

## CONFIRMED MINUTES

### National Access Forum – 41st meeting

Battleby  
25<sup>th</sup> January 2017

**Present:**

|     | <b>Representatives</b>              | <b>Organisation</b>                                      |
|-----|-------------------------------------|--|
| 1.  | David Henderson Howat               | Convenor National Access Forum NAF                       |
| 2.  | Rob Garner                          | Secretary National Access Forum NAF                      |
|     |                                     |  |
| 3.  | Helene Mauchlen                     | British Horse Society Scotland (BHSS)                    |
| 4.  | Paul Timms                          | Cycling UK   |
| 5.  | Kevin Lafferty                      | Forestry Commission Scotland FCS                         |
| 6.  | Lois Bayne-Jardine                  | Historic Houses Association Scotland (HHAS)              |
| 7.  | Stephen Jenkinson                   | Kennel Club / Scottish Kennel Club                       |
| 8.  | Simon Pilpel                        | Local Access Forums (LAF) contact                        |
| 9.  | Angus Duncan                        | Local Authorities contact                                |
| 10. | David Gibson                        | Mountaineering Scotland (MS)                             |
| 11. | David Clyne                         | National Park Authorities (CNPA)                         |
| 12. | Jamie Smart                         | NFU Scotland (NFUS)                                      |
| 13. | Rona Gibb                           | Paths for All (PfA)                                      |
| 14. | Helen Todd                          | Ramblers Scotland (RS)                                   |
| 15. | Jonathan Kitchen                    | Scottish Advisory Panel for Outdoor Education (SAPOE)    |
| 16. | Eddie Palmer                        | Scottish Canoe Association (SCA)                         |
| 17. | Gareth Heavisides                   | Scottish Government (SG) Rural & Environment Directorate |
| 18. | Karen Ramoo                         | Scottish Land & Estates                                  |
| 19. | Peter Rawcliffe and Alan Macpherson | Scottish Natural Heritage (SNH)                          |
| 20. | Roger Scrutton                      | Scottish Sports Association (SSA)                        |
| 21. | George Menzies and Douglas Wright   | Scotways   |
| 22. | Gillian Kyle                        | sportscotland  |
| 23. |                                     |  |

**Item 1 – Welcome** – the Convenor opened the meeting with a welcome to all attending, having taken over as Convenor from the new year.

**Apologies:** Richard Cooke - Assoc of Deer Management Groups (ADMG); Jake Swindells - British Association for Shooting & Conservation (BASC); Duncan Orr-Ewing - RSPB Scotland (RSPB); Riddell Graham - VisitScotland; Gillian Brymer - Wild Scotland Ruaridh Macintyre – Confed of Forest industries (Confor).

#### **Item 2 – Minutes, action points and Matters Arising from previous meeting**

1. The minutes of the previous meeting (28<sup>th</sup> Sept 2016) were approved without any amendments.

## 2. Action points –

**AP 40/1** - any further comments on the Ramblers Scotland paper to be sent to Helen within two weeks. *Discharged*

**AP 40/2** – consider in due course any response from OS received by Visitscotland  
*Discharged*

**AP 40/3** – a further meeting of the subgroup to be arranged, probably in December, to include Scotways - *Discharged*

**AP 40/4** – further contact to be maintained with the Ordnance Survey meanwhile, to help in addressing any issues and practicalities in progressing matters. *Discharged*

**AP 40/5** Secretary to respond further to Land Registers of Scotland on the updating of their website information. *Discharged*.

**AP40/6** - Secretary to email views expressed in discussion for a combined measure to the Scottish government. *Discharged*

**AP 40/7** – Kevin Lafferty will share/circulate further details on Lyme disease research, target audiences and advice. *Discharged*.

**AP 40/8** – Theresa Kewell to issue further invitations to join the Comms Calendar.  
*Discharged*.

**AP 40/9** – David Henderson Howat is elected Convenor, to take over from 1<sup>st</sup> Jan 2017.  
*Discharged*

Matters arising - David Gibson reported that Andrea Partridge had now left MS, and is replaced by James Orpwood as Access and Environment Officer, and that the draft Code for Snow-Sport Tourers (minuted as Item 8 of previous meeting) had been subject to very positive discussions with the Association of Ski Operators. The Code has now been finalised, approved and is now publicised at all ski centres, entitled 'Snowsports Touring & Managed Resorts in Scotland'.

