

**PLANNING AND ACCESS COMMITTEE**

**MEETING: Monday 25<sup>th</sup> May 2020**

<b>SUBMITTED BY:</b>	Director of Rural Development and Planning
<b>APPLICATION NUMBER:</b>	2019/0358/DET
<b>APPLICANT:</b>	RSPB
<b>LOCATION:</b>	High Wards Farm, Gartocharn, Alexandria G83 8SB
<b>PROPOSAL:</b>	Construction of footpath/boardwalk with planting, seating, interpretation focal points (including a shelter), pedestrian gates and associated works.

<b>NATIONAL PARK WARD:</b>	Ward 4 (South and East Loch Lomond)
<b>COMMUNITY COUNCIL AREA:</b>	Kilmaronock
<b>CASE OFFICER:</b>	Name: Caroline Strugnell Tel: 01389 722148 E-mail: caroline.strugnell@lochlomond-trossachs.org

**1. SUMMARY AND REASON FOR PRESENTATION**

- 1.1. A planning application has been submitted for the construction of footpath/boardwalk with planting, seating, interpretation boards, shelter and pedestrian gates on land within the RSPB reserve at High Wards Farm, Gartocharn.
- 1.2. In accordance with the National Park Authority's Scheme of Delegation, this application requires to be determined by the Planning and Access Committee because the development, in the opinion of the Appointed Officer, has been the subject of a significant level of valid objection.

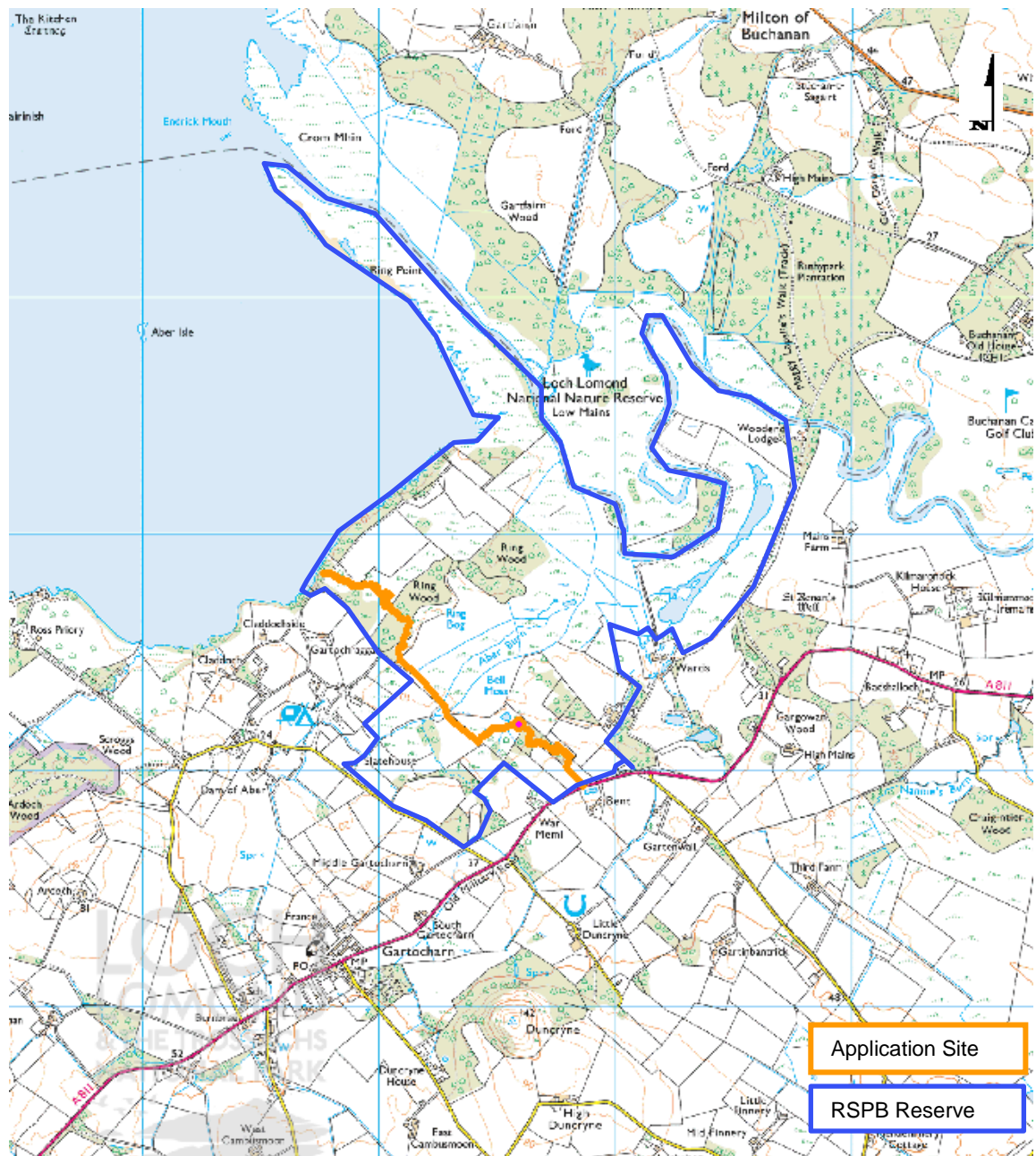
**2. RECOMMENDATION**

- 2.1. That Members:

1. **APPROVE** the application subject to the imposition of the conditions set out in **Appendix 1** of the report.

### 3. **BACKGROUND**

- 3.1. The application site lies within the RSPB Scotland (Loch Lomond) reserve which is situated at the south-eastern end of Loch Lomond approximately 1.3km north by road (A811 Stirling Road) from Gartocharn (Fig.1).



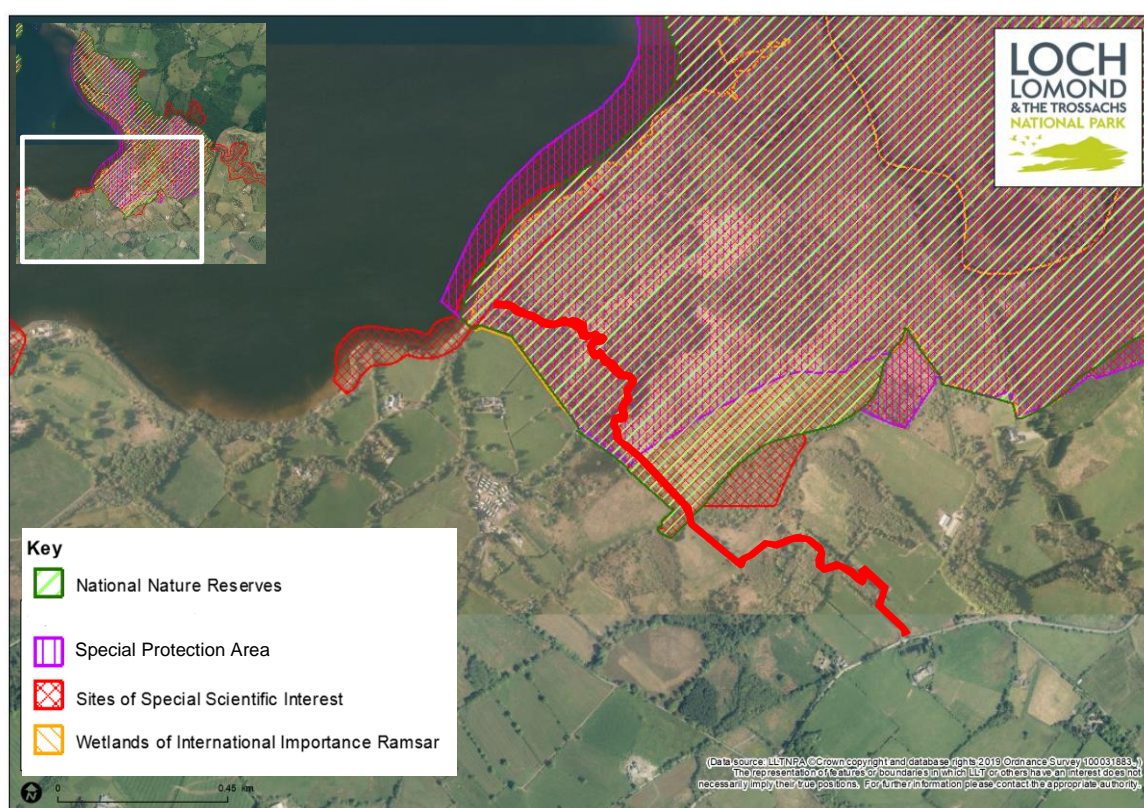
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**Figure 1: Site Location Plan**

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3.2. The reserve comprises 237ha of fen, woodland and grassland habitats which are owned and managed by the RSPB. The reserve contains designations of national and international importance. The part of the reserve that would be crossed by the proposed footpath is subject to the following designations (Figure 2):

- Loch Lomond Special Protection Area (SPA),
- Endrick Mouth and Islands Site of Special Scientific Interest (SSSI);
- RAMSAR (wetlands of international importance); and
- Loch Lomond National Nature Reserve (NNR).



**Figure 2:** Application site and position within important ecological designations

3.3. The respective designations have specific objectives. The objective of the SPA is to safeguard the population of Greenland white-fronted geese. The objective of the SSSI is to protect the notified features and species of interest (which includes bird assemblages, upland oak woodland, fluvial geomorphology, and plant and beetle assemblages). The objective of RAMSAR is to maintain the ecological character of the wetland environment. Finally the objective of the NNR is two-fold:

1. To conserve their important habitats and species;
2. To give people the opportunity to enjoy and connect with nature.

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- 3.4. The vision for RSPB's Loch Lomond Reserve, as stated in the RSPB Management Plan (April 2019-March 2024), is for the reserve *"to be a flagship site for both nature conservation and visitor experience in the National Park"*.
- 3.5. The applicant's Supporting Statement explains:
- "The RSPB's main charitable purpose is the protection and enhancement of wildlife and habitats and over the last 7 years, the team at RSPB Scotland Loch Lomond have been working towards delivering their objectives for nature and people on site. The mix of habitats found including woodland, wetland and grassland, are what make it such a diverse refuge for wildlife. RSPB Scotland also want it to be a place where people can find a refuge and peace from the busyness of life." ...*
- 3.6. Since acquiring the land in 2012 the RSPB has established a 'Nature Hub' comprising a vehicular access from the A811 Stirling Road a 15 space car park and converted exhibition trailer reception building. The Nature Hub provides access to two walking trails; the Airey Woodland Trail which is a 950m loop leading to a timber shelter and dipping pond and the Viewpoint Path which is a 200m out-and-back route with an observation shelter at its furthest extent. Planning applications for the access and hub were approved in 2014 and 2015 and permissions for the development of trails and shelter buildings followed and were constructed in 2017.
- 3.7. Alongside comprehensive conservation management objectives for the reserve, the RSPB's Management Plan lists a number of future projects designed to enhance accessibility and education opportunities (of which this planning application is one). These include a footpath link from the Nature Hub to Gartocharn Village, wetland creation with access trail and the refurbishment/replacement of the exhibition trailer with ambitions for a permanent visitor centre with facilities, office and possible car park expansion in the longer term.
- 3.8. In relation to the proposed path the applicant's Supporting Statement explains:
- "The proposals reflect an intention to carry out development in a manner that is sensitive to both the landscape and the species/habitats found within it, as well as managing any long-term impacts that might be associated with an increase in visitor numbers in an area that has previously been considered relatively inaccessible (albeit with desire lines already in existence for much of the route)."*
- 3.9. The Supporting Statement explains that the proposed path would have a number of purposes including:
1. Providing an alternative to the regularly used paths located in sensitive locations in the reserve to help reduce disturbance to protected species;
  2. Providing greater opportunity to educate and increase awareness of the sensitivities of the wider area and discourage irresponsible behaviours;

3. Create a 'funnelling effect' for visitors reducing the likelihood of them roaming into other areas (thereby reducing disturbance potential);
4. Provide a more useable access route to facilitate land management activity for RSPB staff.

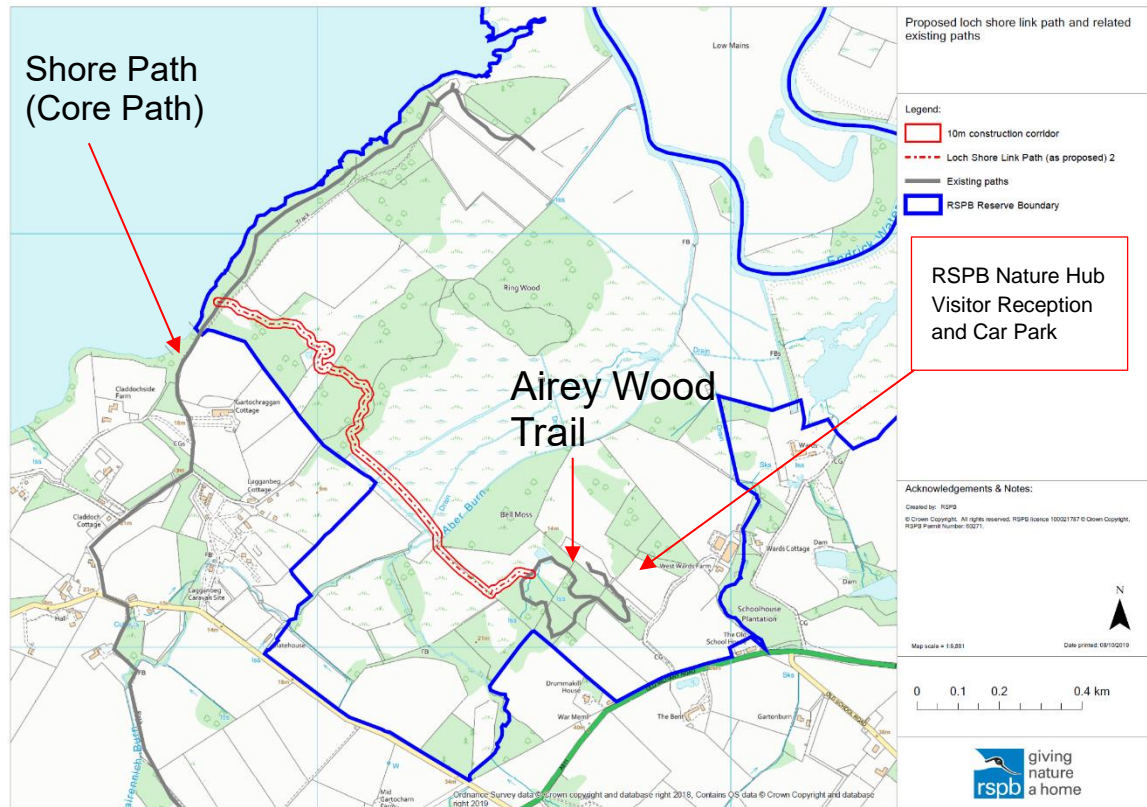
3.10. The stated benefits would be:

- Provision of access to nature enabling a greater understanding of it and desire to protect it whilst still maintaining the special qualities of the area;
- Increased access to an NNR, an accolade only given to the top wildlife sites in the UK;
- Greater understanding of the wildlife of Scotland and the National Park;
- Health benefits from walking and enjoyment of open, wild spaces;
- Promoting quiet enjoyment of the countryside;
- Enthusiasing a range of people about the fantastic wildlife found within Scotland;
- Providing opportunities for less able-bodied people to access beautiful landscapes and experience their peace and tranquillity.

