a very remote location where the railway and access tracks traverse a largely uninhabited area. The proposed route, over 8.68 kilometres, would link the established core path to the west with the section of core path to the east which currently terminates at the Altnabreac rail halt. I travelled the proposed route through from the west and over the rail line at Altnabreac accompanied by a representative of Network Rail and the council. It provides an experience of being in the midst of the Caithness flow country and the route would provide a long distance link from east to west.

25. The route provides an important means of access through this otherwise inaccessible area. The presence of the rail halt further promotes such access. In this case Network Rail references two authorised users. I note that a survey of traffic carried out by Network Rail's Level Crossing Manager in 2017 indicates that there are presently few pedestrians and cars using the crossing and no cyclists or horse-riders. Due to the location there is an occasional irregular user who uses the crossing for rambling, fishing or deer stalking activities although personnel from the local estate (which is one of the 2 authorised users) do manage the majority of these parties and are aware of and trained in the protocols for using the level crossing safely.

26. I understand that protocols, as for Dunrobin above, involve training the authorised users how to safely use the level crossing by phoning Inverness Signalling Centre and requesting permission to cross. If a user makes a decision to cross with a vehicle or animals without phoning for permission then they are putting themselves, passengers and animals at risk of collision with a train. This protocol is designed for the limited private use it was intended for (and the crossing has been appropriately risk assessed on this basis). The dispute is around whether access can safely be extended to users of the proposed core path.

27. There are 8 trains per day which travel on the single bi-directional Inverness to Wick line. There are also sporadic freight trains that run throughout the year. The line speed is 75 mph for all trains. Network Rail indicates that at this level crossing the orientation of the road/path from the north is stated to be 128° and the orientation of the railway from the north to the up line in the up direction is 64°. I understand that low horizon can result in sun glare. I was accompanied across the line by representatives of Network Rail and the council. I noted that there was significant and unobscured visibility along the line in both directions to an extent that I consider

pedestrian and other non-vehicular users could safely cross albeit with due care and attention.

28. There is nothing at the moment to physically prevent walkers and other non-vehicular users crossing the line through the gates. Whilst I note the reference by the council to data obtained on public usage I have not interrogated this data or relied on it in my findings as it is not wholly clear to me how reliable or relevant this information is. It does however serve to indicate that it is likely that current use is not wholly limited to authorised users.

29. Drawing all of this together this proposed path provides connectivity across an otherwise inaccessible area between Caithness and Sutherland. The location of the rail halt and the presence of established waymarked routes already promotes opportunities to access this area. For similar reasons to those stated above for the Dunrobin crossing I consider the path can contribute to the sufficiency of the core path network and that it should be included subject to further consideration of the specific legal issues raised.

Reporter's Recommendation

To include the following proposed core paths subject to any further consideration by Ministers of the legal (access) issues arising:

- SU12.25(C) on Map SU16c Dunrobin dated November 2017
- CA01.05(C) on Map CA17b Altnabreac dated November 2017

Core Path Reference	Respondents
SU09.22(C) – Fairy Glen	E David Morgan
Summary of Issues raised in responses	
<ul style="list-style-type: none"> • Disturbance and damage to historic sites. • Duplicate and alternative paths available. • Lack of car parking. 	
Reporter's Conclusion	
<p>1. The path was proposed for inclusion through the amendment published in November 2017. It would be an additional short link (0.4 kilometres) within a network of established core paths centred on the east coast village of Spinningdale. Representations were received through the original consultation process and again in written submissions to the inquiry in November 2019.</p> <p>2. I understand that the path has been promoted as part of the local network since 2013. The path was clearly discernible and marked by way-marker posts although not by specific signage. On my visit I noted car parking options are available within walking distance and that access from the village of Spinningdale would be possible.</p> <p>3. The route links to the wider core path network and provides an attractive link through the woodland alongside the burn. I appreciate the concern regarding the presence of two burial cairns. However whilst this heritage feature is identifiable on the map sheet it is less immediately identifiable on the ground and is not signposted as part of the route. It appeared to me that visiting this feature would not be a primary or obvious reason for using the path. I note from the council's response that the referenced cairns are not scheduled albeit I understand this does not negate their value as a heritage resource. However, the path exists already and my attention has not been drawn to any existing issues arising in relation to damage to the glen or its heritage interest. I note there has been no objection from Historic Environment Scotland.</p> <p>4. I saw nothing to indicate that access through this area, on the already clearly established path, would cause damage to the established woodland including more recently planted trees. Whilst there are other paths and routes in proximity my focus is on the suitability of this section of path for inclusion. In that respect I consider the path already contributes to the network of paths and links with other core paths. As such I consider the path warrants inclusion as it links to and can contribute to the sufficiency of the core path network in the vicinity.</p>	
Reporter's Recommendation	
To include the proposed core path referenced SU09.22(C) as shown on Map SU20b Spinningdale dated November 2017.	