**AP41/1** - David Gibson to send the link to the 'Snowsports Touring & Managed Resorts in Scotland' leaflet to the Secretary for circulation.

### **Item 3 - Reports from Convenor and Secretary**

3. The Convenor reported that he had attended the Paths for All 20<sup>th</sup> birthday event, and the British Horse Society Scotland conference at Auchterarder.

He noted the meeting held on 5<sup>th</sup> December 2016 of the sub-group on core paths being shown on Ordnance Survey mapping. The meeting had considered discussions held with Ronan McGarry of OS looking at the business case for OS including core paths, and the OS response to the letter from visitscotland. It also had heard from George Menzies about the current position of mapping data on rights of way, and that Scotways are content for now that the sub-group should concentrate on working towards the core paths being shown on OS maps. Helen Todd added that Ramblers Scotland had issued a press release on core paths and OS on 23<sup>rd</sup> December, including a statement from OS, and there had been a strong level of support generated with over 600 replies. A further meeting with the OS has been arranged for early February

**AP41/2** – Secretary to arrange the next meeting of the Core paths and OS maps sub-group in late February.

4. The Secretary reported on several items:

- The Land Reform (Scotland) Act 2016 had come into effect on December 31<sup>st</sup> 2016, with relevant aspects clarifying the procedures for the reviewing of core paths plans.
- Visitscotland has recently produced a refreshed 'Tourism Development Framework for Scotland', in which 'Theme 5 – Nature & Activities' is particularly relevant for outdoor access and recreation.

- A consultation from SNH on the scoping of their next Corporate Plan had been circulated to members
- There had been correspondence from the Scottish Auto Cycle Union, who are corresponding members and were enquiring over a more active role, and it was noted that this may be looked into when a wider review of full memberships of the forum is due to be carried out in late 2017.
- There had been correspondence with Police Scotland over continuing concerns that their leaflet on 'Rural Crime' promotes rather uncompromising messages over the locking of all gates, and even fencing across gates and access points, without clarifying how this advice may refer particularly to vehicular access gates (rather than non-motorised access for the lawful exercise of access rights). Police Scotland had replied that they will provide a paragraph for inclusion in the guide which reflects the balance between the outdoor access code and the crime prevention measures, in a more complementary way. Jamie Smart recognised the need for a balanced approach, and Karen Ramoo noted that measures were needed to guard against poaching.

#### **Item 4 – Enduro Mountain Biking activity**

5. Kevin Lafferty introduced this paper, which provided information on the growth of 'Enduro' mountain biking, and implications for land managers on trails formation and the management of competitive events. Kevin noted from the paper that Enduro is a relatively unregulated sport activity, where there may be opportunity for discussion across the various interests, perhaps leading to a concordat of some sort. Karen Ramoo showed some pictures illustrating the scale of constructions that can arise, and wider implications such as conservation issues relating to capercaillie. It was explained that trail building particularly affects some areas such as Dumfries and Galloway, Borders, Moray and Aberdeenshire, encouraged by events and improved bike technology developments, and it can be off-putting to walkers and other users, as well as on occasions leading to quite serious accidents and liability issues. There had even been a fatality last year from a biker exiting a trail onto a road in Moray. These issues were raised in a recent Parliamentary committee debate which noted the lack of insurance cover and of broader knowledge, and there has been Ministerial consideration by Bridget Campbell and Fergus Ewing, so there may be scope for the forum to help in the production of practical guidelines.

6. In discussion of the paper, Paul Timms suggested there is a need for careful use of language, for instance distinguishing between where cyclists and land managers are working in partnership, and where it is not agreed construction; and there is a need to mention planning permission, and perhaps damage to designated sites, or criminal damage, while it is not clear how robust are the legal opinions in the paper. Jonathan Kitchen thought more clarity was also needed over liabilities, and it was agreed these are matters needing further discussion and clarification. Helene Mauchlen noted that horse riding as a risk sport has been dealt with in the Access Code, including not being allowed to build jumps or repetitive schooling for instance, and some jumps have been given rateable valuation by certain councils, so is surprised that similar issues with cycling are seen as a problem, and the equestrian provisions may serve as a model. Steve Jenkinson queried whether in practice we are able to suppress such activities, and there is a need for practical management so as not to simply displace activity elsewhere, and this may include raising awareness and by providing choices. Jamie Smart agreed that liability can be a concern, since even if not found liable it can be expensive to contest liability claims. Helen Todd had no easy solutions to suggest, but welcomed the positive start to the paper and the recognition on the value of outdoor sport activity. The Environment Committee in England are examining shared use access, so it would be good if Scotland can demonstrate how to do it.