***Site Description***

- 3.11. The application site comprises a corridor of land 0.26ha in area running north west / south east through the RSPB reserve on its south western side. The proposed path would be approximately 1.3km long and would link the Airey Woodland Trail at the RSPB Nature Hub on the south eastern side of the reserve with the Shore Path adjacent to Loch Lomond on the northwest side of the reserve (Figure 3). The Shore Path is also a Core Path which links to the village of Gartocharn some 2km to the south.





**Figure 3:** Proposed path connecting to Airey Wood Trail and Shore Path

- 3.12. A number of residential properties and the Lagganbeg Caravan Park are situated among the fields beyond the reserve between the southwestern boundary and the Shore Path Core Path.
- 3.13. The route of the proposed path would pass through several locally named areas and features (Fig. 4). From south to north these include Orchid Field, the Aber and Gartocharn Bog and Ring Bog, the native woodland named Ring Wood, the scrub area of Limehill Rough and, finally, the Shore Wood woodland.



**Figure 4:** Local place names

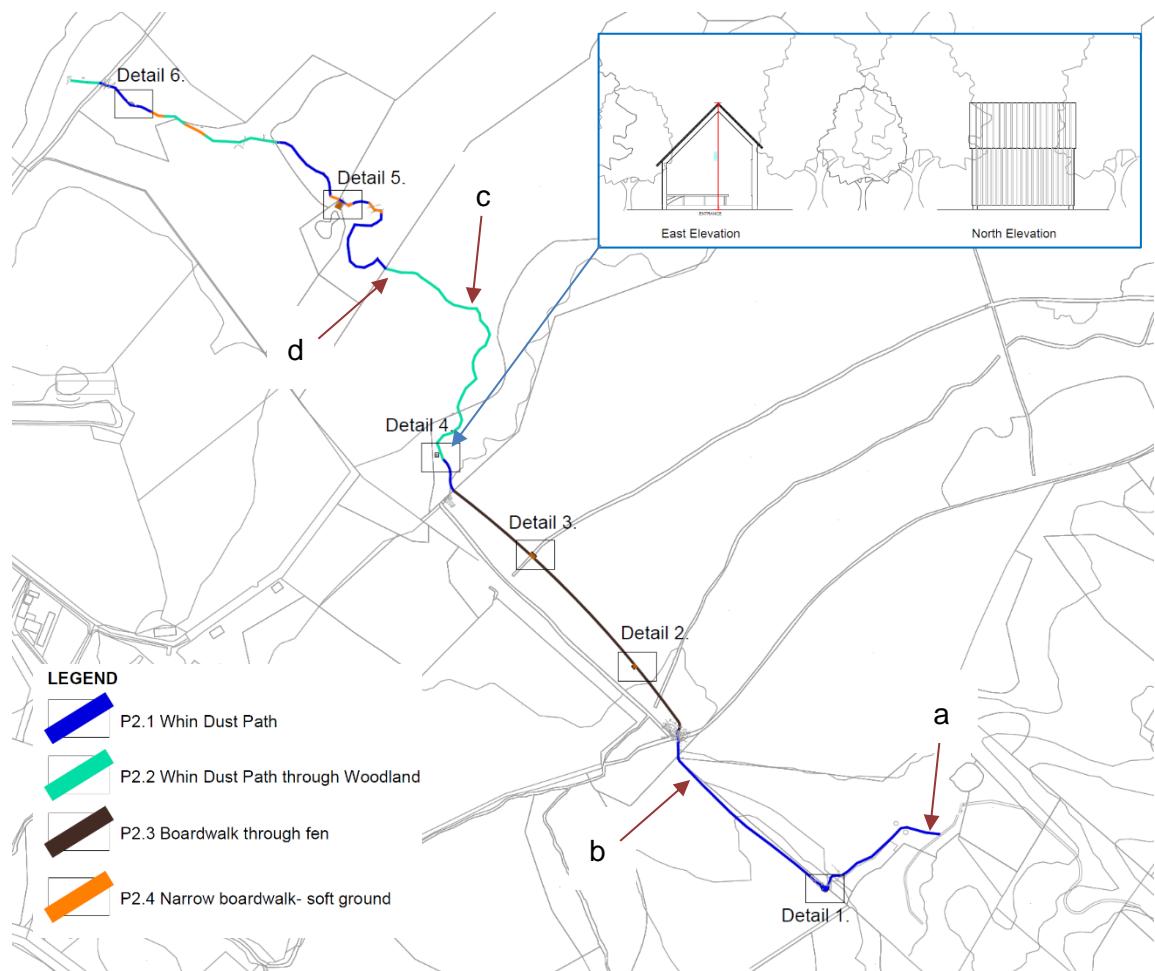
- 3.14. The varied character of the various named places along the route of the proposed path can be seen in the photographs in Figures 6-11.

### **Description of Proposal**

- 3.15. The proposed footpath would be 2m wide and would vary in design along its length depending on the ground conditions and habitat sensitivity (Figure 5).
- 3.16. Boardwalk is proposed through the wetland/fen area. This would be constructed from recycled plastic supports with proprietary resin mineral board treads (golden oak colour) and would be a maximum of 2m wide and 60mm high. Short sections of narrower boardwalk are proposed for other parts of the route in areas of soft ground or those prone to seasonal flooding. These sections would be 1.2m wide and a maximum of 300mm high.

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- 3.17. Unbound aggregate is proposed within the woodland and rough areas as has been used for previous path construction on the wider site. The path would comprise a 50mm layer of whindust atop a 250mm base of type 1 aggregate with edges graded appropriately either side of the path.
- 3.18. The route would incorporate six interpretation and/or rest areas (Details 1-6 – Figure 5) comprising widened areas of unbound aggregate base or additional areas of boardwalk with some small structures such as seating and sculptural elements all made from natural materials. A shelter is proposed within Ring Wood (Detail 4). Pedestrian gates would be installed at 4 points along the route and a rest bench or perch at points a-d.



- 3.19. The following figures show photographs of the proposed sections of route in sequence (south to north) along with details of the various interpretation areas and features proposed along the path.

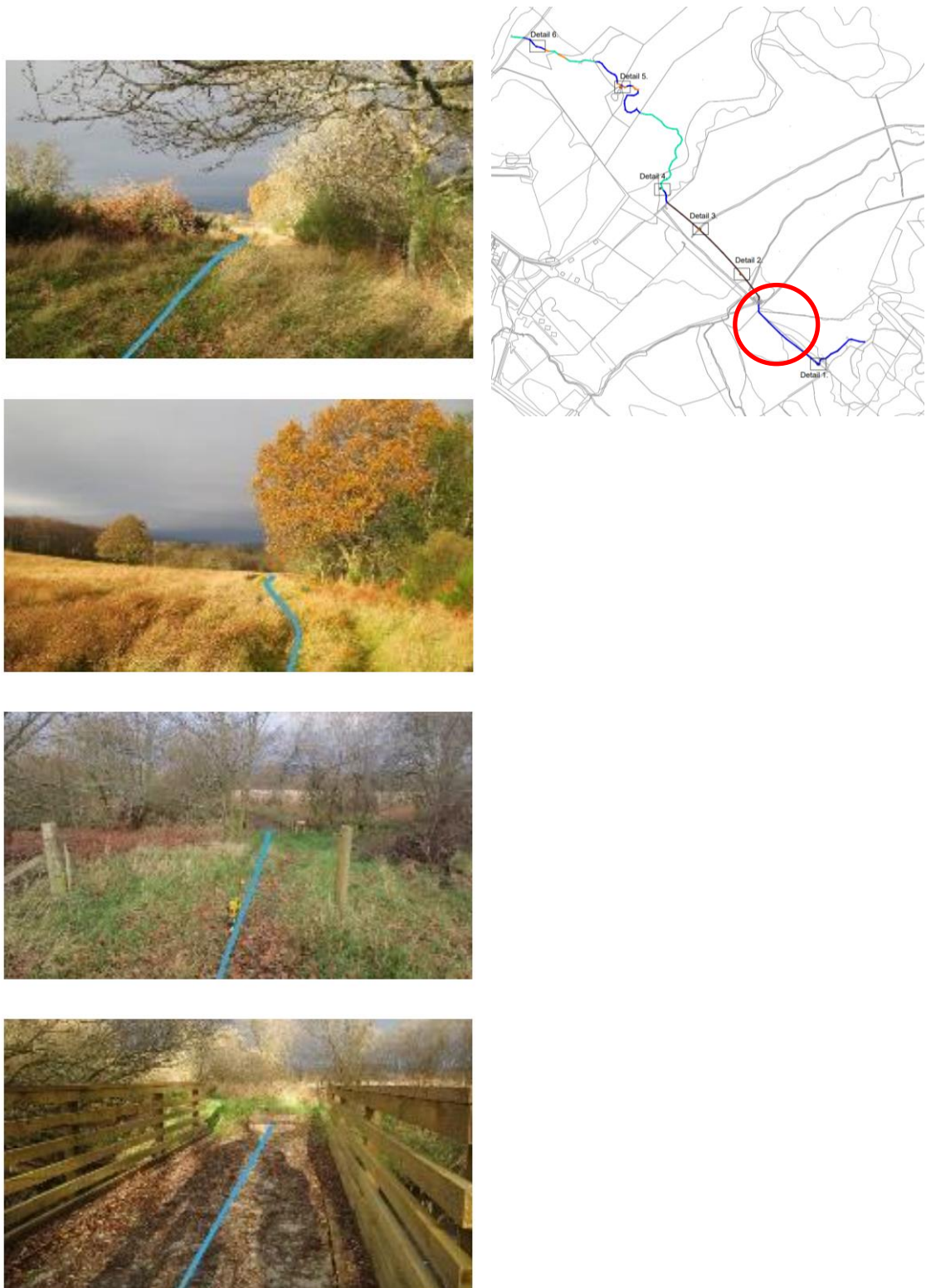


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**Figure 6:** Proposed route of path from Airey Wood Trail through Orchid Field

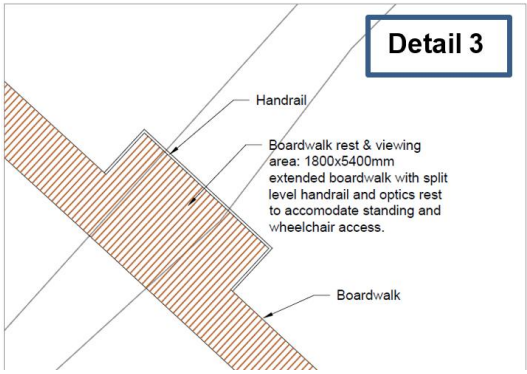
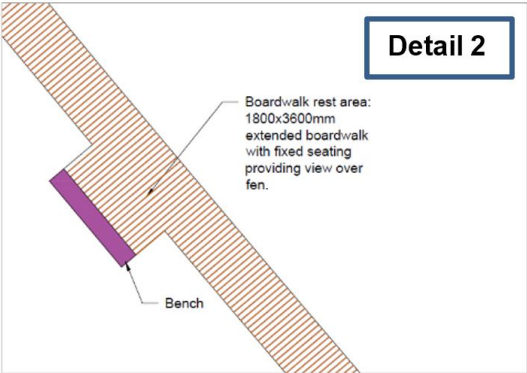
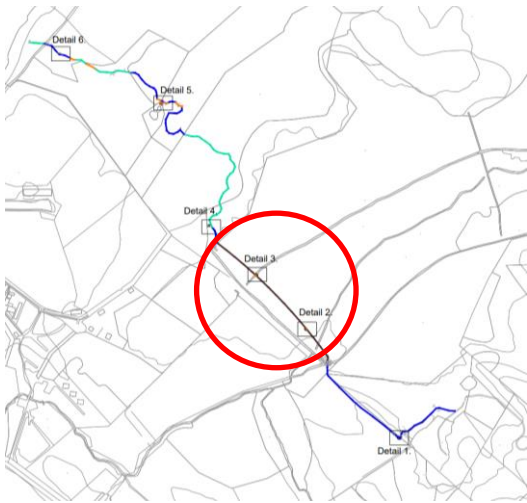
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**Figure 7:** Route from Orchid Field along the northern edge of Middle field to bridge



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**Figure 8:** Route from bridge through Aber and Gartocharn Bogs and Ring Bog to Ring Wood

