

## Cairngorms Local Outdoor Access Forum

### MINUTES OF THE THIRTIETH MEETING Glenmore Lodge, Glenmore near Aviemore

Tuesday 8<sup>th</sup> November, 2011

#### Summary of Action points arising from meeting

- API- AQSS to write and thank RSPB staff for their time and effort.**  
**AP2- BG to explore if the Board could jointly meet with the Forum during the 2012 summer programme of informal Board visits.**  
**AP3- Katrina Brown to present a paper on the key findings to the next meeting.**  
**AP4 - AQSS to inform the owners of the advice of the Forum.**

#### Forum members in attendance

Paul Corrigan (Convener)	Richard Wallace
Thomas MacDonell	Catriona Rowan
Nic Cole	Jeremy Usher Smith
Gordon Riddler	Hebe Carus
Robbie Nicol	Malcolm MacIntrye
Paul Webster	Nigel Williams
Andy Dunn	Ian Hill

<b>Others in attendance:</b>	
Bob Grant, CNPA	Katrina Brown, James Hutton Institute
Dougie Baird, COAT	Ian Cox, AoCC
Adam Streeter-Smith, CNPA	

#### Item 1 – Welcome

1. The Convener thanked everyone for coming and especially welcomed Gordon Riddler the new CNPA Board representative, Katrina Brown of the James Hutton Institute, Dougie Baird of the Cairngorms Outdoor Access Trust and members of the public who were in attendance. He thanked the Glenmore Lodge for hosting the meeting and providing the nice soup and sandwiches.
2. Special thanks were given to Jeremy Roberts and Ian Perks of the RSPB for a very informative site visit which members enjoyed.

#### **API- AQSS to write and thank RSPB staff for their time and effort.**

3. The Convener highlighted that the Scottish Countryside Access Network had recently hosted an Access Fair and that the SATIN ([www.satinonline.org](http://www.satinonline.org)) website had also been launched which is of interest to members. He also

highlighted that the Cairngorms National Park had been awarded for the second time the Sustainable Tourism Charter.

4. The Highland Council had adopted the Spey into their Core Paths Plan based upon recommendations by the Reporter. However the same Reporter had recommended that railway crossings should not be included until the Royal Commission had completed its findings on the matter.
5. Special thanks were extended to Andy Dunn for his time showing the Loch Lomond and the Trossachs National Park Authority and CNPA access staff around Kingussie.

## **Item 2 - Apologies**

Dave Craig	
Rachel Bromby	
Richard Gledson	
Peter Holden	

## **Item 3 – Appointment of the Convener and Vice Convener**

6. AQSS confirmed that no other nominations for the position of Convener and Vice Convener had been received so therefore an election was not required. He confirmed that Paul Corrigan and Hebe Carus are now appointed to Convener and Vice Convener respectively each serving a term of 3 years.

## **Item 4 - Minutes of the last meeting – approval and matters arising not otherwise appearing on the agenda.**

7. The minutes were agreed with minor spelling edits

### **Action points arising from the last meeting**

#### **API- Discharged.**

**AP2- Discharged-** AQSS highlighted that the Cairngorms Business Partnership (CBP) payback scheme had floundered at the time due to the economic downturn, however work was been taken forward to look again at such a scheme subject to a cost effective delivery mechanism. In the mean time the Activity Providers group of the CBP had discussed the matter and there was wide spread support in the outdoor business sector to donate to suitable local causes such as COAT.

#### **AP3 – Discharged**

**AP4- Discharged-** AQSS reported that discussions with Forestry Commission Scotland on the matter had highlighted reluctance on their behalf to use cross compliance as a tool to resolve access issues. However, on other matters such as long term forestry management plans there was keenness to ensure compliance with the Land Reform Act. Members reiterated concerns that the CNPA was too quick to support land managers with funding for gates etc when estates were legally required to respect those rights of access takers. Should the Forum not take a stronger line with regards to obstructions? BG responded by highlighting that the

CNPA wasn't the grant giving body in forestry schemes so has no powers to withhold funds. Funding for gates has only been to improve access e.g. to allow horse and bike access and would not be considered where access is blocked. The CNPA has always gone through due process with access cases, as agreed by the Forum, but has to be realistic in how resources are allocated to cases and how public money should be spent. The Convener highlighted that issues like this had come up at the NAF/LAF meeting and there was a strong feeling that when land is sold new owners need to fully understand the law. Forum members were reminded that the Act was still new and that weak cases in case law would do more harm than good.