Core Path Reference	Respondents
SU20.01 – Meall Mor Fire Track	John E Moodie Tressady Sporting Estate (Archie MacIellan)
Summary of Issues raised in responses	
<ul style="list-style-type: none"> • Not suitable due to concerns about animal welfare, public safety and general biosecurity. • Track was built to assist in land management. • There is a suitable alternative. 	
Reporter's Conclusion	
<p>1. This change relates to the proposed 0.85 kilometre diversion of the previously established 5.7 kilometre track adopted in 2011 as part of the network of paths included around Rogart. Given the core path is already adopted the principal of the route in this vicinity is established. I am unable to revisit the adoption of the core path as included in the 2011 Core Paths Plan. The dispute centres on the section highlighted in yellow on Map SU 17b Rogart. On my site visit I found the proposed path clear to follow and easier to navigate than the alternative relatively overgrown and unclear route along the boundary with the wooded area.</p> <p>2. Issues raised in representation would appear to apply equally to the previously established path given that livestock would graze throughout this area. Diversion outwith this parcel of land would require an alternative route but the submissions leave doubt as to the route and condition of such an option and how it would link through with the established path at the top of the forestry block. My conclusion is that the core path should follow a formed path.</p> <p>3. I understand that there can be lambing issues with dogs and that this is a matter that has been reported in the local press. However as outlined in the Access Code it is the responsibility of all to exercise such access in a responsible manner. The council suggests that signage may be appropriate to encourage appropriate behaviour and that may prove a sensible option. I saw no directional or other signage on my visit.</p> <p>4. This is an established path where a diversion is proposed. The diversion appears practical and forms a desirable route linking the lower and upper section of the track using an existing path across open ground. I consider this diversion presents a reasonable option for inclusion in the Core Paths Plan.</p>	
Reporter's Recommendation	
To include the proposed amendment to Core Path SU20.01 as shown in yellow on Map SU17b Rogart dated November 2017.	

Core Path Reference	Respondents
SU02.01(C) - Grummore SU02.02(C) - Grumbeg	North Loch Naver Estate, c/o Sebastian Green, Greens Chartered Surveyors
Summary of Issues raised in responses	
Wishes routes to remain as a permissive path and not classed as a core path.	
Reporter's Conclusion	
<p>1. I understand these two routes are promoted as part of the Strathnaver Trail and that the estate is happy for these to remain as footpaths.</p> <p>2. It is unclear from the submissions what if any issues arise through the identification of the routes as part of the core paths plan. Given the terms of the Land Reform Act access rights can be exercised on these paths.</p> <p>3. Both walks have parking, way markers and interpretative information boards explaining the history of previous settlement. They are adjacent to a scenic road along Loch Naver and provide a point of interest for visitors in an area where there are relatively few established core paths. As an established part of the path network and providing easily accessible short and informative walks I find no reason why these paths should not be included in the core paths plan. My conclusion is the proposed paths would meet the terms of Section 17 (1) of the Land Reform (Scotland) Act 2003 to provide a sufficient path network for the area.</p>	
Reporter's Recommendation	
<p>To include the following proposed core paths as shown on Map SU25 Strathnaver dated November 2017:</p> <ul style="list-style-type: none"> • SU02.01(C) Grummore • SU02.02(C) Grumbeg 	

Core Path Reference	Respondents
SU03.15(C) – Gledfield – Cona Creag	Gledfield Estate, Mr Gernot Langes-Swaroski c/o Neil Cameron Associates (Scotland) Ltd
Summary of Issues raised in responses	
<ul style="list-style-type: none"> • Lack of parking provision • Route would impact on land management • Impact on deer • Alternative route available 	
Reporter's Conclusion	
<p>1. This 6.3 kilometre section of path is proposed as an addition to the network of paths already established around Ardgay. The minor road passing close to Gledfield House provides limited if any opportunities for parking.</p> <p>2. The route here passes over open ground to the west of the established woodland areas. It provides the opportunity for a larger looped route around the village albeit that would involve some walking on a section of the relatively quiet public road. I noted there was parking in the village that would enable access to these longer routes. Whilst the section of path through Badvoon Forest provides a shorter loop this remains enclosed within the forest and does not offer opportunities to link to the wider path network including the route along the River Carron.</p> <p>3. I note concerns about dog fouling, litter and disturbance to deer. However as with any path members of the public are required to exercise their right of access in a responsible manner and these matters would not prevent the establishment of a core path.</p> <p>4. I note the council states it can offer advice and signage and that there are public litter bins in the village. I also note that the council as roads authority does not consider that informal parking is likely to cause any road safety issues and that this is matter that can be monitored and remedial action taken if necessary.</p> <p>5. Drawing together the above I consider the path would contribute to providing reasonable access in the area and that there is nothing to suggest that it is otherwise unsuitable for inclusion.</p>	
Reporter's Recommendation	
To include the proposed core path SU03.15 (C) as shown on Map SU 21b Ardgay and Culrain dated November 2017.	