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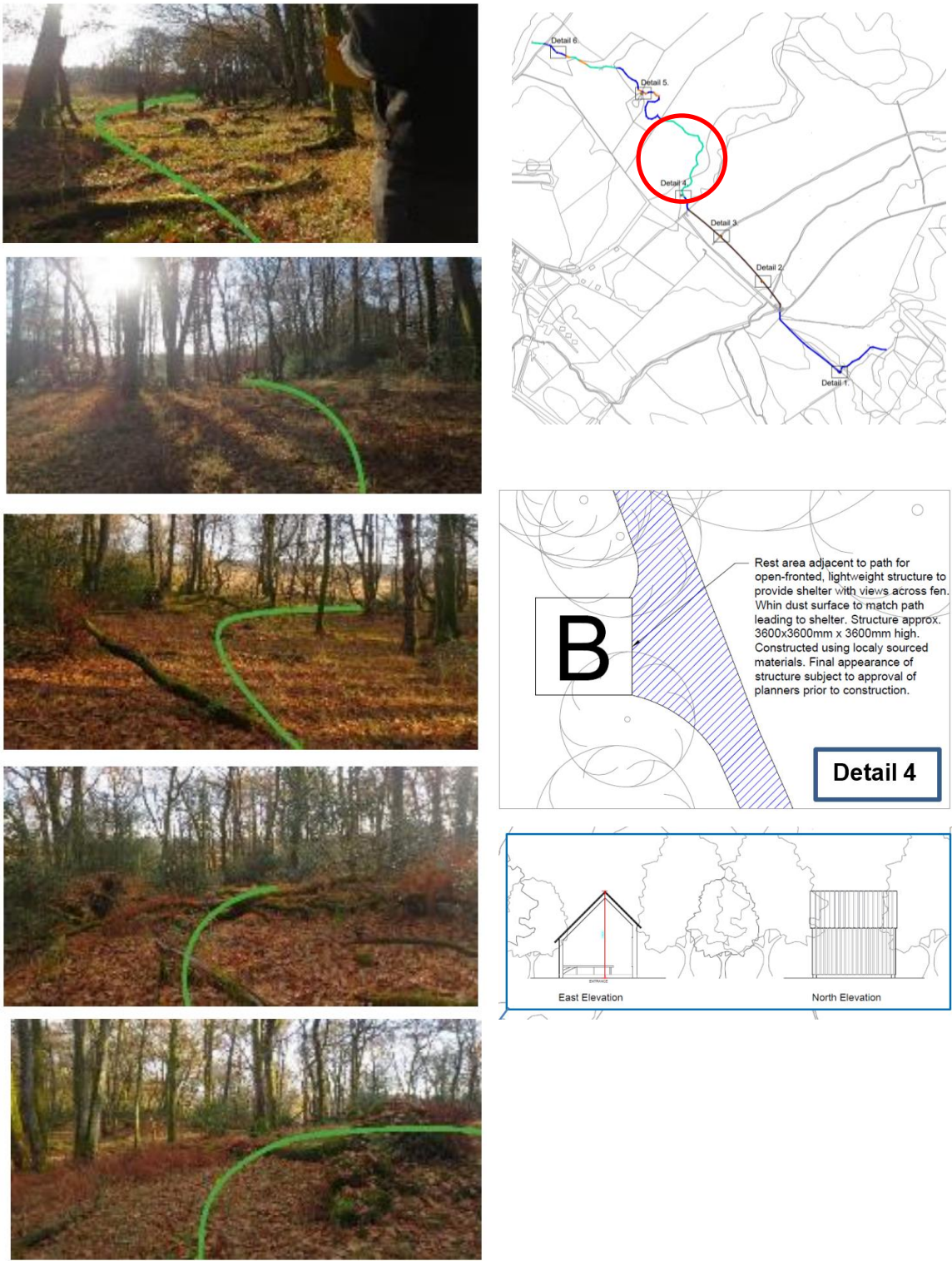
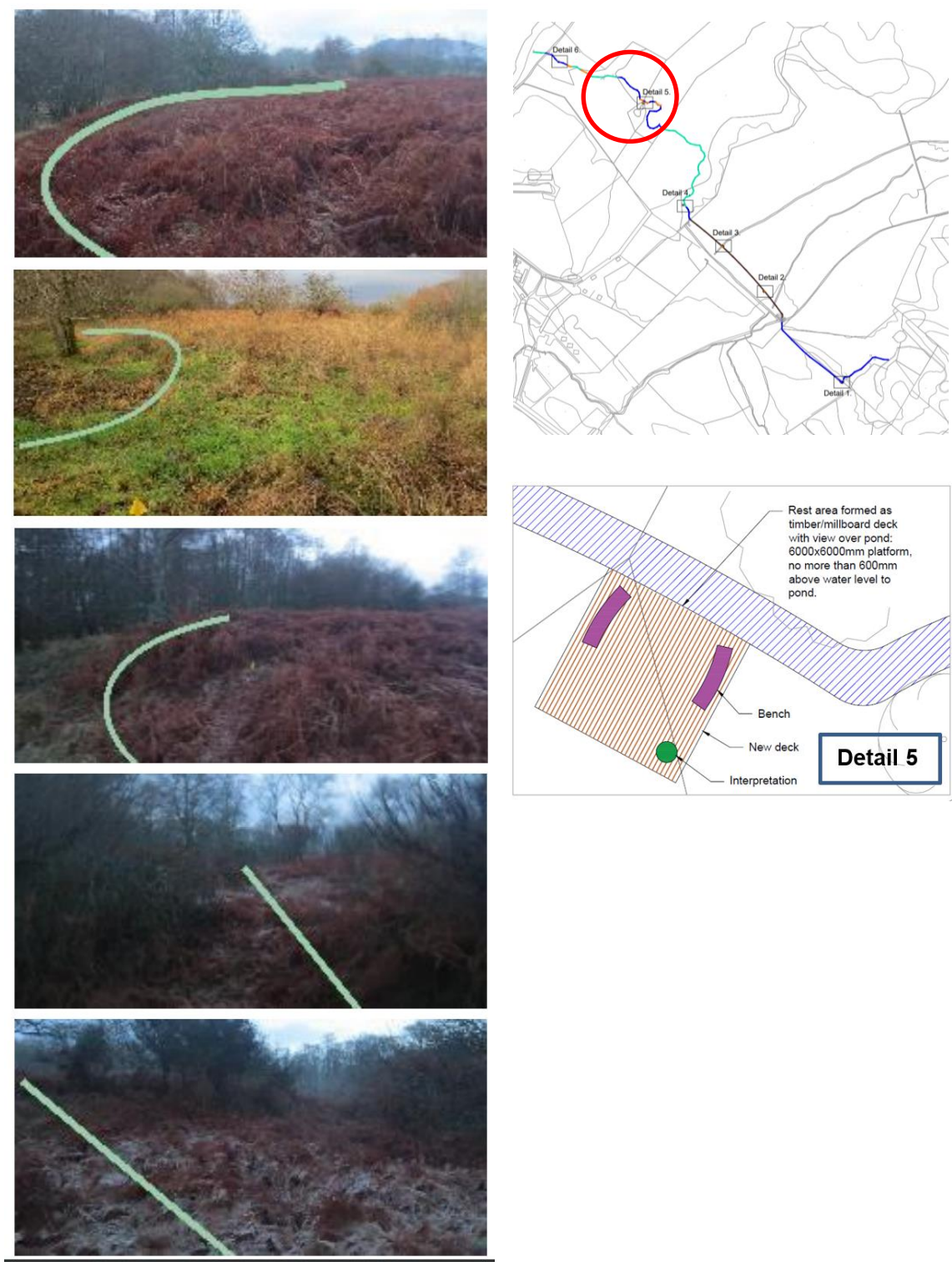


Figure 9: Route through Ring Wood



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- 3.20. The application site incorporates a 10m wide 'construction corridor'. This area is included within the application boundary to permit working room for machinery, vegetation removal where necessary and soil regrading either side of the path during the construction phase.

### ***Planning History***

- 3.21. The following applications have been made previously for development within the RSPB reserve:
- 2018/0299/DET -Approve -10 December 2018. Application (under section 42) for planning permission for the retention of 2 no. portacabins for office use previously approved under 2013/0274/DET for a further 5 year period (condition 1).
  - 2017/0366/DET -Approve -7 February 2018. Installation of Interpretation building, viewing platform and extension of existing track.
  - 2017/0072/DET -Approve -28 July 2017. Installation of 2no. access bridges
  - 2016/0119/DET -Approve -10 June 2016. Formation of visitor paths, an agricultural track and associated infrastructure
  - 2016/0104/DET -Approve -10 June 2016. Installation of an 8sq/m covered timber viewing platform/shelter.
  - 2015/0273/DET -Approve -12 October 2015. Siting of exhibition/interpretation trailer and public toilet unit
  - 2014/0213/DET -Approve -28 October 2014. Formation of 400m access road, 15No. space car park and landscaping works
  - 2013/0274/DET -Approve -18 December 2013. Siting of 2No. portakabins for office use (temporary period only)

## **4. ENVIRONMENTAL IMPACT AND HABITAT REGULATIONS ASSESSMENT**

### ***Environmental Impact Assessment (EIA)***

- 4.1. The National Park is identified as a 'Sensitive Area' within the Environmental Impact Assessment (Scotland) Regulations 2017. As a 'Competent Body' the National Park Authority has a statutory duty to consider whether proposals for development should be subject to the EIA process. The proposal falls within Schedule 2 of the regulations within the sub-section 10(f) 'infrastructure projects' category and must therefore be screened to determine whether an EIA is required.
- 4.2. The proposal was screened in 2018 prior to the application being submitted (reference PSC/2018/0004). The screening concluded that the development would not give rise to significant environmental effects and therefore an EIA is not required for this application. The screening opinion is available to view as part of the application file.

***Habitat Regulations Assessment (HRA)***

- 4.3. The Habitats Regulations require that where an authority concludes that a development proposal is likely to have a significant effect on a European site (SPA or SAC) it must undertake an Appropriate Assessment (AA) of its implications for the European site in view of the site's conservation objectives.
- 4.4. The application site passes through a Special Protection Area (SPA) which is important for its population of wintering Greenland Whitefronted Geese (GWF) (the 'qualifying interest' of the SPA). The construction and use of a path within or adjacent to feeding/roosting areas during the winter months (October to March inclusive) has potential to disturb the GWF. As a consequence, the proposal is likely to have a significant effect on the GWF qualifying interest of the SPA and an appropriate assessment (AA) is therefore required. This has been undertaken by officers and is discussed in the Planning Assessment. A copy of the AA is appended to this Report.

**5. CONSULTATIONS AND REPRESENTATIONS**

***Responses to Consultations***

Kilmaronock Community Council

- 5.1. No objections. The Community Council requests that the application be decided by the planning committee in light of the very ecologically sensitive nature of the site to ensure proper scrutiny.

Scottish Natural Heritage (SNH)

- 5.2. No objection. The response highlights the potential for significant effects on the SPA and provides advice in relation to Appropriate Assessment under the Habitat Regulations. The response states that, based on the information supplied to support the application and the geese data informing the pathway design to avoid key sensitive areas and providing a formal route for all users, our opinion is that the pathway and its use will not disturb the geese and will not prevent them from using existing roosting and feeding locations, formalising access may actually result in providing disturbance free zones at infrequently used feeding and roosting locations within the reserve. We have also considered impacts on other protected areas (RAMSAR site, SSSI, NNR) and advise that the objectives of these designations and overall integrity of the area will not be compromised.

West of Scotland Archaeology Service (Glasgow) (WOSAS)

- 5.3. No objection subject to a condition to ensure that protective measures are put in place around two adjacent specified archaeologically sensitive sites during construction.

West Dunbartonshire Council – Roads Service



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- 5.4. No objections. No additional parking is required.

West Dunbartonshire Council Flood Prevention Officer

- 5.5. No response received.

### ***Representations Received***

- 5.6. 39 contributors made representations with 18 in support, 19 in objection and 2 neither in support nor objection. 11 of the objections were submitted in support of, or were accompanied by, a pro-forma letter of objection (dated 29 April 2020) written on behalf of the residents of Aber 'the Aber Community'.
- 5.7. Please note that the following is a summary of the matters raised in representations. The full content of the representations is available to view online (please see paragraph 5.11 below for further details). In summary the matters raised in **support** are:
- i. The proposals are in accordance with the Four Aims of the National Park as set out in the National Parks (Scotland) Act 2000;
  - ii. The proposals are in line with the requirements of the Loch Lomond & the Trossachs Local Development Plan and the National Park Partnership Plan, particularly with regard to enhancing opportunities for people to enjoy and experience the Park's special landscape qualities and sense of place;
  - iii. The path provides a logical route from The Hub to the loch shore which allows for an appreciation of the range of habitats in the NNR area;
  - iv. The path would make the reserve more accessible to the public (young, old and disabled) especially in wet weather enabling more people to appreciate what the reserve has to offer;
  - v. The use of information boards would inform visitors of the very significant importance of this area encouraging them to appreciate the wildlife and fragile eco system and so encourage support for conservation activities. Public engagement is crucial to the conservation of wildlife, plants and insects and in the fight against climate change;
  - vi. There is an existing (unofficial) path already in existence along at least part of the proposed route. Currently, the desire to walk through the site means that visitors are unknowingly causing damage and disturbance across a larger area and a dedicated path would encourage use of a route that has been specifically chosen to reduce the impact of visitor access on wildlife;
  - vii. The reserve has been growing in popularity since it opened and one of the comments often made is lack of access to the shore of the loch which this proposal would address;
  - viii. This area provides a much needed space for enjoying the local countryside and to escape busy lives;

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- ix. Measures have been taken to avoid and screen sensitive areas and the path has been designed for the minimum of disruption to wildlife and to neighbouring residents;
- x. Currently there is no parking available at Townhead of Aber if one wishes to access the shore walk. The proposal addresses that issue and prevents the need to walk some distance along a single track road;
- xi. The proposed development affects only a very small area (1%) in relation to the size of the reserve;
- xii. The proposal would not affect views of the site from Duncryne Hill;
- xiii. The RSPB has had several community engagement sessions and feedback has demonstrated that residents of Gartocharn are mostly favourable towards the path.

### 5.8. In summary the matters raised in **objection** are:

- i. The application contravenes the Statutory 4 aims of National Parks and the Sandford Principle by putting tourism before conservation. A precautionary approach should be adopted and the application refused;
- ii. The application contravenes the National Park Partnership Plan, Conservation Priority 2.1 to 'protecting tranquil qualities, particularly on undeveloped loch shores';
- iii. The proposed path does not form a link between any existing Core Paths and does not fulfil any of the National Park's Path Provision objectives as set out in the Partnership Plan;
- iv. There is no need for this path - the National Park already has 700+ kilometres of paths and there is a sufficient number of paths and walking routes within a three kilometre radius. There is already good access to the reserve via the path to Netbay and the recent path which starts at the RSPB Hub;
- v. This area should be left undisturbed for the protection of wildlife, birdlife, flora and fauna;
- vi. The desire lines in and around Ring Wood have been there for generations and are used by a very small group of people - they are not evidence of RSPB visitors seeking to link the Shore Wood to the visitor centre – there is no evidence of demand for access to the shoreline;
- vii. This is the 10th planning application since 2012 by the RSPB on this site - this proposal is just the beginning of a larger plan for development and the cumulative environmental impact will be much greater than is currently indicated;
- viii. This proposal would set a precedent;
- ix. The proposal would create unnecessary damage and increasing visitors would lead to antisocial behaviour and disturbance to habitats and vulnerable wildlife;
- x. Disruption by construction vehicles would impact on the local residents;
- xi. This reserve should be managed for the wildlife it supports;
- xii. Objection to loss of trees;

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- xiii. The addition of man-made boards, shelters and interpretation signs do not enhance or conserve a special landscape;
- xiv. To disturb a fragile eco-system, cause damage to a forest floor and bog, then push to attract increasing numbers of visitors all arriving by car does nothing to *“address or mitigate the impacts of climate change”*;
- xv. The proposal would damage the Shore Path (Core Path);
- xvi. The National Park has a conflict of interest because the RSPB is a Partner organisation.

### 5.9. Other comments include:

- i. All construction materials should be natural materials – if man-made materials are used there should be a legal binding guarantee that they will be removed when they become redundant;
- ii. Appropriate Assessment will need to be conducted (which considers risks to other species in addition to Greenland White Fronted Geese) to ensure that the integrity of the adjacent Natura site and Special Protection Area will not be adversely impacted, in accordance with the Habitats Regulations;
- iii. How will SNH and the Park Authority be satisfied that importing large volumes of such materials will not bring in spores or seeds of fungi and plant species that are non-native or invasive?
- iv. The method used to record 10,000 visitors to the Shore Path by SNH in 2012 may have double counted – the path is more frequently used by local residents than ‘visitors’ and this figure would be difficult to verify;
- v. The impact on bats needs further investigation.

5.10. The above matters are considered within the Planning Assessment (Section 8.0).

5.11. The full content of the representations is available to view on the National Park Authority’s Public Access website (<http://www.lochlomond-trossachs.org/planning/> click on view applications, accept the terms and conditions then enter the search criteria as ‘2019/0358/DET’).

## 6. **POLICY CONTEXT**

### ***The Development Plan***

6.1. Section 25 of the Town and Country Planning (Scotland) Act 1997 states that planning applications are to be determined in accordance with the Development Plan unless other material considerations indicate otherwise. The Development Plan comprises the Loch Lomond & The Trossachs National Park Local Plan (LP) (adopted 2017) and Supplementary Guidance (SG).