#### **AP5- Discharged.**

#### **Item 5 – Mountain Paths Heritage Project- An Introduction from Cairngorms Outdoor Access Trust (COAT)**

8. Dougie Baird introduced this presentation by highlight the work of the Mountain Paths Heritage Project. This multi-million pound project is seeking to protect the mountain paths and tackle erosion exacerbated by:
  - Fragile mountain landscape;
  - Weak vegetation and soils;
  - Massive increase in hill walking in 1980s and 90s;
  - High rainfall.
9. Work started on this project over two years ago with the upland path audit. This audit sought to indentify which paths were a priority and undertook to survey and cost them. This formed the basis of the Mountain Paths Heritage Project which was successful in securing funding from a number of sources. The project currently only deals with the northern part of the Park due to funding constraints.
10. Coupled with the practical path works the project is also delivering an 8 month training project many of who attended the training will be going on to set up in business themselves. The project is also looking to develop an “adopt a path” scheme which is being done with the North East Mountain Trust and looks to recruit volunteers to monitor paths in their area. Similarly, the project is also developing an appeal scheme to allow the public donate money to upland path repairs.

#### **Item 6- The functioning of a LOAF: findings from the James Hutton Institute study**

11. Katrina Brown (KB) introduced this item highlighting that the Hutton research team has followed CLOAF since 2006. It began as minor component of wider study examining access practices in CNP using mobile video methods. It soon found many other valuable insights into LAFs themselves, their role and function the findings are of potential use to the CLOAF specifically and other LAFs in Scotland. The study has reviewed over 200 pieces of data gathered & analysed qualitatively, fieldnotes, transcripts, official supporting documents (minutes, papers & strategy documents).

12. The study clearly showed that the Forum was very successful for reasons such as:

- CNP widely valued area;
- Demand for Forum places;
- Human & Social & capital;
  - rich source of knowledge & expertise, effectively shared;
  - social learning sustained over time;
  - informal opportunities for building trust & mutual understanding;
  - efficient & forward thinking access authority to work with;
- Purpose & scope of Forum's role clearly (& regularly) articulated;
- Proactive in reflecting on/improving Forum processes;
- Effort put into maintaining legitimacy;
- Issues raised usually taken up & explored further;
- Relatively well-resourced;
- Strategic AND practical perspective;

13. The study has identified a number of challenges for the future:

- Strategic v. specific, practical cases;
- Advising/assisting CNPA v. other stakeholders;
- Advisory v. executive roles;
  - influence over execution of access management tasks, decisions & protocols;
  - how directly to be involved in resolving issues;
- Proactive v. reactive approach;
  - pre-empting/preventing problems, not assuming only problems are reported ones, standardising/streamlining approach to resolution
  - maintaining space for the specificities of context & new issues/approaches

14. In the discussion that followed one area of weakness that was identified in the Forum was public presence/awareness. This issue has been discussed before and one view was that it wasn't much of a problem as those on the Forum did seek to publicise its work and public engagement did take place when it mattered, for example on tough cases. Members cautioned that excessive public engagement may pull the Forum in opposite directions.

15. Gordon Riddler highlighted that in the past the CNPA board had found the Forums advice to be invaluable but now with new members there was an opportunity for the Board to learn more about the Forums work. It was proposed that the Board should be invited to attend CLOAF.

**AP2- BG to explore if the Board could jointly meet with the Forum during the 2012 summer programme of informal Board visits.**

16. Members highlighted that it is the nitty gritty issues that they like to be involved in, although they clearly have an important strategic role, but that such meaty discussions are often left out of the minutes.

17. BG stated that it is the advice that comes from these discussions that is of most value to CNPA and in terms of public participation in meetings, it is important to avoid the Forum acting in a quasi-judicial role.
18. It was agreed that there was a lot of information contained in the presentation and to make the best use of it the way to take this forward is to have a full discussion at the next meeting.

**AP3- Katrina Brown to present a paper on the key findings to the next meeting.**

**Item 7- Urrard House, Killiecrankie- advice on the extent of the privacy zone**

19. AQSS introduced this item first stating that the grounds of this paper are not to seek advice in light of a potential section 14 notice but for advice on the privacy zone around the house. There are a number of other issues that have yet to be resolved in regards to this case which may come back to the Forum at a later date.
20. AQSS highlighted that in October 2010 this issue of a locked kissing gate had been raised by a concerned resident. Testimony was strong that the path had been in use for some time and used by others. This was again demonstrated at a public meeting on the matter where the community's view on the matter was made clear.
21. AQSS went on to explain with photographs the line of the path in relation to the house pointing out that the path, whilst rough, is clearly there. Other features such as the pheasant pens and garden fence were also pointed out. (It was proposed that for similar issues in the future a video recording would be of assistance to the forum.)
22. AQSS highlighted that the Estate had raised concerns about privacy in their correspondence and although they hadn't defined the zone on a map had clearly taken a view that those on the path would be infringing the privacy of the house.
23. AQSS then highlighted that the three legal cases, *Gloag V Perth and Kinross Council*, *Snowie V Stirling Council* and *Creelman V Argyll and Bute Council* relating to privacy, were relevant. All three cases determined that large houses with certain characteristics are afforded more privacy than if that same house was in an urban location. All the cases also made references to boundary features such as fences being useful to determine the extent of privacy.
24. AQSS did also highlighted that attempts had been made to date to secure an alternative path, that best suited the needs of all parties, but that the Estate had made another longer route suggestion. This longer route could not be supported by the CNPA as it was considerably longer and not on the Estates property. This could be viewed as failure to comply with the land owners' duty under section 3 of the Act. A view the Forum supported.