Core Path Reference	Respondents
SU09.20(C) – Embo Muir/Tinkers Drive – Railway Line	Trustees for Firm of Embo Mains Farm (John Mackenzie Mackintosh) c/o Maclod and Macallum
Summary of Issues raised in responses	
<ul style="list-style-type: none"> • Access rights are not exercisable as part of the proposed core path runs in close proximity to a piggery and lies with the curtilage of a group of buildings. • Route is not used regularly by the public and is a heavily used farm track not suited to promotion of public access. • Route is in a poor condition • Lack of parking provision • Route would impact on land management 	
Reporter's Conclusion	
<p>1. I appreciate the purpose of this 2.25 kilometre additional section of core path linking through from the village of Embo to connect with SU09.14 through the Duchess Countess Plantation without the need to walk on the public road. However on my site visit I noted the piggery operations and signage indicating the requirements for biosecurity.</p> <p>2. The route follows the operational access road passing directly adjacent to farm buildings and to what appeared to be an open silage pit. Reference is made to Section 6(1)(b)(i) of the Act states that access rights are not exercisable over land which 'forms the curtilage of a building which is not a house or a group of buildings none of which are a house'. Whilst the council's view is that the path does not encroach on the farmyard or curtilage of the farm buildings I consider the path could at least be described as routing through a yard area directly adjacent to these buildings. I note the Outdoor Access Code specifically states that access rights do not extend to farmyards. The council relies on the fact that a core path can be designated on land even where access rights given in the Land Reform Scotland Act 2003 are not exercisable.</p> <p>3. It is not in my remit to conclude on the legality of access only on whether the path is appropriately included as a core path. In addition, I understand that designation as a core path may not necessarily lead to increased usage. However I saw no signage or other promotion of this path. There is nothing to dispute the respondents view that the route is rarely or ever used by the public. In these circumstances it appears to me likely that the consequence of identification as a path where way-marking is normally advised may well encourage increased use. I have particular concerns given the bio-secure nature of the operations on this farm and the proximity of the path to operational buildings and the farm access. The submissions refer to the farm as a high health nucleus unit.</p>	

4. I appreciate that there is some protection for the public under the Act as access would be prohibited or restricted in consequence of an outbreak of animal disease. However there are also concerns about the welfare of the animals located at this high health nucleus unit if there is increased public usage albeit there is a duty on the public to act responsibly in such circumstances.

5. In the context of the security of crops I find the Access Code provides guidelines on this and that it is not unusual or inappropriate for paths to follow field margins or be in proximity to crops or grazing animals. On the issue of parking vehicle access on the farm track would clearly not be appropriate but there is opportunity to access the path network by parking in Embo.

6. I accept there is no expectation on the occupier of the track to maintain it in any specific way for the purposes of it being a core path. Like all land where access rights are exercisable, the occupier has a duty to use and manage the land in a way which respects those access rights.

7. Taking account of all of the above, I understand that the council would wish to provide a route linking through to the inland core path network avoiding the public road. Nevertheless I consider there is considerable tension in actively identifying a core path along an operational access route and over ground directly adjacent to this particular farm given its current nature of operation under biosecurity restrictions. Consequently I do not consider this northern section of the path, in so far as it passes adjacent to the piggery buildings, should be included at this time. I do not consider the contribution the proposed path would make, in an area already relatively well served by a network of core paths, would over-ride these concerns.

Reporter's Recommendation

To delete the northern leg of the proposed core path SU09.20(C) which passes adjacent to the farm buildings whilst retaining the southern leg which passes adjacent to the grounds of Embo House on Map SU18c Embo dated November 2017.

Core Path Reference	Respondents
SU13.09(C) – Navidale Cycle Path SU13.10(C) – Navidale Farm Track	Philip Davidson
Summary of Issues raised in responses	
<ul style="list-style-type: none"> • The old road is to become a deer farm • Track passes through an animal control area 	
Reporter's Conclusion	
<p>1. I understand the SU13.09c section of proposed core path is the old A9 road. It is located to the north-east of Helmsdale and would extend the core path network further inland before looping back to follow the route of the new A9. The council state it is an adopted cycle path owned by Scottish Ministers. It is also stated by the council to be an adopted public road. Nothing has been submitted to dispute this nor the assertion that the proposed path is already a public right of way. The path links to the wider proposed core path network and it is not clear given the established ownership that the respondent could use the route for operation of a deer farm. I consider this route in proximity to Helmsdale would contribute to the sufficiency of the core paths network in the area and should be included.</p> <p>2. The proposed new route SU13.10c extends from Navidale farm where the established coastal core path from Helmsdale currently terminates. The one kilometre extension of previously adopted route SU13.01 passes through a number of farm gates and adjacent to land subject to sheep grazing. The respondent indicates the track is used for the holding of livestock and for movement between fields. However the route does not in itself run through grazing fields. I note the track also passes through land adjacent to the farm buildings but the respondent raises only general concern in this respect with emphasis placed on the use of the path for animal control, management and access.</p> <p>3. Recognition as a core path does not infer that it cannot coexist with other uses and users of the path have a duty to exercise rights of access in a responsible manner and to avoid disturbance and damage to land and other interests. Through facilitating and encouraging access along suitable and agreed routes, the core paths should aim to achieve mutual benefits for users and land managers. The suitable provision of core paths is also intended to assist in the management of access, particularly over agricultural land. I do not consider that future establishment of a deer farm on the west side of the A9 or the current sheep farming operation would preclude the adoption of the proposed core path.</p> <p>4. I am conscious that my conclusions on the proposed path at Embo accept the unsuitability of the path close to farm buildings and reference the Access Code in this respect. However in that case the operation is concerned with pig farming</p>	