### **Local Plan (2017-2022)**

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6.2. The Local Plan (LP) sets out the vision for how the National Park should change over the next 20 years. The LP covers the period from 2017 to 2026 and is updated every 5 years.

6.3. The following LP Policies are relevant to the determination of this application:

- OP1 – Overarching Policy 1: Strategic principles
- OP2 – Overarching Policy 2: Development requirements
- VEP1 - Visitor Experience Policy 1: Location and Scale of new development
- TP2 - Transport Policy 2: Promoting sustainable travel and improved active travel options
- TP3 - Transport Policy 3: Impact assessment and standards for new developments
- NEP1 - Natural Environment Policy 1: National Park landscapes, seascape and visual impact
- NEP2 - Natural Environment Policy 2: European sites - Special Areas of Conservation and Special Protection Areas
- NEP3 - Natural Environment Policy 3: Sites of special Scientific Interest, National Nature Reserves and RAMSAR Sites
- NEP4 - Natural Environment Policy 4: Legally protected species
- NEP6 - Natural Environment Policy 6: Enhancing biodiversity
- NEP8 - Natural Environment Policy 8: Development impacts on trees and woodlands
- NEP 9 - Natural Environment Policy 9: Woodlands on or adjacent to development sites
- NEP11 - Natural Environment Policy 11: Protecting the water environment
- HEP7 - Historic Environment Policy 7: Other archaeological resources

6.4. Full details of the policies can be viewed at: <http://www.lochlomond-trossachs.org/planning/planning-guidance/local-development-plan/>

### Supplementary Guidance

6.5. The adopted Supplementary Guidance provides support to the policies of the LP and carries the same weight in the determination of applications. The Supplementary Guidance of relevance to this application comprises:

- Design and Placemaking

### Planning Guidance

6.6. Planning Guidance provides additional advice on Local Development Plan Policy interpretation. Planning Guidance of relevance includes:



- Visitor Experience

***Other Material Considerations***

**National Park Aims**

- 6.7. The four statutory aims of the National Park are a material planning consideration. These are set out in Section 1 of the National Parks (Scotland) Act 2000 and are:
- a) to conserve and enhance the natural and cultural heritage of the area;
  - b) to promote sustainable use of the natural resources of the area;
  - c) to promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public; and
  - d) to promote sustainable economic and social development of the area's communities.
- 6.8. Section 9 of the Act states that these aims should be achieved collectively. However, if in relation to any matter it appears to the National Park Authority that there is a conflict between the first aim, and the other National Park aims, greater weight must be given to the conservation and enhancement of the natural and cultural heritage of the area. Policy OP1 of the Local Development Plan outlines the Park's overarching policy position on new development with regard to the statutory aims.

**National Park Partnership Plan (2018-2023)**

- 6.9. All planning decisions within the National Park require to be guided by the Partnership Plan, where they are considered to be material, in order to ensure that they are consistent with the Park's statutory aims. The following outcomes and priorities of the Partnership Plan are relevant.
- Outcome 2: Landscape Qualities – Priority 2.1 Landscape and Heritage
  - Outcome 4: Land Partnerships – Priority 4.1 Integrated Land Management
  - Outcome 7: Visitor Economy – Priority 7.1 Growing Tourism Markets
  - Outcome 9: Health and Learning – Priority 9.2 Engagement and Learning

**7. SUMMARY OF SUPPORTING INFORMATION**

- 7.1. Alongside the plans the applicant has submitted the following documentation in support of the planning application which are available to view on the public planning portal <https://eplanning.lochlomond-trossachs.org/OnlinePlanning/> N.B. some sensitive ecological information has been supplied relating to persecuted species and this information remains confidential for their protection.
- Supporting Statement: Ecological Assessment (including 24 supplementary supporting statements, appendices and maps – some marked 'confidential') (received 19 December 2019);

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- Planning Supporting Statement dated December 2019 – prepared by Ironside Farrar Environmental Consultants (received 19 December 2019);
- Landscape Appraisal (received 19 December 2019);
- Character Zones and Photo Viewpoints document with supporting plan 40055-106-B (received 19 March 2019);
- Interpretation and Visitor Infrastructure Statement (received 06 January 2020);
- RSPB Management Plan 2019-2024 (received 14 May 2020).

### 8. PLANNING ASSESSMENT

- 8.1. Two of the four aims of the National Parks (Scotland) Act are relevant to this proposal; the first and third aims:
  - To conserve and enhance the natural and cultural heritage of the area; and
  - To promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public.
- 8.2. These aims are referenced in the overarching policies of the Local Plan. Policy OP1 requires developments to contribute to the collective achievement of the four aims and prioritise the first aim (conserve natural heritage) where there is a conflict with any of the others. Overarching Policy OP2 of the Local Plan also seeks to both:
  - *“Protect and/or enhance biodiversity, the water environment, sites and species designated at any level including ancient and semi-natural woodland and habitat networks”; and*
  - *“Promote understanding and enjoyment (including recreation) of the special qualities of the area by the public”.*
- 8.3. Having particular regard to the National Park aims and the policies of the Local Plan the key considerations in assessing this application are:
  1. Whether footpath development in this location would be supported in principle by the Local Plan’s spatial policies (with reference to Visitor Experience policies);
  2. Whether the proposal appropriately balances objectives for nature and people; in essence whether the proposed path (and the associated opportunities for recreation and learning) can be accommodated without causing harm to the biodiversity of the site or interests which the various designations seek to protect; and finally;
  3. Whether the proposal satisfies all other policies of relevance.
- 8.4. The planning assessment considers the following matters in turn:

Principle of development

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- Biodiversity
- Landscape
- Design
- Accessibility and Transport
- Archaeology
- Waste Management

### ***Principle of Development***

- 8.5. The development and expansion of visitor infrastructure and facilities, including recreation and access proposals, are required to be assessed under Policy VEP1. There are various strands of the policy under which the application may fall to be assessed with criteria c, d and g being relevant.
- 8.6. Policy VEP1(c) supports development that *“addresses gaps in provision or improvements required in the Core Paths network, local path networks and outdoor recreation provision”*. At present there is no formal footpath link from the surroundings to the Nature Hub and visitors can only access the Nature Hub via private vehicle from the A811. A link to the Shore Path (Core Path) would better connect the Nature Hub to the surroundings, including Gartocharn and the wider Core Path network. Users of the Core Path likewise, would be able to experience the reserve and visit the Nature Hub on foot. The path would therefore extend and improve the local footpath network in accord with Policy VEP1(c).
- 8.7. In relation to development proposals in countryside locations, Policy VEP1(d) states support will be given for ‘small scale’ development where it involves: the improvement or expansion of an existing tourism business, visitor infrastructure or facility. The proposal is for visitor infrastructure. The Visitor Experience Planning Guidance includes a definition of ‘small scale’ which, in the context of visitor infrastructure, includes ‘path works’. The proposal would therefore comply with criterion (d).

Finally, VEP1(g) supports proposals that help deliver an action identified in the National Park Partnership Plan (NPPP). The NPPP sets out an ambitious vision for further widening the environmental, social and economic benefits of the Park over the next five years. It contains a number of target outcomes along with priority actions to achieve them and highlights the role of partnership with stakeholders and organisations who are involved in managing the area.

- 8.8. The RSPB are one of the Lead Delivery Partners listed in the NPPP who have committed to helping deliver the outcomes of the NPPP. Map 7, Visitor Infrastructure Investment Priorities (page 63 of the document) identifies Loch Lomond Nature Reserve (NNR) as a priority for investment including provision of paths, visitor facilities and parking. Greater access to the NNR is a key part of the criteria for NNR designation, as stated in Scottish Natural Heritage’s 2015 publication ‘NNR Selection and Criteria and

Standards' which states; *"NNRs must be good places for demonstrating the value and importance of natural features and for inspiring the public. Ideally an NNR will provide access to all for at least part of the site and will offer something to everyone so that people can experience and engage with the reserve."*

- 8.9. The proposals are in line with the 'Conservation and Land Management' outcomes, particularly enhancing opportunities for people to enjoy and experience the Park's special landscape qualities and sense of place and in supporting land owners to plan and deliver multiple environmental and social benefits through land management (Outcome 2: Landscape Qualities – Priority 2.1 Landscape and Heritage and Outcome 4: Land Partnerships – Priority 4.1 Integrated Land Management). The proposals would also support the 'Visitor Experience' outcomes, particularly with regard to the promotion of walking and Nature based tourism, provision of recreation opportunities, promoting health and wellbeing and ensuring locations and facilities are well managed to protect and enhance the quality of environment and the visitor experience (Outcome 7: Visitor Economy – Priority 7.1 Growing Tourism Markets). Supporting the implementation of the National Park Partnership Plan is explicitly encouraged by Policy OP1. The proposals would support and help action and the outcomes of the NPPP in accord with Policy VEP1(g).
- 8.10. Public objections have referenced conflict with other objectives of the NPPP including Conservation Priority 2.1 'Protecting tranquil qualities, particularly on undeveloped loch-shores'. This matter is dealt with under the heading 'Landscape' below.
- 8.11. Objections have also pointed to a conflict of interest given the status of the RSPB as a National Park partner organisation. As planning authority the National Park must carry out a thorough planning assessment of proposals, and reach a decision in accordance with the development plan unless material considerations indicate otherwise. All officers of the Planning team are bound by a Code of Professional Conduct which requires them to act with competence, honesty and integrity and to exercise independent professional judgement at all times. Notwithstanding the partnership working arrangement, the application has been considered in the same manner as any other private development proposal.

*Summary of the Principle of Development*

- 8.12. There is policy support in principle under the Overarching policies and Policy VEP1 for small-scale visitor infrastructure proposals, works that improve footpath networks, proposals that support the implementation of the National Park Partnership Plan (Policy OP1) and those which increase opportunity for recreation and promote understanding and enjoyment of the National Park's special qualities (Policy OP2). The NPPP also supports enhancements in recreation provision generally but also specifically in relation to improved path provision at the Loch Lomond Nature Reserve. The proposal is therefore acceptable in principle.

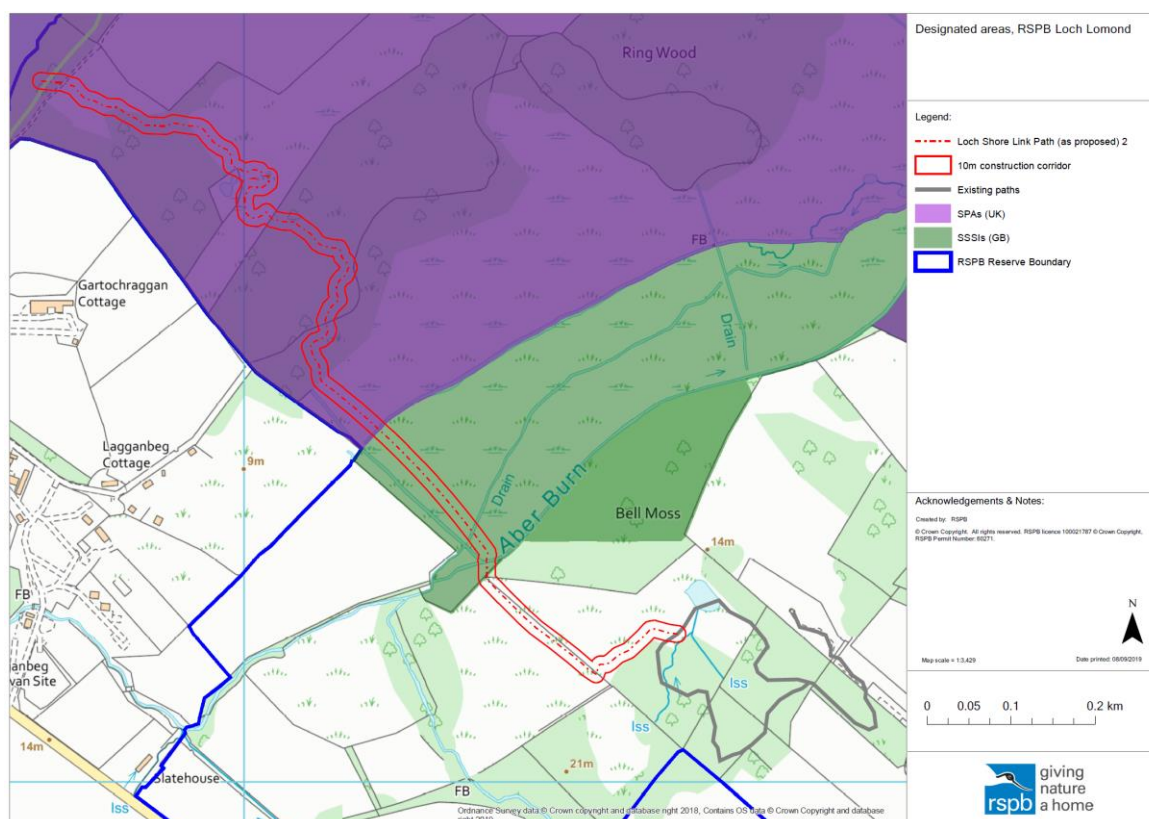


***Biodiversity***

- 8.13. Although the proposal finds support in principle under the visitor experience and overarching policies, it must also comply with the other key strands of Overarching Policies 1 and 2. In particular, given the very sensitive environmental context, the development must demonstrably; *“Protect and/or enhance biodiversity, the water environment, sites and species designated at any level including ancient and semi-natural woodland and habitat networks”*. This criteria of Policy OP2 is supported by the Local Development Plan’s Natural Environment Policies; compliance with which is now assessed.

**Nationally and Internationally Designated Areas**

- 8.14. Around 75% of the proposed path route lies within nationally and internationally designated areas with the remaining 25% (the southern-most extent) within undesignated farmland. The route affects the southern-most extent of the Loch Lomond Special Protection Area (SPA) (Figure 12). The SPA is classified for its non-breeding Greenland White-Fronted Geese (GWF geese) and capercaillie. There is no longer a viable population of capercaillie within the National Park so this species will not be discussed further.
- 8.15. The proposed path would also cross the Endrick Mouth and Islands SSSI (which overlaps with the SPA) (Figure 12). The notified natural features of the SSSI include breeding bird assemblages (including GWF geese but also greylag goose), upland oak woodland, fluvial geomorphology, and plant and beetle assemblages. The SSSI designated area includes the Loch Lomond RAMSAR Wetlands.