25. A number of finer points of clarification were sought before the discussion began. Members did acknowledge that the path was very close to the house and supported the view that residents in such a house should be afforded a higher degree of privacy than one in an urban location. They also questioned the purpose of the path stating that it was just as likely to be part of the policies and not necessarily built with the public in mind.
26. The CNPA's view was sought on the matter. Its view is that the privacy zone does not extend over the garden fence as there is a clear division, supported by the presence of the pheasant pen, between the garden and the working area of the estate. A view supported by the case law to date. Members expressed concern that it would be difficult for the public to be responsible being so close to a pheasant pen and would disturb young poults.
27. Members acknowledged that the alternative was the best solution here in addressing everyone's needs fairly and also concluded that the path was not, in their view, within the privacy zone of the house.

#### **AP4 - AQSS to inform the owners of the advice of the Forum.**

#### **Item 8 Upholding access rights and other casework**

28. AQSS introduced this item updating members on the following cases:
  - Case 5- Deishar woods- this issue may come back to the Forum for advice. The owners are being made aware of the issue and in partnership with FCS we are seeking to ensure that the long term forest management plan does take access into account. Richard Wallace highlighted that recent correspondence with the owners and reported that they are concerned about stock and are looking at solutions to address this;
  - Case 6- Boat of Garten- this is a new case regarding a crossing of the Strathspey Railway. The railway company are looking at the issue and seeking advice on health and safety;
  - Case 17- Broomhill Bridge – this was an update for the forum to report that the new owners have been identified and their views are being sought;
  - Case 18- Glen Clova – this new case relates to a new electric fence. The design of the fence had been agreed by Angus Council and CNPA staff are just looking to establish if the works had been done;
  - Case 23 and 24- CNPA staff have met with the factors and new owners respectively and both are supportive of the improvements to access.

#### **Item 9- SOAC Tread lightly project update**

29. Paul Webster declared an interest in this item as Walkhighlands provide advertising for SOAC on their site.
30. Bob Grant introduced this item setting out that the CNPA had done some thinking on code promotion and wanted to put it on a more proactive footing. This programme of promotion needed to tie in with national campaigns but equally needed to address issue relevant to the Park.

31. Taking the main themes of dogs, camping and mountain biking as already agreed by the Forum, a more targeted programme of works will be taken forward.
32. Members highlighted that visitor management issues are not just restricted to the code. There are concerns about the clogging up of car parks set out for specific sites by users who may be visiting other parts of the Park. Likewise there are still practices in path management that are restricting some forms of access with horses being specifically highlighted.

### **Item 10- National Park Plan two consultation**

33. BG introduced this item highlighting the current Park Plan ends next year and that the CNPA is consulting both on the new Plan and the main issue report for the Local Development Plan. In taking this forward a series of public meetings have been held across the Park to encourage the public to engage in the process.
34. The new draft Park Plan set out:
  - A Long-term Vision;
  - 3 Strategic Objectives;
  - 10 Five-year Outcomes
  - A Principle for Planning and Land Management and;
  - 8 Policy Directions.
35. Views are being sought on the 5 year outcomes and the packages that are being proposed to deliver them.
36. The main issues consultation for the Local Development Plan is seeking views on the policy direction rather than on each settlements housing allocation at this stage.

### **Item 11- National Access Forum updates**

37. The Convener introduced this item reporting on the recent NAF/LAF joint meeting. The meeting had some excellent presentations on access and planning issues as well as updates on the work of the NAF. Key points of note were the work being done on access and trunk roads, forthcoming guidance on commercial access, the closure of core paths and wildfires.

### **Item 12- Update and forward look**

38. AQSS introduced this item highlighting that the inquiry into the path order for the Speyside Way had taken place on the 18<sup>th</sup> of August and there had been a site visit on the 19<sup>th</sup>. The CNPA are awaiting the Minister's decision.
39. AQSS also highlighted that the biannual outdoor access events meeting had been held on the 26<sup>th</sup> of October attended by over 20 delegates. Topics such as the events calendar and sustainable event planning were discussed.

### **Item 14 AOCB**

40. Nic Cole highlighted that a consortium of Council, other Agency staff and volunteers are taking forward proposals for an East highland Way linking up Perth with Aberdeen.

41. AQSS reminded members that long periods of absence from meetings without reasonable excuse would result in their place being given to others who had recently applied to the Forum.

**Item 14- Date of next meeting**

42. **Tuesday 7<sup>th</sup> of February 16:30- Ballater**