7. David Clyne welcomed the paper looking for solutions, but agreed that care is needed over the wording, and it seems to be the building of structures – and who pays for their removal – that is the key point. CNPA had been involved in similar cases, and had facilitated meetings between the various parties which had been positive. Lee Cousins explained that Enduro is an official sport and discipline, with international rules, a world series and several Scottish full-time professionals, so is quite a success story, and while not promoted or recognised by British Cycling or run by clubs, there is a lot of energy and enthusiasm which needs to be harnessed rather than suppressed. The paper needs clarification, and while he agrees with recommendations 1 and 3, it may for instance be better to aim at some public statements rather than an agreed ‘concordat’, charging and zoning are unlikely to be practical, and a better evidence base and understanding is needed. Karen Ramoo noted that several of their members are interested in developing trails, so there are potential positive approaches.

8. In conclusion, the convenor considered there was clearly a bundle of issues that are in need of some discussion and clarification, which may be suitable for a sub-group to look at in greater detail, but the first step might be to arrange a site visit to see some evidence on the ground, and to use that as a basis for seeing if a sub-group would be appropriate.

**AP41/3** – FCS to arrange a site visit for a range of interested members to view and discuss the Enduro mountain bike issues in more detail.

#### **Item 5 – SRDP Improving Public Access scheme**

9. The Secretary presented the circulate paper providing an update on the second annual round of the IPA scheme. There were 64 applications submitted, from all parts of Scotland, with some 40 cases progressing to approval, involving a total value of approximately £1.8m.

10. There were no questions on the paper, but David Gibson raised a point over upland paths and the need for a broader Uplands vision over path erosion and restoration works, since the flip-side of access can be the need for conservation. Alan Macpherson reported that SNH-led work in partnership with others, including NTS, John Muir Trust and Cairngorms Outdoor Access Trust, has been considering the gaps in resourcing for upland paths (previous meeting minutes 40/7). This has led to an Uplands Working Group, with survey work planned for this summer, while there is also work on scoping the process for preparing an Uplands Vision related to the Land Use Strategy. There will be a further report to the forum on this initiative later in the year.

#### **Item 6 – Loch Lomond and Trossachs NPA: update on camping byelaws**

11. Bridget Jones gave an illustrated presentation on the NPA preparations for the camping byelaws which are due to come into effect on 1<sup>st</sup> March 2017. The main areas of work are on camping sites provision, raising awareness, signage, ranger patrolling, the booking system, support systems, and a monitoring and reporting system which will provide the basis for a formal report after 3 years of operation. In more detail, work has included planning and developing location provision to meet demands, with a campsite at Loch Chon opening by early March; recruiting and training seasonal staff; arranging fee charges, of £3 per tent per night for a permit, and of £7 per night per adult for site charges; an online booking system and data base; design of co-ordinated signage, to be installed in February; and an awareness campaign using leaflets, drop-in road shows, and social media like Facebook.

12. Bridget then provided answers for a Q-A discussion. **Q** Eddie Palmer asked for clarification over the enforcement powers of rangers, in cases such as when canoeists may be caught out by bad weather - **A** the NPA is working with the Local Access Forum, and groups like Duke of Edinburgh awards, to develop more detailed approaches for such groups, but the general enforcement powers involve the NPA making a report to the

Procurator Fiscal, with fines available at Level 2. In practice, the ranger will use an official notebook to record breaches which logs it onto an existing database, and so to the Procurator Fiscal. **Q** It was noted that the website mentions Level 2 fines, but does not mention that this can mean a criminal record – **A** that is noted, but prosecution is being seen as a very last resort. **Q** Jonathan Kitchen asked about vehicle barriers and how they might impact on access for minibuses with canoes for access, drop-off and launching? – **A** this will be kept under review in practice. **Q** Is there a particular number of motor homes being allowed, as there had been suggestions of 20, which appears insufficient? – **A** the priority has focussed on camping, but campervan provision is also being planned including use of laybys. **Q** David Gibson noted that engagement with communities and user groups is key, and there have been intentions of using Ramblers and other organisations to spread the information, but how will information reach visitors from outside Scotland, camper-vanners etc, when will information be available for inclusion in magazines, and what if people cannot get online reception? – **A** a whole team of communications staff is currently preparing this, using many different formats, for different audiences, so is currently very active work. The areas of poor reception are being mapped for information, but the main message for the public is to “Book before you go”. **Q** Helen Todd emphasised that the recreational bodies are looking to be more engaged, with a need for greater feedback, and meetings of the stakeholder forum would be welcome as part of facilitating contacts – **A** noted as an action point :