**Figure 12:** Location of site and extent of wider SPA and SSSI designations

- 8.16. Natural Environment Policy 2 (NEP2) concerns applications that might affect European sites (Special Protection Areas) and requires proposals likely to have a significant effect on designated European sites to be subject to Appropriate Assessment under the Habitats Regulations. Natural Environment Policy 3: (NEP3) states that development which affects a Site of Special Scientific Interest, National Nature Reserve or RAMSAR site will only be permitted where it is demonstrated that there is an overall enhancement of the site for the reasons it was designated, or there is no adverse effect on the site that would compromise the objectives and overall integrity of the designated area.
- 8.17. As the proposal has the potential to have a significant impact on the GWF geese qualifying interest of the SPA<sup>1</sup> an Appropriate Assessment (AA) has been undertaken in accordance with the Habitat Regulations and as required by Policy NEP2. The AA is appended to this report (at Appendix 2). In summary it identifies main potential impacts on GWF geese are likely to be from:
1. Activity, light pollution and noise from any construction works carried out when the wintering GWF geese are present (October to March inclusive); and

<sup>1</sup> SNH advises that this proposal would not impact capercaillie; also a qualifying interest of the SPA.

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2. Disturbance from the use of the completed path during the winter months (with relatively minor individual disturbance instances potentially having a considerable cumulative effect).
- 8.18. Comprehensive supporting documents and data records submitted with the application show the location of the fields where GWF geese roost and feed (Figure 13).

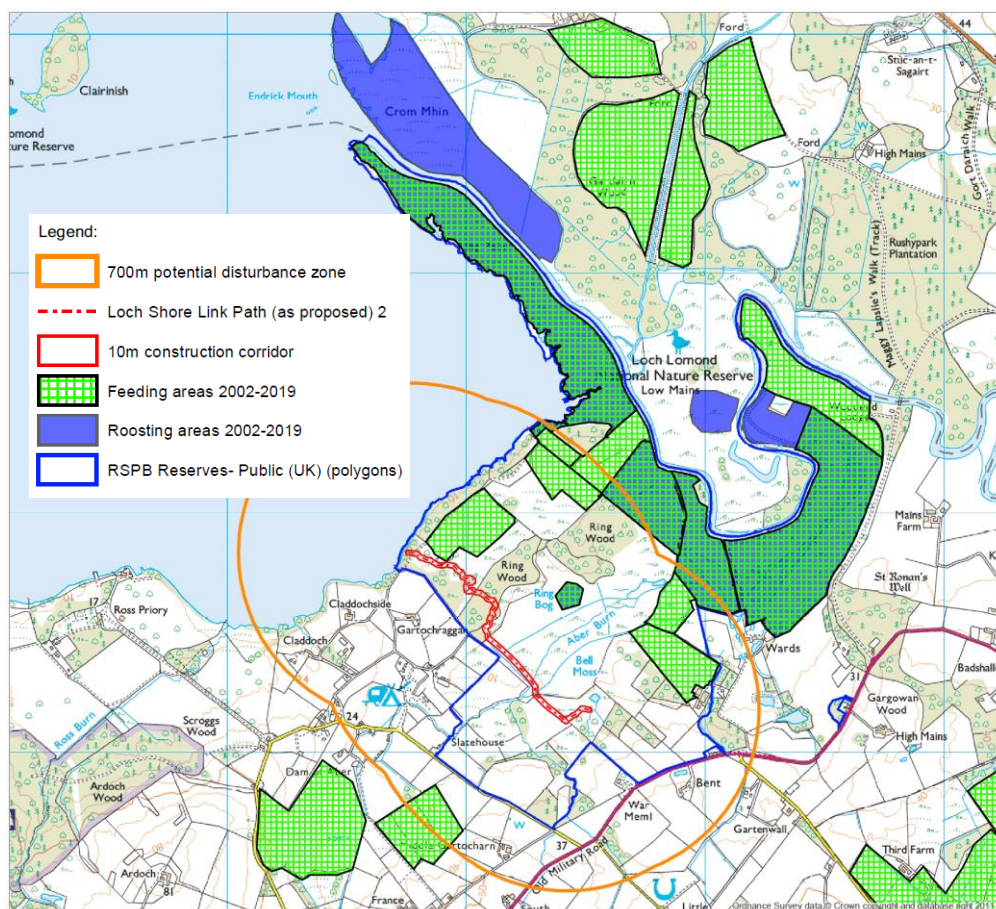


Figure 13: Greenland white-fronted geese feeding and roosting areas.

- 8.19. The route of the path has been carefully designed to avoid the most sensitive locations within the reserve and in particular, areas frequented by GWF geese. Nine feeding/roosting areas were identified within 700m of the proposed path. Of these, eight would be screened from the new path by a combination of vegetation and topography which would ensure that there is no disturbance of these areas.
- 8.20. The lack of existing screening in relation to the 9<sup>th</sup> area (Limehill Field which is adjacent to the north of Limehill Rough – Figure 14) could result in disturbance to GWF geese if present during the construction and/or use of the path in the winter months.



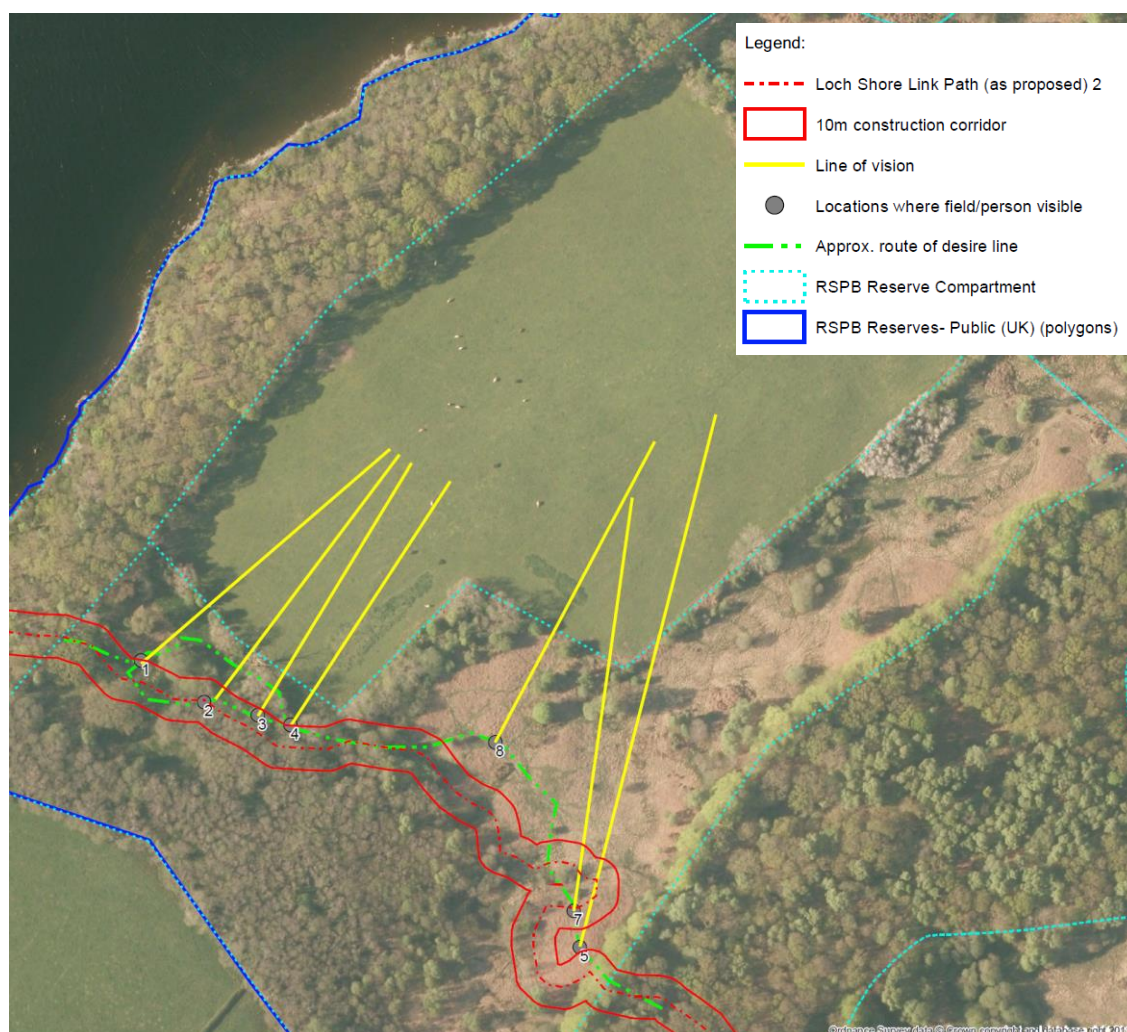


Figure 14: Assessment of visibility from Limehill Field

- 8.21. In this area existing paths (or desire lines) are evident (Figure 14). Monitoring with motion cameras has also shown dog walking frequently occurs in this area which poses an existing risk of disturbance to GWF geese in the winter months. The new path would provide an alternative route which would be less visually sensitive, with new thicket planting to provide additional winter screening ensuring visual disturbance to any GWF geese using Limehill Field is avoided. Additional measures, including signage is proposed to raise awareness of the seasonal sensitivity of the area and encourage behaviour that minimises risk of disturbance.
- 8.22. The AA concludes that there will be no adverse effect on the integrity of the SPA as a result of the construction and use of the proposed footpath if the following mitigation measures are implemented

- All construction works shall be undertaken outwith the Greenland white-fronted goose wintering period (1<sup>st</sup> October to 31<sup>st</sup> March inclusive) unless a prior survey 30 minutes before works commence confirm GWF absence;
  - No works to take place under artificial light;
  - Native thicket planting shall be undertaken at the locations highlighted in Drawing No. 40055\_107/4 to screen the path from GWF geese including additionally erection of willow hurdles until establishment;
  - Installation of signage along the route, including the gates into Limehill Field, to encourage visitors to remain on the path and keep dogs on a short lead or under close control during the Greenland white-fronted goose wintering period (1<sup>st</sup> October to 31<sup>st</sup> March inclusive);
  - Submission of a Construction Method Statement to include pollution prevention and biosecurity methods.
- 8.23. Accordingly, the implementation of these measures is recommended to be secured via planning conditions.
- 8.24. The conclusions of the AA are supported by the response from SNH which confirms the proposed pathway and its use, in their view, will not disturb the GWF or prevent them from using existing roosting and feeding locations and will not therefore adversely affect the integrity of the SPA. SNH also agrees with the RSPB's suggestion that the new path would likely help provide disturbance-free zones at infrequently used feeding and roosting locations within the wider reserve.
- 8.25. In terms of the SSSI the impacts on the notified natural features are all assessed in the submitted Ecological Survey and appendices and these are discussed below.

*Wintering and breeding birds*

- 8.26. Non-breeding greylag geese are known to use the area in the winter months and largely frequent the same areas as the GWF geese. They are susceptible to the same potential impacts as GWF geese which would be mitigated by the recommended conditions discussed above.
- 8.27. Potential impacts on hen harrier have been assessed in a separate confidential<sup>2</sup> report. Hen harriers roost in varied locations on the reserve from dusk until dawn which is outside of the construction hours and the period when the path is likely to be in use so disturbance is considered unlikely. The location of the new path is also at the periphery of areas known to be favoured roost sites.
- 8.28. The proposed footpath passes through fen and woodland habitats on site that are important for breeding birds. The 'breeding bird assemblage' includes lapwing, snipe,

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<sup>2</sup> Hen Harriers are a persecuted species



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redshank, tree pipit, redstart, grasshopper warbler and reed bunting. Spotted corncrake has also been recorded.

- 8.29. The Ecological Survey notes that the presence of the path within the woodland and fen may create an 'edge effect' or buffer zone in which some species are unlikely to choose to nest or be successful at nesting but, over time species will become habituated to its presence. Nevertheless, to minimise this effect as far as possible the route generally follows established paths and desire lines which are used frequently by dog walkers, reserve staff and visitors and so is already subject to some level of disturbance. The route has also been very carefully considered taking into account bird territory sizes and risks such as woodland fragmentation. The use of boardwalk instead of the raised bund path which currently exists in the fen area will reduce the visibility of 'silhouetted' people as the boardwalk will be set at a lower level (max 600mm) than the existing bund where the topography allows. There would be very limited vegetation removal and no tree felling so habitat for woodland birds would not be affected. Scrub removal work (which the RSPB are carrying out in and around the fen as part of wider habitat conservation activity) is helping to provide additional roosting opportunities in alternative areas of the fens.
- 8.30. The Ecological Survey notes that the present condition of the breeding bird assemblage within the SSSI is 'favourable, maintained' with the main threat being invasive species affecting their habitats. There would not be any adverse impact on the conservation status of the assemblage as a result of the proposed path.
- 8.31. As an additional safeguard pre-works breeding bird surveys are proposed to be completed to ensure no harm to breeding birds or their nests during the construction phase. This is conditioned accordingly.

### *Woodlands*

- 8.32. Ring Wood and Shore Wood are both notifiable features of the SSSI and are both classified as areas of ancient woodland. The former woodland is of plantation origin and the latter includes an area of Western Atlantic oak woodland, an important fringe habitat.
- 8.33. The micro-siting of the path through the woodland areas has been informed by a topographic survey of tree positions and the route adjusted to avoid mature tree loss entirely. There would be some short-term construction impacts affecting woodland understory although the affected area would recover naturally within a year.
- 8.34. The new footpath would result in the loss of 0.1ha of woodland understory which comprises 0.3% of the total woodland habitat within the SSSI. However, to ensure there would be no net loss of designated woodland in accord with Policy NEP8 and to help secure overall enhancement of the woodland feature of the SSSI (in accord with Policy NEP6), mitigation is proposed in the form of new planting and woodland management. This includes:

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- Woodland creation planting (of at least 150 stems of appropriate mixed shrub and tree species) within suitable areas adjacent to the woodland edge;
  - Beech sapling removal within Ring Wood on a 5-year rolling cycle;
  - Monitoring of herbivore impacts and appropriate management.
- 8.35. A condition is recommended for a Woodland Management Plan to be submitted detailing these measures and agreeing the exact location(s) of the new woodland planting. These measures would off-set the woodland understory loss and contribute to overall enhancement of the oak woodland feature of the SSSI.
- 8.36. The laying of the path would be undertaken using techniques (such as floating path and no dig construction) to avoid damage to tree roots. At the point of construction, a more detailed assessment of the extent of individual tree roots is needed to inform appropriate path construction techniques in the vicinity of each tree. A micro-siting exercise is therefore conditioned which involves pegging out the route for approval and agreement of specific methods of construction for various sections of the route, prior to works commencing. With this condition, the proposal would be capable of implementation without damage to trees in accord with Policy NEP9.