where the submissions and signage at the farm highlights specific bio security issues. No evidence of such specific concerns is raised in this case and in any event the core path is already established close to the farm. In addition there is nothing provided to dispute the council's view that this is an established right of way nor any clear reason that it cannot link through to the core path network and contribute to the sufficiency of that network around Helmsdale. For these reasons I consider the path is suitable for inclusion.

Reporter's Recommendation

To include the following proposed core paths as shown on Map SU 14b Helmsdale dated November 2017:

- SU13.09(C) – Navidale Cycle Path
- SU13.10(C) – Navidale Farm Track

Core Path Reference	Respondents
SU16.10(C) – Loch Craggie	Highfield Forestry Ltd, Mr Iain Peddie
Summary of Issues raised in responses	
<ul style="list-style-type: none"> • Route does not meet criteria as a core path • Conflict with future timber haulage and public. 	
Reporter's Conclusion	
<p>1. The route extends to 5.89 kilometres and is intended to contribute to the core path network serving Lairg. There is nothing to suggest to me that it would inappropriate to identify a core path purely because it is an “in and out route”. I acknowledge that an objective of core path adoption is to pursue circular routes and linkages with the wider network. However this objective does not preclude inclusion of other paths and tracks. In this case the proposed route provides an alternative and longer walk to those more closely clustered around Lairg.</p> <p>2. I appreciate that the route may be used for timber haulage, being the main route from the Sydney plantation. I also understand that felling planned over the next 15 years is likely to generate 1000 lorry movements a year. However many public routes follow forestry access roads and the extraction work is likely to be time limited according to the programme of felling. I do not consider that such use, which is usually temporary in nature, would preclude access by the public. The normal safety precautions would apply as with any path subject to shared use.</p> <p>3. The path provides recreational access to a scenic area including Loch Craggie and under the Land Reform Act public access would in any event be permitted. My conclusion is that the path can contribute to the system of paths sufficient for the purpose of giving the public reasonable access throughout the authority's area.</p>	
Reporter's Recommendation	
To include the new section of path SU16.10(C) Loch Craggie as shown on Map SU22c.	

Core Path Reference	Respondents
SU17.07(C) – Uamh an Tartair	Ledmore and Keanchullish Estate c/o Bidwells
Summary of Issues raised in responses	
<ul style="list-style-type: none"> • Insufficient public interest to justify as core path • Dangerous due to caves and sudden drops • Path unsuitable for increased footfall • Disturbance to deer population 	
Reporter's Conclusion	
<p>1. This objection relates to that part of the proposed route leading from the path junction at NC 21821 09952 Blar a Chuail to the Uamh an Tartair caves. This was proposed in 2017 as part of circular route with an offshoot to access the caves. I note it would be the only core path in the vicinity. On my site visit the circular route appeared a reasonable inclusion and most of the route was easy to follow providing a scenic and interesting circuit from the large car parking area in Elphin.</p> <p>2. In terms of providing for the sufficiency of the path network the circular route appeared from my site visit to be of some merit. This would have addressed the issue of providing a circular route from the village whilst avoiding the potential difficulties rehearsed below in relation to the included route to the caves. There is an expectation that core paths will provide meaningful loops and networks where it might be appropriate and/or feasible.</p> <p>3. Nonetheless from my site visit I appreciate difficulties with the circular route given the land closer to the burn was heavily grazed and as the latter sections of the route passed close to property and the route was less clear. In any event I note the referenced objection from the representative of Knockan Common Grazings. Whilst I have no specific details on the council's reasons for this change the latter looped section of the track is omitted from the modified April 2019 route. That deletion has not attracted objection and my focus is consequently place on the one way route to the caves.</p> <p>4. I understand the route to the caves was included in the modified and amended plan on the basis that it has been promoted by the occupier(s) since 2006 and that there are no other core paths within the Elphin settlement. It is expected that many core paths will be located close to where people live and where they can be used by visitors and tourists.</p> <p>5. The respondents acknowledge the route has long been promoted in walks booklets (since the late 1980's) and now through walkhighlands.com. There is no objection to access as currently exercised including by cavers but there are concerns about designation as a core path as this could result in increased footfall. I appreciate that there would be nothing to stop continued access to this area and no conclusive evidence that recognition as a core path would increase footfall. From my site visit it was reasonably easy to park nearby and follow the route which is marked by an informal sign to the caves.</p>	

6. However beyond the fork the path becomes much less distinct and the walker must rely on the marker poles to clarify the route over rough hill ground. I note that guidance on core paths accepts that paths need not be surfaced or constructed. However in the absence of the waymarks I would be concerned that some of the upper section of this route could not reasonably be defined as or identified as a path. Whilst a core path designation need not increase footfall it could serve to encourage access with the expectation of a clear and suitable path when in fact much of the route would be unclear and unformed particularly in muddy conditions and poor visibility.