**AP41/4** LLTNPA request that comments and suggestions regarding the camping byelaws are raised directly with their communications team, to assist feedback and direct contact.

13. Bridget Jones also reported on the recent court hearings at the Sheriff Appeal Court on the Drumlean case, where a partial judgement had been provided on some aspects, but the fuller judgement is still awaited, with a possibility of further appeal to the Court of Session.

#### **Item 7 – The Improvement Service, Spatial Hub mapping and core paths dataset**

14. Simon Roberts, spatial data administrator with the Improvement Service, gave an illustrated presentation which explained the overall work of the service in updating and bringing together a wide range of spatial data relating to local authority functions and information. Within the numerous datasets which are being compiled and mapped on GIS, the core paths is a dataset which is seeing good progress. There are now just two authorities whose core paths remain to be loaded (Glasgow and Orkney) and these are expected to be included within a month, to provide complete coverage. Simon explained some of the technical mapping issues that had emerged during the work and which are being resolved as far as possible. In discussion it was requested that the Improvement Service provide individual local authorities with an error report list where they have discovered discrepancies in core paths mapping, and this can be done as an Excel spreadsheet or graphic. There was a query about whether problem might arise if the public can make changes to these maps, but it was clarified that these maps are not open to unauthorised changes, and that each local authority’s core paths maps continue to be the definitive version.

#### **Item 8 – Communications Update**

15. Theresa Kewell (SNH) provided an update of current promotion and communication work, which includes a commissioned project developing family-friendly training resources for dog-walkers, especially at National Nature Reserves like Tentsmuir, which will include a range of training videos. Also preparations are underway for this Spring’s campaign against sheep-worrying, in conjunction with the Police Scotland, NFUS, SLE and others, which will include radio and video broadcasts in March and April. There has also been work to re-print three guidance leaflets, mainly to update contact information rather than amend the content, and on liaising over camping promotional work alongside the LLTNPA and others. Theresa requested that members check their websites to ensure all live-links to the Code website are

working properly, with a reminder over keeping the joint Communications Calendar on Knowledge Hub up to date.

16. David Gibson mentioned that it would be useful to include contact with the Scottish Gamekeepers Association, and he will supply contact details. Stephen Jenkinson noted that the North Wales Police are running a good communication campaign at present, with particular focus on dogs which stray from homes rather than being with dog-walkers, and better reporting of these stray or 'latch-key' dog incidents is a key theme this year, to help monitor the real position and assist both in understanding and remedying these issues. Jamie Smart noted that 'worrying' of sheep is broader than attacking sheep, and responsibilities need to be emphasised alongside rights. Jonathan Kitchen asked whether the communications work included links with schools about the Code, and Peter Rawcliffe noted that this has been highlighted as an area for further work, while Rona Gibb reported that there is a lot of work done through schools by Living Streets and Active Travel programmes.

### **Item 9 – NAF Forward Work Programme 2017-18 –**

17. The Convenor introduced his paper, which puts forward a range of potential issues as the basis for discussions to help shape the main area of works and outputs as a proactive framework, and is looking for suggestions. The first suggestion from Jonathan Kitchen was over better outreach to schools, as raised above, and Helene Mauchlen noted that SNH has funded BHSS in developing education materials, which could be built on. Jamie Smart reiterated the point over helping land managers to cope with any irresponsible behaviours. David Gibson suggested some review process on the operation of the LLTNPA byelaws after a season in operation. Kevin Lafferty raised the mountain biking issues discussed previously, agreed over monitoring the camping byelaws, and suggested further work on forestry operations and access. Helene Mauchlen suggested looking into the continuing mixed messages within the SRDP Greening funds and confusion over use of field margins, while the development of a non-judicial resolution process was another priority. George Menzies agreed with that, and noted that the Faculty of Advocates may be currently looking into those types of dispute resolution, which tend to need both sides to agree to co-operate but if possible would be very useful.