### *Plant Assemblages*

- 8.37. The vascular plant assemblage and hydromorphological mire range features of the SSSI include a number of species that are rare or scarce. In the area of the path development this includes local populations of cowbane (*Circuta virosa*) and tufted loosestrife (*Lysimachia thyrsiflora*). The submitted Ecological Survey states these features are in a favourable but declining condition. The main factors in the decline are the presence/changing extent of invasive plant species (both native and non-native), over-grazing and water management. None of these factors will be exacerbated by the presence of the proposed path route.
- 8.38. The use of raised boardwalk would ensure effects on the ground are minimised as it would sit above the surrounding fen habitat, limiting disruption to the local hydrology and avoiding and helping to reduce future compaction from footfall in the longer term. Where it is necessary to remove turfs these would be reinstated as soon as possible after construction and top soil retained on site and used for landscaping. Seed of local provenance and of an appropriate mix would be used during any reseeded. In most instances, exposed soils would be left to establish their own assemblages based on the available seedbank and reseeded will only be required in areas where this is unlikely to occur. The Construction Method Statement, secured by condition, requires submission of a biodiversity protocol to address contamination risk from imported materials (i.e. aggregates and soil will be site-won) and pollution control measures to avoid construction impacts on the water environment.
- 8.39. The main impacts (affecting up to 0.78ha of swamp and mire) would arise from construction and would be short term, with the majority of the area affected during the

construction period anticipated to recover within a year. It is estimated that the new footpath would result in the loss of 0.039ha of swamp and fen. The total loss of habitat would comprise less than 0.1% of the total fen habitat on the designated part of the RSPB reserve. The impact of the path on the species populations would therefore be negligible and the conservation status of the features of interest would not be adversely affected. Notwithstanding, the RSPB's Management Plan identifies a number of areas of fen that are to be restored (including invasive species management) which would provide a net gain in favourable fen habitat on site at the end of the 5-year period.

- 8.40. The populations of beetle and bryophyte assemblages are in a favourable, maintained condition with no pressures on their population. Their conservation status would not be adversely impacted by the proposed development.
- 8.41. Finally, objections have been raised that the proposed construction traffic route would directly impact the Portnellan - Ross Priory - Claddochside SSSI. This SSSI, which covers a localised area of the lochshore and immediate surrounds, is important for its stratigraphic and geomorphological evidence for the Lateglacial sequence of marine and glacial events. These geological features would not be disturbed by the proposal.
- 8.42. For completeness the Ecological Survey also includes the results of a walkover assessment of the undesignated farmland through which the proposed path would pass. No flora of conservation interest was identified during the survey, however there are a number of features of interest from a visitor interpretation point of view (including abundant common spotted orchids, grasslands, mixed wildflowers) and these would be highlighted along the route.

### *Summary of the impact on nationally and internationally designated areas*

- 8.43. Overall the proposal would not affect the integrity of the SPA nor affect the conservation status of the wintering and breeding bird assemblages, upland oak woodland, fens, plant assemblages and invertebrate features of the SSSI. The proposal would protect these interests and features and avoid any adverse effects that would compromise the objectives and overall integrity of the designated areas. This conclusion is informed by the Appropriate Assessment and supported by SNH. The proposal therefore accords with Policy NEP3.

### Protected species

- 8.44. Natural Environment Policy 4 (NEP4) concerns Legally Protected Species and states development will not be permitted where it would have an adverse impact on any protected species under schedules 2, 3 and 4 of the Conservation (Natural Habitats &c.) Regulations 1994, wherever they occur. The policy requires full consideration of species protected under the Wildlife and Countryside Act 1981 (as amended) and ecological survey and mitigation measures to be adopted where appropriate.

*Otter*

- 8.45. The survey work undertaken confirms that there are otters present within the reserve, however no evidence of breeding activity or regular shelter usage was found within the areas of suitable habitat within 200m the application site. The path would be sufficiently distanced from known holts so as to avoid disturbance to otter habitat. Otter are crepuscular/nocturnal animals most likely to be active between dusk and dawn so are unlikely to be disturbed by users of the path who would be active during the day.
- 8.46. The Ecological Survey recommends further survey to ensure that there are no changes in the level of otter activity in the 1 month period leading up to the start of the path construction. To minimise the risk of disturbance it also recommends no construction activity around the Aber Bog boardwalk from 2 hours before dusk until 2 hours after dawn. A condition is recommended to ensure construction is undertaken in accord with the recommendations of the Ecological Survey.

*Bats*

- 8.47. Bats are present in the woodlands along the route, however the application does not propose removal of any trees so no trees were examined for potential roost sites. Bats are sensitive to light disturbance. Therefore a condition is recommended to ensure that construction does not take place under artificial light.

*Badger*

- 8.48. The Ecological Survey includes a confidential<sup>3</sup> assessment of the impact on badgers however the proposed route is sufficiently distant from the nearest active sett so as not to cause a disturbance to habitat. Badger are crepuscular/nocturnal animals most likely to be active between dusk and dawn so are unlikely to be disturbed by users of the path who would be active during the day.
- 8.49. The survey states that best practice would be to ensure that there are no changes in the level of badger activity in the period leading up to the start of the path construction and recommends an additional walkover survey to be undertaken within 1 month of project start date followed up with 2 weeks of sett monitoring if required. This will allow appropriate mitigation (alteration to working methods and timeframes) to be put in place during construction if required. To minimise risk of disturbance it also recommends that work should not take place in the area nearest to the badger sett from 2 hours before dusk until 2 hours after dawn. A condition is recommended to ensure construction is undertaken in accord with the recommendations of the Ecological Survey.

*Red Squirrel*

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<sup>3</sup> Badgers are a persecuted species



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- 8.50. The Ecological Survey notes that red squirrels are regularly monitored by the RSPB and are known to frequent the woodland areas. Prior to construction works a walk over survey should be undertaken to check for red squirrel dreys if works are to take place February to August and this is secured by condition.

### *Water Vole*

- 8.51. The Ecological Survey notes that SNH staff reported ad-hoc signs of water vole feeding in Bell Moss in July 2015. However a more recent survey in 2016 found no follow-up evidence of water vole activity on the site. American mink are thought to be the main prevention of water vole colonisation at present and to date, no evidence of breeding water voles has been found across the whole RSPB reserve. The proposals would not therefore affect water vole.

### *Reptiles*

- 8.52. There are areas of reptile habitat in Limehill Rough, particularly for adders and slowworms. However, surveys in these areas have not recorded any presence of either slowworm or adder on site. Impacts on these species are therefore unlikely.

### *Summary of the planning assessment in relation to Biodiversity*

- 8.53. The proposed path would pass through designations of national and international importance including an SPA, SSSI, NNR and RAMSAR wetland.
- 8.54. The very carefully selected routing would avoid the areas of higher sensitivity for GWF geese and with mitigation, there would be no harm to the overall integrity of the SPA. The proposal would not affect the conservation status of the bird assemblages, upland oak woodland, plant assemblages or invertebrate features of the SSSI. Mitigation would safeguard other protected species and their habitats. Overall the path's construction and use would not lead to adverse effects that would compromise the objectives or overall integrity of any of the designated areas. This conclusion is informed by the Appropriate Assessment and supported by SNH. The proposal therefore complies with Policies NEP2, NEP3, NEP4 and NEP6.

### ***Landscape***

- 8.55. Local Plan Policy NEP1 states that development proposals should protect the special landscape qualities of the National Park, be sympathetic to their setting and minimise visual impact. Policy OP2 requires proposals to "*Safeguard visual amenity and important views*".

### *Special Landscape Qualities*

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8.56. The Special Landscape Qualities relevant to this area of the National Park and its National Scenic Area designation (as identified by SNH in 2010 in the Special Landscape Qualities of the National Park Report ) are:

- Wild and rugged highlands contrasting with pastoral lowlands; and
- Tranquillity.

8.57. The applicant has submitted a Landscape Appraisal which assesses the impact of the proposal on the landscape character and also the visual impact from 7 key viewpoints including Duncryne Hill and Conic Hill (Figures 13 and 14). In both these views the RSPB reserve is read as one with the larger landscape setting (i.e. that of generally low lying pastoral land and wooded southern shore). The development would therefore not be at odds with the landscape at this scale and so there would be no discernible impact on the first Special Landscape Quality.



Figure 7.1  
VP1 Duncryne Hill: Illustrated Photograph

Visualisation Type:	Type 1	Camera:	Canon EOS 7D 30mm Lens
Projection:	Planar	HFOV:	40.6°
Enlargement Factor:	100% @ A3	Location:	E 243569 N 685961
Date and Time:	03/10/19 14:47	Direction of View:	North West

**Figure 13: View from Duncryne Hill**



**Figure 14:** View from Conic Hill

- 8.58. Representations in objection raise concerns that the path would result in a loss of tranquillity. The Special Landscape Quality of tranquillity applies to the entire reserve and translates as an area where one is able to experience a predominance of natural sounds and sights.
- 8.59. The footfall on the proposed path can be estimated based upon the number of visitors to the reserve. The Supporting Statement confirms the reserve currently receives approximately 17,000 visitors per annum (47 per day)<sup>4</sup>. Taking account of available car park capacity at the Nature Hub the RSPB calculates a maximum figure of 35,000 visitors per annum (95 people per day). If it is assumed that (as is presently the case) activity peaks in the summer months the RPSB anticipates 120-150 visitors per day (an average of 15-19 visitors per hour). A proportion of the additional visitors may choose to remain at the Nature Hub and not venture onto the path at all. However, if it were assumed that all of the 150 peak summer daily visitors (19 per hour) chose to walk the path (and generally did so in pairs) and assuming the 1.3km path equates to a 1 hour return walk, the average number of visitors encountered on the route would be 2 people

<sup>4</sup> 17,000 figure consists of 10,000 visitors using the Shore Wood path, 4,000 visitors to the Nature Hub and an estimated additional 3,000 visitors who are not captured by counting methods

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every 145m. Footfall would be considerably less in the winter months. Whilst it is accepted that the numbers of people using the route of the proposed path would likely increase compared to present levels, the use of the path is aimed at quiet enjoyment (walking, bird watching) which is not incompatible with tranquillity.

- 8.60. The footpath would not therefore undermine either of the Special Landscape Qualities.

### *Landscape Character*

- 8.61. The character type for this area is 'Lowland Basin' which is characterised by the expansive loch basin rising to the steep sided mountains north and east of the reserve. However, given its small scale, the path would not be a dominant feature in this context. The path would not be evident from Loch Lomond itself or clearly discernible from Duncryne Hill or Conic Hill with views of the path contained by the higher landforms and trees and scrub within the RSPB reserve, particularly Shore Wood and Ring Wood. There would therefore be a negligible impact on landscape character.

### *Visual Amenity*

- 8.62. The submitted Landscape Appraisal includes analysis from 7 viewpoints including the Duncryne and Conic hilltops, some nearby minor public roads and from receptors on the boundary and locations within the reserve itself.
- 8.63. Much of the route passes through parts of the reserve where surrounding trees, scrub and woodland would limit inward views of the ground level whindust path. The location of the larger shelter structure within Ring Wood is contained by the woodland and so would not be readily visible from the surroundings.
- 8.64. The main section of boardwalk would pass through Ring Bog and Aber and Gartocharn Bog which is a more open and sensitive part of the reserve, with few trees (Figure 15).



**Figure 15:** View from Langganbeg Cottage (nearest residential receptor)

- 8.65. The design here has utilised the existing field edge and lower topography to limit visibility of visitors using this track. The boardwalk would be raised only 600mm from the



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ground which is at a lower level than the present bund which would screen it for the most part in views from the south. When the fen grasses grow (seasonally) this would have a screening effect also. The boardwalk would not include handrails but would have guard rails and seats within the rest areas (sections of around 5m in length). The proposed use of materials which are natural in appearance would help blend them with the surroundings. Although the introduction of man-made structures would represent a change, they would nevertheless be discrete so that they do not appear as intrusive elements. The final details of the proposed interpretation and seating features at the rest locations are reserved for future agreement to ensure their visibility is minimised within this more sensitive location.

- 8.66. The Landscape Appraisal concludes that there are no locations where mitigation planting is considered critical to mitigate the landscape and visual effects of the route. However, additional indigenous thicket planting would further assist with integrating the rest areas into the landscape setting and this is recommended to be secured by condition.
- 8.67. Overall the proposal would not harm the Special Landscape Qualities or landscape character and the visual impacts would be acceptable in accord with Policy NEP1.

### ***Design***

- 8.68. Design matters are covered by Policy OP2 and the Design and Placemaking Guidance. This supports the use of natural materials within new developments because they have a low embodied energy. The proposed boardwalk would be made from recycled plastic supports with propriety resin mineral board for the decked surface. The proposed material, although not natural, retains low embodied energy as a result of the recycled materials used in its construction. The material is preferential to timber as it will enhance longevity in the wet environment and minimise the need for future maintenance and/or replacement and environmental disturbance. Its use in this context is acceptable.
- 8.69. Public representations suggest that any plastic materials should be removed from the site if the use of the path becomes redundant and that this should be enforced by legal agreement. However, the path is not proposed to have a time-limited duration and consequently, there is no policy or other basis upon which to require such an agreement. All other aspects of the proposal would use natural or site won materials including the whin dust paths.
- 8.70. The submitted Interpretation Visitor Infrastructure Statement presents a number of indicative seating designs and ideas which appear to be bespoke and made from natural wood or local stone. The proposed use of unique designs and natural materials for the seating and interpretation features is welcomed, however it will be important for the final designs and appearance/colour to be appropriate and have regard to the landscape

sensitivity of their setting. A condition is included to require approval of the final details of the structures along the route to be agreed prior to installation.

- 8.71. Policy OP2 also requires developments to safeguard residential amenity (e.g. in relation to aspects such as noise, overlooking and privacy). The use of the path for walking and quiet observation is not likely to lead to disturbance of residential amenity for properties located to the south. The properties here are sited in the order of 200m from the proposed path, sufficient to safeguard both residential amenity and privacy.
- 8.72. Finally, Policy OP2 supports climate-friendly design and requires developments to minimise the impacts of climate change. Objections have highlighted the impact of construction traffic emissions and those associated with increasing numbers of visitors arriving by car. Whilst acknowledging CO2 emissions associated with construction and visitor vehicles these must be considered in the context of enhanced accessibility by non-car modes (see 8.73 below) thereby off-setting these emissions over the path's lifetime.

#### ***Transport and Accessibility***

- 8.73. Policy TP2 requires proposals to promote accessibility by all modes prioritising walking, cycling and non-motorised forms of transport. The proposal complies since it would increase the accessibility of the RSPB facilities for all users by providing a link with established footpaths giving an alternative option to arrival at the Nature Hub by car. The proposal would therefore address the aims of Policy TP2.
- 8.74. Objectors have pointed to the relatively remote and unsustainable location of the RSPB reserve and suggest proposals that would increase visitor numbers would not be sustainable in this location. However the RSPB reserve is already an established visitor destination. The roads authority does not object to the potential increase in vehicular traffic which can be safely accommodated on the surrounding road network.
- 8.75. There are no proposals to expand car parking provision, however the Roads Authority consider the present level of parking to be sufficient. As the proposal meets the Roads Authority's standards it complies with Policy TP3.
- 8.76. Objections have raised concerns regarding impacts of construction traffic on the proposed access route this being a private road (and with c. 750m of the construction access at the northern (lochshore) end being a Core Path comprising around 500m of road and 250m of track).
- 8.77. The submitted Access Arrangement Plan acknowledges that the use of the Core Path is a sensitive matter within the local community and that the types of vehicles and machinery using this stretch and measures to prevent damage to verges will need to be considered further. If it transpires that works to the Core Path are required (or any other access works are needed that are not covered by this application) then relevant

permissions and authorisations will need to be sought. The ownership of the road is a civil matter and not a planning consideration.