7. In addition visitors rather than those specialist cavers visiting the site may be unaware of the concealed dangers at the routes destination. The sink holes/caves are not marked or fenced but flanked by vegetation making the edges indistinct with significant drops beyond. I accept that dangerous drops and other risks are not unusual in the Highlands but my concern here is the more unusual and concealed nature of the risk around features likely to attract the curiosity of the visitor. Coupled with the lack of a clear path these conclusions lead me to conclude the route, at least beyond the fork, is not suitable for inclusion at this time.

8. I appreciate the path terminates in a scenic and interesting spot and enables access to the hill with fine views over the surrounding nationally recognised scenic area. I also appreciate it is the only core path promoted from the village of Elphin. I understand that the way marker posts and terminus sign would be retained and replaced as required by the council should the route be included in the core paths plan. I presume it may also be possible to include information about the sink holes which could lessen the risk associated with these features.

9. There may be scope in the future to revisit the original circular route but this falls outwith the remit of this examination. There is a clear deficiency in core path provision in this area. However whilst access rights over the path to the cave may continue to be exercised I am not persuaded the latter section of the route merits inclusion in the core paths plan. In the absence of the latter section of the route there is a further question as to whether the path leading to the fork would still merit inclusion. Its main purpose would be either to follow through around the circular route or to proceed to the caves. Such continuation would not then be part of the core path network. Consequently, my conclusion is that the proposed path provision for this area should be deleted subject to further future review.

10. Whilst other issues are raised regarding deer management and conservation of ground nesting birds I do not consider these unusual in a Highland context. Walkers, deer populations and other sporting and/or conservation interests often co-exist without unreasonable impacts. Similarly I have not placed weight on any increased liability to the landowner given that there is existing and established access. There is no proposal to extend the core path through to Knockan Crag Visitors Centre.

Reporter's Recommendation

That the proposed core path SU17.07c as shown on Map SU2f Elphin, of the April 2019 modification, should not be included.

Core Path Reference	Respondents
SU23.04(C) – Clashnessie Falls	Mr and Mrs Kershaw
Summary of Issues raised in responses	
<ul style="list-style-type: none"> • Concerns over term core path • Presence of two alternative routes • Impact on tree planting 	
Reporter's Conclusion	
<p>1. The Clashnessie Falls are clearly an interesting and popular visitor attraction on this section of the west coast. The parking place by the beach is the most obvious arrival and access point. The dispute arises not on the principle of establishing a core path to the falls but on whether the route to the east should be included in addition to the further route to the west which the respondent considers is more suitable. In reaching my conclusions on this issue I have considered the amended plan along with the additional change proposed in April 2019. Representations were received as above at the time both the amended and modified plans were published and again in written submissions dated 7 November 2019 to this inquiry process.</p> <p>2. On my site visit I parked in the car park adjacent to the beach as referenced in the submissions. I noted that the information board in the car park had been covered over albeit the cover had been partly removed. The information on the board in relation to the section of the route relative to the respondent's property had been blacked out so that only the western route was visible. Given this blacking out I was unable to read the information board. However, from the council's submissions I understand it previously showed the route as an alternative including annotation that it was very boggy underfoot.</p> <p>3. I understand that the route to the east, closest to the respondents property, has been promoted as an alternative access to the falls for a number of years. It certainly provides a more direct route from the car park avoiding the public road. It may also be possible to do the route as a circuit from the beach to the falls and back out to the public road on the western track. However, this proved difficult given the water levels at the time of my site visit. I visited in March after a period of relatively wet weather.</p> <p>4. Whilst the eastern path skirting a dyke and the bottom of a hill could be described as heavy going underfoot I do not consider, from my experience of walking in the Highlands, that it was unusually boggy or difficult to negotiate. That said I appreciate that the falls are likely to attract a lot of visitors at certain times of the year. The desire to avoid wet ground may lead to diversion from the path and consequent wider damage to surrounding land.</p> <p>5. I also appreciate that as the path closest to the car park and beach the eastern track may become a desire route rather than an alternative access whether or not the route to the west provides easier or more suitable walking conditions. At the time of my visit there was a fencing contractor at work installing a deer fence to enclose part of the area which may be part of the proposals to plant trees on the croft as referenced in the submissions.</p>	

Access was however still possible and the route to the falls, passing through a gate in the deer fence, was reasonably well defined. I noted the 2019 diversion leading closer to the ford over the burn and agree this offers the more sensible route given the ground conditions and ease of access.

6. I understand that the format of the core path plan and lack of annotation does not enable narrative or description of the route as an alternative. That said it is an established route and one over which there would be no barrier to continued use and access under the terms of the Act. Such access rights come with responsibilities as outlined in the Access Code and responsible access should avoid any damage to property. I understand the council has some budget for path maintenance and there may be scope for some repair work or improvement to be pursued. Identification as a core path may enable such works in the future including improved signage.