18. Steve Jenkinson was happy to endorse these various suggestions, but considered that a more positive type of approach is needed, as sometimes a focus simply on problems sounds like a cracked record. Many issues are about doing more, to be more active and promotional, and the aim should be to overcome resourcing constraints to achieve broader social benefits. Helen Todd agreed that we need to make more of social and economic benefits that can be generated, and highlight these benefits during talk of budget cuts. Simon Pilpel agreed with this line too, as local authorities are working with a raft of other bodies and partners to deliver a variety of benefits and new opportunities, with good news stories for instance over health initiatives. There is scope to use the data being developed by SOAN on the position over authority budgets and cuts, and David Clyne agreed that a more positive response and tone needs to characterise approaches over the coming year or two.

**AP41/5** - The Convenor to note the suggestions over the content and positive tone of prospective work for the Forum in developing the forward programme.

### **Item 10 – NAF – LAFs Joint meeting draft arrangements –**

19. This meeting is to be held at Battleby on Friday March 2017, and there was useful discussion of ideas for the topics to be covered. It was felt that it should convey a positive and forward-looking approach as just debated above, and for instance find space for news and information about the exciting and co-operative access projects that are being seen around the country, for which several case examples were suggested. Several members

agreed to stay behind to discuss topics and arrangements further, to help prepare the programme.

### **Item 11 – Any Other Business –**

20. Various matters were raised –

- Kevin Lafferty noted that Forest Research is due to produce a briefing by end March on Ticks and Lyme Disease, FES will be piloting work on this at various sites including Tentsmuir forest, and FCS is running awareness courses on the subject for their staff.
- David Gibson enquired about Deer Management Plans, in some of which there appear to be comments contrary to access rights, so is there any process within SNH or elsewhere to handle such matters? Pete Rawcliffe said he was not aware of such problems, but it is timely to raise this as SNH is just about to advise government, and there is awareness that there can be variations among DMPs. David Gibson also raised the limitations they felt existed in the level of engagement by LLTNPA with recreational groups in preparing the camping byelaws, and Gareth Heavisides advised that if such groups had concerns they should write to Ministers about it, possibly on a joint basis through outdoor pursuits groups.
- Dave Clyne noted that CNPA has won an award in the planning awards for 2016.
- Rona Gibb mentioned that the Health and Sports Committee is asking for examples on good local practice, along the lines of a recent Sport England report; the Scottish Government 'Planning Review' is open for comments until 4<sup>th</sup> April' the Community Engagement Fund has opened for a new round; the 2017 Year of History, Heritage and Archaeology has linkages to access in many aspects, and next year will see the Year of Younger People; and the Cycle Action Plan 3<sup>rd</sup> edition was issued last week.
- Jamie Smart raised an issue over how the Road Traffic Act required insurance for vehicle use both on-road and where used on 'any public place', so does that phrase mean that access rights have extended off-road insurance requirements?
- Roger Scrutton noted that Scottish Orienteering has an agreement that their vehicles will have insurance on Forest Enterprise land, but may have special rates.
- George Menzies noted that Scotways have produced digests of recent legal cases, which he is happy to circulate to NAF members or to LAFs if requested.
- Douglas Wright distributed leaflets on the Borders Walking Festival, 3-9<sup>th</sup> Sept 2017.

### **Date of Next Meetings -**

- NAF/LAFs meeting - **Fri 17<sup>th</sup> March 2017**
- NAF meetings - **Wed 17<sup>th</sup> May 2017**  
**Wed 27<sup>th</sup> Sept 2017**  
**Wed 7<sup>th</sup> Feb 2018**

**Close** - The Convenor thanked all those attending, and closed the meeting.

### **Summary action points:**

**AP41/1** - David Gibson to send the link to the 'Snowsports Touring & Managed Resorts in Scotland' leaflet to the Secretary for circulation.

**AP41/2** – Secretary to arrange the next meeting of the Core paths and OS maps sub-group in late February.

**AP41/3** – FCS to arrange a site visit for a range of interested members to view and discuss the Enduro mountain bike issues in more detail.

**AP41/4** LLTNPA requests that comments and suggestions regarding the camping byelaws are raised directly with their communications team, to assist feedback and direct contact.

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