- 8.78. A condition is recommended to ensure that this stretch of Core Path is appropriately managed during construction (for example through the use of banksmen and signage as required) and to ensure that public access to the Core Path remains unobstructed at all times. This will also secure any necessary reinstatement works to the Core Path.

### ***Archaeology***

- 8.79. The path passes through an area of archaeological interest and within close proximity of two features. The first of these is the site of a former hay cart bridge 3m wide comprising nine red sandstone slabs. The bridge (which may or may not still be in situ) links the former marsh/hay meadow of Aber Bog to the Ring Bog meadow and the joint access road from Bogend (now Lagganbeg Caravan Park) at recorded position (NGR 243130, 687390). The second feature is a former farmstead named Ring with enclosure which is in the vicinity of the wooded area of Limehill Rough to the south of Limehill field at location NGR 242875, 687810.
- 8.80. In accord with WOSAS advice, a condition is recommended to ensure that the location of the sites is identified and barriers put in place to protect the features of interest from damage during construction works. With this condition the proposal would comply with Policy HEP7.

### ***Waste Management***

- 8.81. Policy WMP1 requires proposals to put in place measures to accommodate refuse and recycling. Representations have raised concerns that the path and increasing visitor numbers is likely to lead to increased occurrences of litter. In order to address this, a condition is recommended for a Litter Strategy to be prepared outlining the measures to control litter and waste in accordance with Policy WMP1.

### ***Other Material Considerations***

#### **Cumulative Impact and Precedent**

- 8.82. Some representations in objection raise concerns about the incremental and cumulative impact of this proposal along with previous development and projects the RSPB may wish to implement in the future. Similarly, concerns have been raised that allowing the path would set a precedent for further development within the reserve.
- 8.83. In terms of the assessment of cumulative impacts with previous developments, this was undertaken as part of the pre-application EIA screening which requires an examination of the cumulative impact with other recent development and any approved schemes in the pipeline. The screening process concluded that there is unlikely to be significant

environmental effects either individually (for this proposal) or cumulatively. The screening opinion is available to view as part of the application file.

- 8.84. Future proposals, the details of which are presently unknown and are not before the planning authority as an application, are not material to the consideration of this application which must be decided on its own merits. Approval of this application would set no precedent for future development. Any future applications would require to be judged independently and on their own merits but similarly with regard to the cumulative impact of development (including this proposal, should a permission be granted).

*National Park Aims (National Parks (Scotland) Act 2000)*

- 8.85. Developments should align with the four aims of National Parks which are:
1. To conserve and enhance the natural and cultural heritage of the area
  2. To promote sustainable use of the natural resources of the area
  3. To promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public
  4. To promote sustainable economic and social development of the area's communities
- 8.86. These aims are to be pursued collectively. However, if there is irreconcilable conflict between the first aim and any of the others then greater weight must be given to the first aim (section 9.6 of the National Parks (Scotland) Act). In other words, if there is a conflict between protecting the environment and people enjoying the environment, that can't be resolved by management, then protecting the environment is more important. This is otherwise known as the 'Sandford Principle'.
- 8.87. The RSPB's proposal aims to achieve a balance between the first and third aims. A number of representations in support believe this is achieved. However a number in objection argue the path would encourage an increasing number of visitors into the reserve, thereby risking avoidable harm and disturbance to wildlife and thus it inherently conflicts with the first aim.
- 8.88. The proposed new footpath would not necessarily lead to an immediate or significant increase in visitor numbers since the short distance route may not appeal to many general tourists and will more likely be self-selecting to users with a degree of environmental awareness wishing to pursue quiet enjoyment. It should also be recognised that activity and associated damage/erosion etc. associated with desire lines and informal routes along the route and elsewhere the wider reserve is already occurring which would be addressed, to some extent, by the new path. There is a wealth of evidence that users tend to stick to paths where these exist, particularly in wet or densely vegetated areas. The associated opportunity for increasing awareness and more effective management would enable impacts to be lessened, even removed, in more sensitive locations.



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- 8.89. Therefore, whilst these concerns are acknowledged, the potential harm and disturbance effects on the important bird species and features of the designations as a consequence of the path's construction and use can be managed and mitigated and there would be no demonstrably adverse impacts on the conservation status of any of the particular species or habitats for which the site is designated.
- 8.90. The Sandford Principle is applicable to cases where there is a clear significant conflict between the objectives that cannot be resolved through management and mitigation. In this case the potential risks have been identified and can be addressed with appropriate mitigation, where needed, secured by condition. In the absence of any demonstrable harms arising that cannot be mitigated in this case, there is no clear significant conflict arising between protecting the environment and people enjoying the environment. The Sandford Principle does not therefore apply and the proposal achieve compliance with the 4 aims.

### ***Overall Conclusion***

- 8.91. The principle of a new footpath in this location is supported by the overarching policies of the Local Plan and Policy VEP1.
- 8.92. The proposal would not undermine the integrity or conservation objectives for any of the designations. The notified species and features of the SPA and the SSSI would be safeguarded and protected along with other important wildlife through mitigation measures in the form of screening, new planting and woodland management, behavioural signage and adoption of appropriate construction methodologies and practices secured by planning condition. Overall the proposal would contribute positively to achieving the dual objectives of the National Nature Reserve for both people and nature, support the implementation of the National Park Partnership Plan actions and outcomes and achieves compliance with both the Local Plan and National Park Aims.
- 8.93. It is therefore recommended that the application be approved subject to the conditions listed in Appendix 1.

**Appendix 1      Conditions**

1. **Route Micro-siting:** Prior to construction commencing, the exact position of the path shall be pegged out for inspection and approval by the Planning Authority. Thereafter the path construction shall be undertaken in strict accord with the approved position unless any variation is approved by the Planning Authority.

REASON: to ensure that the route of the path minimises risk of damage to trees in accordance with Policy NEP8.

2. **Construction Method Statement:** Prior to commencement of development, a Construction Method Statement (CMS) shall be submitted and approved in writing by the Planning Authority. The CMS shall include:
  - a. Full details of the materials and construction techniques that are to be implemented to minimise the impacts of the development on sensitive habitats including fen and woodland.
  - b. Details of the turf management measures that are to be implemented to protect and restore affected habitats with particular attention to any areas with native bluebells;
  - c. Pollution prevention measures that accord with '*SEPA Guidance for Pollution Prevention 5: Works and maintenance in or near water*' or such replacement guidance;
  - d. The methods to be employed to ensure that the construction of the path through the wooded areas will not damage tree roots (such methods to conform with '*BS5837:2012 - Trees in relation to design, demolition and construction*');
  - e. The provenance of any soils to be used in the construction of the path which are not site-won;
  - f. A biosecurity protocol to prevent the introduction and spread of invasive non-native species from the site to other areas of the reserve. .

REASON: To ensure the notifiable features and protected species of the SPA and the SSSI are safeguarded in accordance with Policies NEP3, NEP4, NEP8 and NEP11.

3. **Artificial Lighting Prohibition:** No lighting shall be installed anywhere along the route and no construction works shall take place under artificial light.

REASON: To safeguard protected species (including bats and GWF geese) are safeguarded in accordance with Policy NEP4.

4. **Thicket Planting:** Prior to the path being brought into use native thicket planting shall be undertaken at the locations highlighted in Drawing No. 40055\_107/4 including erection of willow hurdles (or other visual barrier type with the prior agreement of the

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Planning Authority) in these locations which shall be maintained until thicket planting is established. Details of additional native thicket planting on the south side of the boardwalk shall also be submitted to and approved by the planning authority and implemented prior to the path being brought into use.

REASON: To comply with Policy NEP4 to protect species of international conservation importance from risk of disturbance and to minimise visual impact of the boardwalk and interpretation areas in accord with Policy NEP1.

5. **Badger Impact Mitigation:** No later than 1 month prior to works commencing a walkover survey for badgers shall be undertaken and the results of the survey along with details of any necessary mitigation measures, submitted to and approved by the Planning Authority. Works shall thereafter be undertaken in accordance with the mitigation outlined in the submitted (\*confidential\*) Ecological Assessment Supplementary Information: Otter and Badger Activity Supporting Statement (received 19 December 2019).

REASON: To avoid disturbance to badgers to comply with Policy NEP4 and to avoid the risk of contravening the Protection of Badgers Act 1992 (as amended).

6. **Otter Impact Mitigation:** No later than 1 month prior to works commencing a walkover survey for otters shall be undertaken and the results of the survey along with details of any necessary mitigation measures, submitted to and approved by the Planning Authority. Works shall thereafter be undertaken in accordance with the mitigation outlined in the submitted (\*confidential\*) Ecological Assessment Supplementary Information: Otter and Badger Activity Supporting Statement (received 19 December 2019).

REASON: To avoid disturbance to otters to comply with Policy NEP4 and to avoid the risk of contravening the Wildlife and Countryside Act 1981 (as amended).

**Wintering Birds:** No works shall be undertaken between 1st October and 31st March inclusive unless a survey by a qualified person for the presence of Greenland White-Fronted Geese is carried out 30 minutes prior to work starting on site each day for the duration of the works associated with this permission. If Greenland White-Fronted Geese are found to be feeding in an area liable to be disturbed by works, then work shall not commence until the geese have left the site.

REASON: To comply with Policy NEP4 to protect species of international conservation importance from risk of disturbance during construction.

7. **Breeding Birds:** If any works take place during the breeding bird season (31st March – 31st August) then the area of works shall first be surveyed by a qualified person for

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the presence breeding birds to confirm the absence of breeding birds or active nests. If breeding birds or active nests are found to be in the area liable to be disturbed by works then works shall not take place in that area until the bird has vacated the nest

REASON: To comply with Policy NEP4 to protect wildlife and to avoid the risk of contravening the Wildlife and Countryside Act 1981 (as amended).

8. **Squirrel Survey:** If works are to take place between February and August a walk over survey shall be undertaken prior to construction works commencing to check for red squirrel dreys and the results submitted to the Planning Authority.

REASON: To comply with Policy NEP4 to protect wildlife and to avoid the risk of contravening the Wildlife and Countryside Act 1981 (as amended).

9. **Core Path and Construction Access Management:** Prior to the commencement of development the following shall be submitted to and approved by the Planning Authority:

- a. A photographic condition survey (for the length of Core Path proposed for vehicular/HGV and machinery access) at a minimum of 50m intervals and including associated gates, stiles or other access features;
- b. The details of advance signage; and
- c. Arrangements for managing those taking access and construction traffic on narrow sections (including identification or provision of passing places where feasible).
- d. Details of the proposed materials storage area;
- e. The proposed hours and frequency of delivery vehicle movements (which shall not access the Core Path between the hours of 18:00pm and 08:00am).

The Core Path shall remain open and unobstructed at all times and shall be reinstated, as necessary, to the written satisfaction of the Planning Authority prior to the path being brought into use.

REASON: In the interests of pedestrian safety and to safeguard public access and residential amenity in accordance with Policy OP2.

10. **Archaeological Protection:** Prior to construction works commencing, fencing shall be erected in a manner (location and fence type) to be agreed with the Planning Authority between the construction site and the two sites of archaeological interest referenced in the consultation response from the West of Scotland Archaeology Service (dated 21 January 2020) at locations NGR 243130, 687390 and NGR 242875, 687810 respectively. No works shall take place within the area inside the fencing without the prior agreement of the Planning Authority.

REASON: To prevent damage to archaeological resources in accord with Policy NEP7.

- 11. Interpretation structures:** The detailed design and micro-siting (detailed location) of the interpretation structures and seating shall be submitted to and approved by the Planning Authority prior to installation.

REASON: To ensure that the finalised designs are of suitable materials and landscape fit to comply with Policy NEP1 and the Design and Placemaking Guidance.

- 12. Woodland Management Plan:** Prior to the path being brought into use, a scheme of compensation planting and management of the woodland areas shall be submitted to and approved in writing by the Planning Authority. The measures shall include:
- a. The location for new tree planting to include at least 150 new native trees;
  - b. The species mix of the new trees to be planted;
  - c. Planting and establishing methods;
  - d. A programme for implementation;
  - e. A programme for the removal of non-native tree species in Ring Wood;
  - f. The details of herbivore monitoring and management measures.
- Thereafter the Woodland Management Plan shall be carried out as approved.

REASON: To ensure no net loss of native and ancient woodland and to achieve biodiversity net enhancement in accord with Policies NEP6 and NEP8.

- 13. Behavioural Signage:** Prior to the path being brought into use, signage shall be erected in accordance with a Signage Strategy which shall first be submitted to and approved in writing by the Planning Authority. The signage strategy shall include:
- a. The number and siting of signs;
  - b. The content of the signs;
  - c. The periods during which the signs will be shown.

The signage strategy shall include measures to discourage straying from the path, measures to keep dogs on a short lead and seasonal use restrictions specifically including measures reduce the instances of dog walking in Limehill Field during the Greenland white-fronted goose wintering period (1st October to 31st March inclusive) in line with the requirements of the Land Reform (Scotland) Act 2003. The signs shall thereafter be erected in accordance with the approved signage strategy and maintained in accordance with the strategy thereafter.

REASON: To comply with Policy NEP4 to protect species of international conservation importance from risk of disturbance by human activity.

- 14. Programme of Monitoring:** A programme of ongoing monitoring (and mitigation as required) shall be undertaken in accord with the details set out in the submitted Ecological Assessment (received 19 December 2019). The results of the monitoring and mitigation shall be made available to the Planning Authority on request.



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REASON: To ensure that the proposed mitigation is effective and any unforeseen impacts on biodiversity can be assessed and mitigated appropriately to safeguard wildlife in accordance with Policy NEP4.

- 15. Litter / Refuse Strategy:** Details of measures to discourage littering along the route and provision for refuse management shall be submitted to and approved by the Planning Authority. The measures shall thereafter be implemented prior to the path being brought into use and maintained thereafter.

REASON: To comply with Policy WMP1 to ensure appropriate arrangements are made available for waste and recycling.

- 16. Planting Species:** Prior to any planting being undertaken a final list of approved species shall be agreed with the Planning Authority.

REASON: To ensure all the species proposed to be utilised in the carrying out of the works are appropriate and in compliance with Policy NEP6.