7. An eastern path is not shown on the 1:50 000 Ordnance Survey map sheet although the nearby car park is shown. It is not a condition of the core paths plan that a route should be shown on the OS map.

8. Taking all of the above into account whilst I appreciate the concerns of the respondent I consider the path will remain a desire route by which walkers will seek to access the falls. It is an established route. As such I consider it sensible to recognise it as a core path albeit the re-instated signage could make it clear that easier access can be obtained on the eastern route.

Reporter's Recommendation

To include core path SU23.04(C) –Clashnessie Falls with the change as proposed on Map-SU2g Clashnessie as shown on the April 2019 plan.

Core Path Reference	Respondents
SU25.05(C) – Kylstrome/Maldie Burn – Loch More SU11.13c Loch Merkland – Gobernuisgach	Reay Forest Estate, Mr Dougal Lindsay Mr Robert Woods Mrs Carol March
Summary of Issues raised in responses	
<ul style="list-style-type: none"> • The western leg at Kylestrome should be removed to leave only the Maldie Burn track. • The section terminating at Lochmore should be altered to a new forest track between Achfary and Lochmore Cottages. • Proximity of SU11.13c to Lodge, estate buildings and keepers house 	
Reporter's Conclusion	
<p><u>SU25.05(C) – Kylstrome/Maldie Burn- – Loch More</u></p> <p>1. There are two separate concerns about this long distance path extending some 14.9 kilometres to link Kylestrome near Kylesku on the west coast with Lochmore. The first concerns the provision of alternative routes on the southern extent of the path. One runs along the loch-side following the established core path but branches off to follow a route up along the Maldie Burn. The other follows a higher level western route before joining with the Maldie Burn path. The other objection is focussed on the eastern end of the path which was originally proposed to terminate close to the estate buildings at Lochmore Lodge.</p> <p>2. On the first issue the respondents object to inclusion of the western alternative. I find the indicated route provides a suitable walking surface and a higher level route affording panoramic views over the loch and surrounding scenic landscape. The through route is a long distance path but this additional option would provide opportunity for a shorter day walk without the need for two vehicles and enabling a varied and accessible walk. I find no unusual or unreasonable conflict with other interests to suggest that the path should not be included. There is no clear reasoning in the objection as to why this section of the path should be excluded other than to suggest it is not necessary. I consider its identification would enhance the network of paths in this area linking from the established car parking area and providing a circuit linking with the established core path network.</p> <p>3. The route as originally proposed followed a waymarked path beside the cluster of estate buildings and cottages at Lochmore. There is some parking space along the roadside although I appreciate the potential for conflict with parking for residential properties and estate business. The route passed behind the cottages on a shared access which included garaging and was in proximity to some windows. I can understand some concerns in this respect. This long distance route enables access through to the west coast, within an area frequented by visitors.</p> <p>4. As a consequence of the consultation on the original proposal the council recognised that an alternative terminus closer to Achfary utilising a forestry track and routing away from the estate buildings presented a means to avoid the stated conflict. The route was subsequently included as shown in yellow on page 12 of the Modified Core Path Plan</p>	

dated April 2019. There were no subsequent objections to this change and I consider it addresses the concerns raised in objection whilst enabling the continued inclusion of the route. Consequently my recommendations support the route but with the change as highlighted through the 2019 amendment.

SU11.13c Loch Merkland – Gobernuisgach

5. In considering this issue I carried out an accompanied site visit as requested in the representation and due to the remoteness of the location. I noted there was no clear parking space, other than passing places, on the narrow single track public road. I could appreciate concerns about cars being left in a location that could potentially block the road or access. This situation might also encourage users of the path to drive further along the private access track leading to the lodge.

6. This route is part of a longer distance path (15.76 kilometres) linking through to Loch Merkland so walking the path would likely require some parking or drop off arrangement at one end of the path or the other. However I noted that there were gates at the Loch Merkland terminus of the path and I agree with the council that access at Gobernuisgach could be similarly managed. I understand that the road from Altnaharra to the start of the core path is a public road managed by the council.

7. I also noted that the path passes directly adjacent to the lodge house which has facing windows. I found the location of the path relative to the Keepers House, other buildings, machinery and horses to be of less concern and not unusual or unacceptable given the separation distance and consequent maintenance of privacy. I consider that the path, given its proximity to the lodge, encroaches on the private space associated with it to the detriment of its privacy and amenity.

8. The council accepts the proposed core path through the grounds of Gobernuisgach Lodge is on land on which access rights under the terms of the Act could be not reasonably be expected to be exercisable by the public. Section 6(1)(b)(iv) excludes land which is adjacent to a house, caravan, tent or other similar domestic place as is sufficient to give persons living there reasonable measures of privacy and undisturbed enjoyment. Given my observations on site I agree that there are clear tensions with that provision. Nevertheless the proposed core path is justified by the council based on the premise of an established right of way which would continue to apply regardless of any identification as a core path.

9. The council references an established right of way and its duty to assert those access rights albeit the paths status in this regard is disputed in the respondents letter dated 27 November 2019. The determination of a right of way falls to other legal channels. In any event whilst it may be that the public can continue to exercise access rights there is clearly tension around the identification of the route as a core path. In that respect I have placed some emphasis on the role of core paths plan in managing such conflicting circumstances. In any event I am not persuaded that the existence of the right of way would alone justify inclusion of a core path particularly as not all rights of way need necessarily be recognised as core paths. Reference is made to alternative routes but these were not identifiable on my site visit and I find no currently available alternative option.

10. A route impinging directly on the amenity of a domestic property is not one through which access is promoted through the Act. Core paths are usually signed and whilst inclusion need not necessarily increase footfall it would undoubtedly provide recognition and endorsement as part of the core path network. In some circumstances this might be justifiable but in this remote location away from any settlement I consider there is no robust justification for the path to be included to secure the sufficiency of the core path network.

11. The council interprets the provisions of section 17(3) to clarify that in assessing inclusion as a core path it could only consider whether the interests of the owner have been altered by such a designation. I understand the council has taken the view that given its duty to assert this right of way core path designation is consequently justified. However, I rely on an alternative conclusion that such access rights do not inevitably lead to core path designation and that in this case such a course of action could be to the potential detriment of established residential amenity. In addition to that I have remaining concerns about parking provision given the configuration of the road network at the commencement of the route.

12. For these reasons I do not consider the path should be included at this time. In the future there may opportunities to look at an alternative route bypassing the immediate grounds of the lodge and with some consideration of how the parking issue might be resolved.

Reporter's Recommendation

1. To include proposed core path SU25.05(C) – Kylstrome/Maldie Burn– Loch More including the change highlighted in yellow in the April 2019 amendment on Map SU 4c Lochmore.

2. That the proposed core path SU11.13c Loch Merkland – Gobernuisgach on Map Gobernuisgach SU 8c dated November 2017 should not be included.

3. Conclusions and recommendations

3.1 From the above, the following provides a summary of my recommendations regarding the unresolved objections to the proposed changes to the Caithness and Sutherland section of the Highland Core Path Plan 2013:

Reference and Location	Recommendation
CA07.16c John O Groats to Ness of Duncansby	Include
CA01.05(C) – Altnabreac – Forsinard	Include subject to legal considerations
SU12.25(C) – Sportmans Walk- A9-Dunrobin	Include subject to legal considerations
SU09.22(C) – Fairy Glen	Include
SU20.01 – Meall Mor Fire Track	Include
SU02.01(C) – Grummore	Include
SU02.2c Grumbeg	Include
SU03.15(C) – Gledfield – Cona Creag	Include
SU09.20(C) – Embo Muir/Tinkers Drive – Railway Line	Not appropriate for inclusion
SU13.09(C) Navidale Cycle Path	Include
SU13.10(C) Navidale	Include
SU16.10(C) Loch Craggie	Include
SU17.07(C) Uamh an Tartair	Not appropriate for inclusion
SU23.04(C) Clashnessie Falls	Include as modified in 2019
SU25.05(C) Kylstrome/Maldie Burn – Loch More	Include as modified in 2019
SU11.13c Loch Merkland – Gobernuisgach	Not appropriate for inclusion

3.2 In the main the proposed changes to the core path network for Caithness and Sutherland accord with the provisions of the Act to provide for a system of paths sufficient for the purpose of giving the public reasonable access throughout the authority's area. Three exceptions apply as detailed above. I have also drawn Ministers attention to the matters raised by Network Rail regarding the legality of access over the railway at Dunrobin (SU12.25(c) and Altnabreac SU01.05(c)).

Strategic Environmental Appraisal

3.3 The 2017 proposed changes were subject to Strategic Environmental Assessment (SEA). A 2020 update of this assessment has also now been submitted to this examination. I have attached the recently received SEA report dated April 2020 at Appendix 1 to this report but I have no record of any further consultation on this updated information. The responses I have received from the consultation authorities, through the Scottish Government's SEA Gateway, are dated March 2018 so are not the responses to the 2020 update. I have drawn this matter to the attention of Ministers and to the Highland Council given the statutory requirements that would apply prior to adoption of the plan. However, the submissions on file from the council do not indicate any implications for the matters subject of my conclusions above or any consequent reason to hold up submission of my report.

Appropriate Assessment

3.4 In a similar vein there are legislative requirements to carry out assessment under the Habitats Regulations. The consultation response from Scottish Natural Heritage (March 2018) highlighted this requirement. However I am not aware of any further consultation or advice from Scottish Natural Heritage relevant to the Appropriate Assessment report that has recently been submitted to the Inquiry process (April 2020), as attached at Appendix 1. Again the council has not drawn my attention to any implications for the matters that are the subject of my report. I note the conclusions of the council's assessment that there would be no adverse effect on the integrity of a Natura Site.