### List of Plans

Title	Reference	Date Received
Site Boundary	40055_101 Rev C	19/12/19
General Arrangement - Sheet 1 of 5 (Overview)	40055_107/1 Rev C	19/12/19
General Arrangement - Sheet 2 of 5	40055_107/2 Rev C	19/12/19
General Arrangement - Sheet 3 of 5	40055_107/3 Rev C	19/12/19
General Arrangement - Sheet 4 of 5	40055_107/4 Rev C	19/12/19
General Arrangement - Sheet 5 of 5	40055_107/5 Rev C	09/04/20
Access Arrangement Plan	40055_113 Rev B	19/12/19
Construction Details	40055_501 Rev A	19/12/19
Location Plan	4055_100 Rev B	19/12/19
Interpretation Plan	Map 12 - 001	19/12/19
Proposed loch shore link path and related existing paths	Map 1a	19/12/19
Proposed Shelter Building	001	09/01/20
Ecological Assessment		19/12/19
Ecological Assessment Supplementary Information: Otter and Badger Activity Supporting Statement (*confidential*)		19/12/19

### **Informatives**

- 1      Duration of permission - In accordance with section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), this permission lapses on the expiration of 3 years beginning from the date of this permission, unless the development to which this permission relates is begun before that expiration.
- 2      Notification of Initiation of Development - Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. We recommend this is submitted 2 weeks prior to the start of work. A failure to submit the notice, included in the decision pack, would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 3      Notification of Completion of Development - As soon as practicable after the development is complete, the person who completes the development is required by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give written notice to the planning authority of the completion of the building works. As before, there is notice for you to complete for this purpose included in the decision pack. In larger, phased developments, a notice of completion is to be submitted as soon as practicable after each phase is finished by the person carrying out the development.
- 4      Protected species in vicinity – bats, otters, badgers, squirrels and birds are known to be in the vicinity of the proposed development. Please be aware that they are fully protected, and it is an offence to deliberately, capture, injure or kill them or to damage, destroy or obstruct their breeding or resting places. It is also an offence to disturb them in their breeding or resting places.

Appendix 2  
Appropriate Assessment

Loch Lomond Special Protection Area (SPA)



2019/0358/DET

Construction of footpath/boardwalk with planting, seating, interpretation focal points (including a shelter), pedestrian gates and associated works  
High Wards Farm, Gartocharn, Alexandria G83 8SB

## Requirements of the Habitats Regulations

European Sites are **Special Areas of Conservation (SACs)** designated under the EC Habitats Directive to protect particular habitats and non-bird species and **Special Protection Areas (SPAs)** designated under the EC Birds Directive to protect wild birds.

The EC Directive is applied in Scotland through the *Conservation (Natural Habitats &c) Regulations 1994*, which is known as the “Habitats Regulations”.

The requirements of the Habitats Regulations are summarised in Planning Circular 6/1995 as amended June 2000.

The Habitats Regulations require that:

**Where an authority concludes that a development proposal is likely to have a significant effect on a European site (SPA or SAC), it must undertake an appropriate assessment of its implications for the European site in view of the site's conservation objectives.**

The need for appropriate assessment extends to projects outwith the boundary of the SAC or SPA, in order to determine their implications for the interest protected within the site.

### Significance Test

Regulation 48(1) of the Habitats Regulations requires the competent authority to first carry out a ‘significance test’. The test for significant effects acts simply as a filter to exclude any projects which have no possible connection to the interests of the SAC or SPA.

Under Regulation 48 of the Habitats Regulations, the LLTNPA, as a competent authority, has a duty to:

- determine whether or not the proposal is directly connected with or necessary to SAC/SPA management for conservation; and, if not,
- determine whether the proposal is likely to have a **significant effect** on the SAC/SPA either individually or in combination with any other plans or projects; and, if so, then
- make an **appropriate assessment** of the implications (of the proposal) for the SAC/SPA in view of that site's conservation objectives.

The first bullet should only be accepted where it is part of a fully assessed, and agreed, management programme.

### Appropriate Assessment

Habitats Regulation 48 (5) requires that “*in the light of the conclusions of the assessment, the authority shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site*”, in relation to its conservation objectives.

## Agency Role

In undertaking the Appropriate Assessment, the Habitats Regulations require LLTNPA to have regard to the advice we receive from statutory consultees including SNH, SEPA and HSE (Health and Safety Executive). However, the responsibility for undertaking the Appropriate Assessment rests with LLTNPA.

## Background Information on the Loch Lomond SPA

Name of European site: Loch Lomond	
Site Type: Special Protection Area (SPA)	
Qualifying Interests:	
SCIENTIFIC NAME	COMMON NAME
<i>Anser albifrons flavirostris</i>	Greenland white-fronted goose
<i>Tetrao urogallus</i>	Capercaillie
Conservation Objectives:	
To avoid deterioration of the habitats of the qualifying species (listed above) or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained; and	
To ensure for the qualifying species that the following are maintained in the long term:	
<ul style="list-style-type: none"><li>• Population of the species as a viable component of the site</li><li>• Distribution of the species within site</li><li>• Distribution and extent of habitats supporting the species</li><li>• Structure, function and supporting processes of habitats supporting the species</li><li>• No significant disturbance of the species</li></ul>	

## Project Information

A planning application (2019/0358/DET) has been submitted to Loch Lomond & The Trossachs National Park Authority for the construction of footpath/boardwalk with planting, seating, interpretation focal points (including a shelter), pedestrian gates and associated works at High Wards Farm, Gartocharn.

The proposed path is around 1.3km in length and a maximum of 2m wide. During construction, a corridor of approx. 8-10m will be required to allow for soil regrading, and machinery access where required. The path will link two existing paths, the upper Airey Woodland Trail and lower Shore Wood Trail, to create a route from the existing RSPB visitor centre and car park to the shores of Loch Lomond. Three quarters of the proposed path lies within the Loch Lomond SPA/Ramsar site and the remainder lies just outside to the SPA/Ramsar site boundary. Any impacts on the wintering Greenland white-fronted goose interest of the Loch Lomond Ramsar site are fully addressed as part of the following Habitats Regulations Appraisal for the Loch Lomond SPA. The route also passes through part of the



Endrick Mouth & Islands SSSI and Loch Lomond National Nature Reserve (impacts on these interests are considered separately).

#### Significance Test for Planning Application 2019/0358/DET

### **Qualifying Features of the Loch Lomond SPA**

As listed above, the Qualifying Interests of the Loch Lomond Special Protection Area are:

- Greenland white-fronted goose (*Anser albifrons flavirostris*)
- Capercaillie (*Tetrao urogallus*)

The Conservation Objectives for the Loch Lomond SPA are detailed in the background information above.

### **Significance Test**

The application site lies within and adjacent to the Loch Lomond SPA which is classified for its wintering Greenland white-fronted geese (*Anser albifrons flavirostris*) and breeding Capercaillie (*Tetrao urogallus*) qualifying interests.

#### Greenland white-fronted goose

Greenland white-fronted geese (GWF) roost on the mainland section of the SPA and primarily feed on agricultural fields outwith the SPA boundary. They are particularly susceptible to disturbance and require large open areas with clear sight lines for foraging and roosting.

The construction and use of a path within or adjacent to feeding/roosting areas during the winter months (October to March inclusive) has potential to disturb the wintering GWF qualifying interest of the SPA.

**As a consequence, the proposal is likely to have a significant effect on the GWF qualifying interest of the SPA and an appropriate assessment is required.**

#### Capercaillie

Capercaillie historically bred on the four Luss islands and they require mature woodland with a well-developed understory and low levels of disturbance, especially during their breeding season in the spring and summer months. There have only been occasional sightings of capercaillie in recent years and the SPA no longer supports a viable population.

The application site is situated around 5km away from the nearest of the four Luss islands where capercaillie historically bred. Given the separation distance between the development site and the section of the SPA where capercaillie historically bred, there will be no impacts on the woodland supporting habitat or disturbance to breeding capercaillie within the SPA.

**As a consequence, there will be no likely significant effect on the capercaillie qualifying interest of the Loch Lomond SPA and capercaillie are not considered further in this assessment. This conclusion is supported by SNH.**

### **Appropriate Assessment**

The applicant has submitted *Information to inform an Appropriate Assessment* in support of the application (Ecological Assessment, Appendix 1). This assessment concludes that there

will be no adverse effect on the integrity of the Loch Lomond SPA. SNH have confirmed that they are content with the scope and conclusion of this assessment.

<p>Elements of project likely to give rise to significant effects on the site.</p>	<p><b>Greenland white-fronted geese</b></p> <p><u>Disturbance</u> As highlighted above, the application includes works within and directly adjacent to the SPA. Any construction works carried out when the wintering GWF are present (October to March inclusive) could result in disturbance of the geese. Activity, light pollution and noise all have the potential to cause disturbance.</p> <p>In the longer term, the use of the completed path during the winter months has potential to result in disturbance of the GWF. Whilst individual instances of disturbance may be relatively minor, the cumulative effects could be considerable. This could result in feeding/roosting areas becoming unsuitable for use by GWF.</p> <p><b>As a result, construction disturbance and disturbance through the use of the completed path are considered further below.</b></p> <p><u>Habitat loss/deterioration</u> Around three quarters of the proposed path lies within the boundary of the SPA and its construction will result in the loss of a very small amount of semi-natural habitat from within the SPA (e.g. around 0.1% of the total fen habitat on the site will be affected). However, the route of the path has been specifically chosen to avoid feeding and roosting areas used by GWF. As a result, there will be no direct impacts on the supporting habitat used by GWF. In terms of indirect effects on supporting habitat outwith the immediate footprint of the works, given the small-scale nature of the proposals, absence of significant drainage works and use of boardwalks in fen areas to avoid impeding water movement, there will no indirect impacts on the supporting habitat used by the geese. <b>As a result, impacts on the supporting habitat for the GWF are not considered further in this assessment.</b></p>
<p>Describe how the integrity of the site (determined by structure and function and conservation objectives) is likely to be affected by the project (e.g. loss of habitat, disturbance, disruption, chemical changes, hydrological changes and geological changes etc.).</p>	<p>GWF roost on the mainland section of the SPA and primarily feed on agricultural fields outwith the SPA boundary. They are particularly susceptible to disturbance and require large open areas with clear sight lines for foraging and roosting.</p> <p>The RSPB hold records of GWF activity in the area dating back to 2002 (pre-2012 records were collated by SNH). This data identifies the location of feeding and roosting areas used by the geese over this period and provides an indication of the frequency of the use of these areas. This information provides a robust baseline</p>

to assess the potential impacts of the proposal and it has also enabled the RSPB to select a route that avoids passing through feeding and roosting areas.

The *Information to inform an Appropriate Assessment* report highlights that research in West Greenland identified that GWF became alert when an approaching person was around 700m away. Although this study is based on moulting birds, which are known to be more sensitive to disturbance and will not be present in the SPA (GWF moult in the summer), 700m has been used as a precautionary figure to assess the potential for disturbance to feeding/roosting areas outwith the immediate footprint of the works.

Using the available survey data, a total of nine feeding/roosting areas were identified within 700m of the proposed path. Of these nine areas, eight are screened from the new path by a combination of vegetation and topography. This screening will ensure that there is no disturbance of these areas during the construction and use of the proposed path during the winter months (e.g. through activity or noise).

A detailed assessment of the potential for impacts on the ninth area (Limehill Field) was undertaken and the results are presented in the *Information to inform an Appropriate Assessment*. This area lies adjacent to part of the proposed path route. GWF have only been recorded feeding in Limehill Field on four occasions since 2002 with the most recent record from 2015/16. As the field is surrounded by woodland and scrub on all sides, it is not considered optimal habitat for GWF as they prefer large open fields with clear sight lines.

In addition, data gathered from motion-sensitive cameras in 2018/19 and the presence of several desire lines in the area highlight that there is already a high level of activity within and around this field, particularly by dog walkers. It should also be noted that the images captured on the cameras showed that dogs were not being managed under close control (i.e. on a short lead or at heel).

Although the route of the path in this area was specifically chosen to take advantage of existing screening and back-clothing by trees and other vegetation, several locations were identified where existing vegetation was not sufficient to screen the path from any geese using the field. The lack of existing screening in these areas could result in disturbance to the GWF during the construction and use of the path in the winter months.

As a consequence, the proposal could affect the following conservation objectives for GWF:

	<ul style="list-style-type: none"> <li>• Distribution of the species within site</li> <li>• No significant disturbance of the species</li> </ul>
Describe what mitigation measures are to be introduced to avoid any adverse effects on the integrity of the site.	<p>There will be no adverse effect on the integrity of the SPA if the following mitigation measures are implemented (adapted from the mitigation proposed in the application):</p> <ul style="list-style-type: none"> <li>• <b>Timing of the construction</b> – All construction works shall be undertaken outwith the Greenland white-fronted goose wintering period (1<sup>st</sup> October to 31<sup>st</sup> March inclusive) unless the following mitigation measures are implemented: <ul style="list-style-type: none"> <li>○ The site shall be surveyed by a qualified person for the presence of Greenland white-fronted geese 30 minutes prior to work starting on site each day for the duration of the works associated with this permission.</li> <li>○ If Greenland white-fronted geese are found to be feeding in an area liable to be disturbed by works, work shall not commence until the geese have left the site (which may mean no work is carried out that day).</li> <li>○ Works shall not take place under artificial light.</li> </ul> </li> <li>• <b>Screening</b> – Native thicket planting shall be undertaken at the locations highlighted in Drawing No. 40055_107/4 to screen the path from GWF geese. An artificial screen of willow hurdles shall also be erected along these sections and maintained until the planting is sufficiently established to provide similar cover.</li> <li>• <b>Construction Method Statement (CMS)</b> - Prior to commencement of construction of the development, a detailed Construction Method Statement (CMS), which sets out how the construction of the development will be managed, shall be submitted to, and approved in writing by, the Planning Authority. In particular, the CMS shall include the following: <ul style="list-style-type: none"> <li>○ Full details of the materials and construction techniques that are to be implemented to minimise the impacts of the development on sensitive habitats such as fen and woodland.</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>○ Details of the turf management measures that are to be implemented to protect and restore affected habitats.</li> <li>○ Pollution prevention measures that accord with SEPA Guidance for Pollution Prevention 5: <i>Works and maintenance in or near water</i> or such replacement guidance.</li> <li>○ Biosecurity measures to prevent the spread of invasive non-native species to new areas within and into the site.</li> </ul> <p>Unless otherwise agreed in writing by the Local Planning Authority, all works shall be carried out in accordance with the approved Construction Method Statement.</p> <ul style="list-style-type: none"> <li>● <b>Signage and behavioural information</b> – Installation of signage along the route, including the gates into Limehill Field, to encourage visitors to remain on the path and keep dogs on a short lead or under close control during the Greenland white-fronted goose wintering period (1st October to 31st March inclusive) in line with the requirements of the Land Reform (Scotland) Act 2003.</li> </ul> <p>Implementation of these mitigation measures will ensure that there will be no adverse effect on the integrity of the SPA as a result of the construction and use of the proposed footpath.</p> <p>The implementation of these measures is to be secured via planning conditions.</p>
In combination effects	<p>As discussed above, there is some existing recreational disturbance in the area of the proposed path, particularly around Limehill Field. Whilst the new path may lead to an increase in the number of visitors, evidence from elsewhere suggests that most visitors are likely to use the new path. Given the sensitive routing of the proposed path and the inclusion of the above mitigation measures, the proposal will not increase the level of disturbance and may actually help reduce disturbance of GWF by steering visitors away from more sensitive areas.</p> <p>No in-combination effects with other plans and projects are predicted in the <i>Information to inform an Appropriate Assessment</i> and SNH have supported the conclusions of this assessment.</p>
Conclusion	<p>Provided the above mitigation measures are secured via appropriately worded planning conditions, the proposal</p>



	will not have an adverse effect on the integrity of the Loch Lomond SPA. This conclusion is supported by SNH (See 23 January 2020 advice letter).
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