Recommendation

3.5 Further to any remaining process as detailed in paragraphs 3.3 and 3.4 above and to the Ministers' consideration of any legal issues raised at Dunrobin (SU12.25(c) and Altnabreac SU01.05(c) the Access Authority be directed to adopt the proposed changes to the Caithness and Sutherland Section of the Highland Council Core Paths Plan with the exception of:

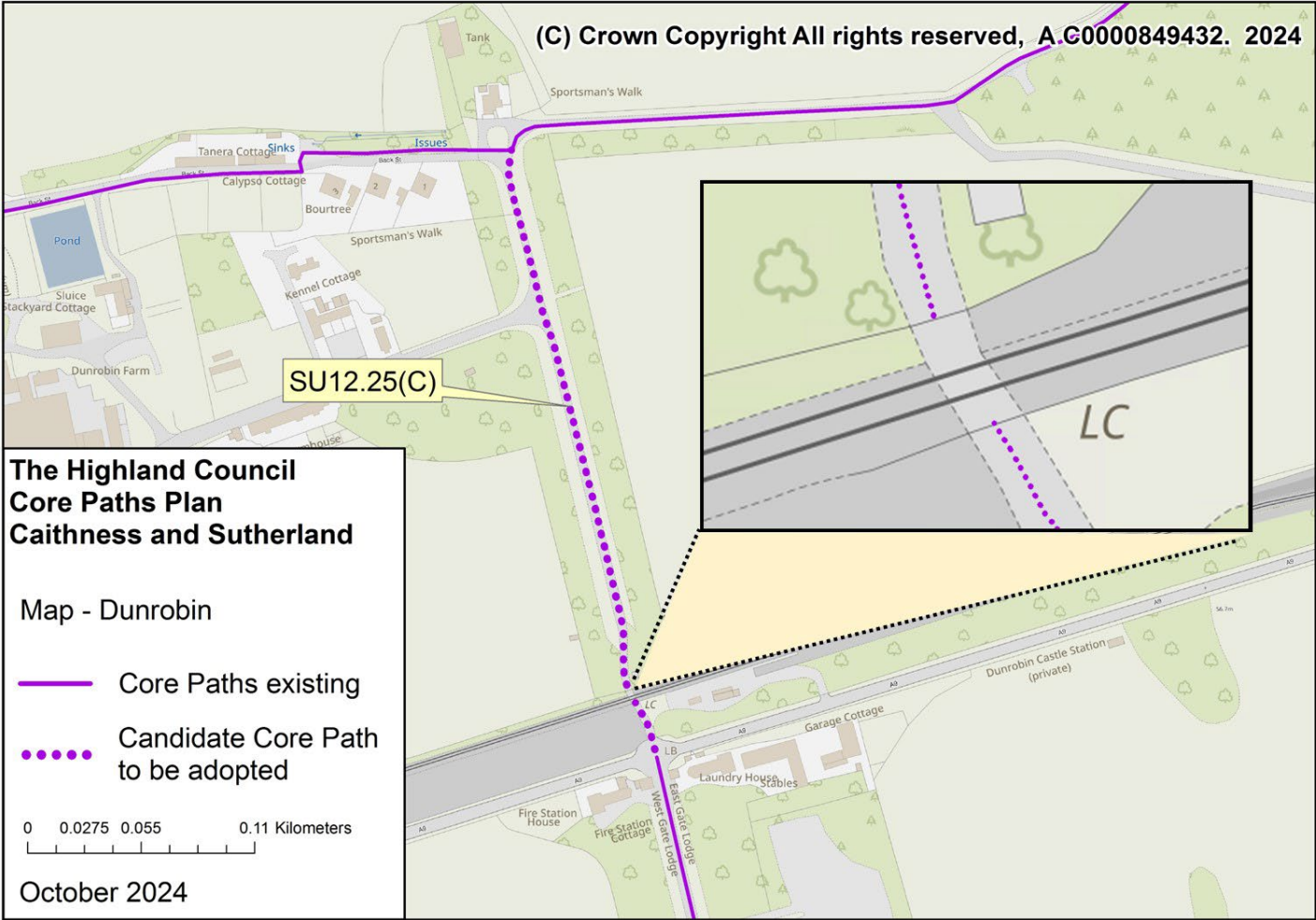
1. SU09.20(c) – Embo Muir/Tinkers Drive – Railway Line;
2. SU17.07(c) – Uamh an Tartair.
3. SU11.13(c) Loch Merkland – Gobernuisgach

Allison Coard
Reporter

Appendix 1: Documents

1. [Core Paths Plan Adopted September 2011](#)
2. [Core Paths Plan Caithness and Sutherland Modified December 2017](#)
3. [Core Paths Plan Caithness and Sutherland Modified and Amended April 2019](#)
4. [Strategic Environmental Assessment Updated April 2020.](#)
5. [Habitats Regulations Appraisal April 2020](#)
6. [Correspondence regarding consultation with Community Councils and Access Forums](#)
7. [The Law Commission and The Scottish Law Commission Report](#) on Level Crossings September 2013

The Highland Council Core Paths Plan – Dunrobin



The Highland Council Core Paths Plan – Embo

