

# Cairngorms Local Outdoor Access Forum

## MINUTES OF THE NINETEENTH MEETING Albert Memorial Hall, Ballater

Tuesday 17 February 2009

### Summary of Action points arising from meeting

AP1: The CNPA will provide an update to the Forum in August

AP2: A discussion on the funicular will be scheduled for the next meeting

AP3: Dougie Baird to receive a standing invite to attend future Forum meetings

AP4: FP to circulate a copy of the CNPA's response to the SNH Paths Policy consultation

Juliet Allam	Fred Gordon
Simon Blackett	Debbie Greene
Rachel Bromby	John Grierson
Nic Bullivant	Thomas MacDonnell
Hebe Carus	Malcolm Macintyre
Paul Corrigan	Catriona Rowan
Dave Craig	Roger Searle
Andrew Dunn	Richard Wallace
Jo Durno	Paddy Wright

### **In attendance:**

Murray Ferguson, CNPA  
Bob Grant, CNPA  
Fran Pothecary, CNPA  
Keith Marshall, MacAulay Institute  
Pete Mayhew, RSPB  
Tim Poole, Caper BAP

### **Item 1 – Welcome**

1. Paul Corrigan opened the meeting and asked the Forum members to introduce themselves. He welcomed members of the public in attendance and Dr Keith Marshall from MacAulay Institute and speakers Pete Mayhew of RSPB and Tim Poole of the Caper BAP group.

### **Item 2 – Apologies**

2. Apologies were received from Peter Holden

### **Item 3 - Minutes of the last meeting**

3. Minutes were approved

### **Item 4 - Matters arising not otherwise appearing on the agenda**

4. A query was raised about whether the CNPA had progressed further work on the matter of land manager involvement in promotion. Reference was made to the Scottish Hill Tracks leaflet and the realism about what could be achieved in the light of promotional tools such as websites. It was observed that continued promotion of well-known existing routes was less of a concern to land managers than new opportunities. The Park Authority recognised the limitations that existed in influencing third parties but intimated that it is a subject they will be addressing through guidance on good practice in the spring.

### **AP1: The CNPA will provide an update to the Forum in August**

### **Item 5 – Recreation in caper sensitive areas**

#### **Background – Tim Poole**

5. Caper are protected by the EU birds directive and also under Schedule 1 of the Wildlife and Countryside Act which prohibits reckless disturbance between April and August and whilst the birds are lekking, generally March and April. The birds are suffering from low productivity and populations have crashed since the 1970's from around 20K to around 1- 2000. CNP holds 65% of the UK population of caper. Key conservation issues are predation, climate change, habitat fragmentation, fence strikes and human disturbance, of which breeding season disturbance is the main concern in Scotland. All these factors mean that caper survival rates are reduced; their behaviour and physiology undergoes changes (for example they tend to avoid areas within 200-250m of tracks) and they become vulnerable to predation.

#### **Managing visitor disturbance and mitigation measures in the National Park – Pete Mayhew**

6. European legislation makes it very clear that there is a nation state responsibility to "avoid deterioration of natural habitat" for caper.
7. In the Park, the main issues are as follows:
  - a) Uncontrolled promotion of access especially through websites
  - b) Statutory recreational development – Core Path Planning

- c) Proliferation of events and their impact on caper and other people's quiet recreation
  - d) High density of tracks
8. Mitigation strategy could include the following:
- a) Refuges
  - b) Zoning
  - c) Track removal and amendment
  - d) Changing visitor behaviour and use of signs
9. Action needs to be proactive, not reactive and a strategic approach is needed to safeguard caper interests. The CNP have an unrivalled opportunity to develop such a strategy.

### **The Park Perspective – Bob Grant**

10. CNP is heavily designated for nature conservation, 39% is covered by designations. The four aims of the Park must be delivered in a collective and co-ordinated way. The Outdoor Access strategy has a section focusing on managing access at sensitive sites, containing 5 key principles which the Park Authority and partners will aim to achieve. A number of examples of current good practice were highlighted such as signage and Caper Watch but there is no evidence yet to demonstrate how effective these are in helping to avoid problems or conflicts. To assist in the following discussion BG posed some questions –
- a) How do we judge what a negative impact is?
  - b) How do we ensure that we are consistent over the Park?
  - c) How do we communicate with the public and amongst ourselves so we are fully aware of sensitive areas?
  - d) How effective has displacement activity such as Caper Watch been in addressing the problems?
  - e) How effective is good signage?

### **Discussion**

11. The following points were made:
- a) The massive drop off between the 70's and 90's was most likely the result of climate change primarily but a mix of other factors is also responsible
  - b) The use of control areas were mentioned to build evidence for disturbance. It was suggested that a "jump" in acceptance towards the precautionary principle as a basis for action was a better strategy as data from control sites can take a long time to gather

- c) It was asked how helpful signage was to management. It was intimated that with the right language and used appropriately, it could be helpful – sometimes there was felt to be a need to use stronger language than the Code could provide for. A form of consistent signage for use by land managers was suggested
- d) There is a need for a wide programme of public education. ‘Traditional secrecy’ of caper sites may not serve the species in the long run if it means people cannot be made aware of where sensitivities lie.
- e) Black grouse are not part of the current measures to reduce disturbance
- f) The fact that differing land managers had differing aims and objectives, and therefore differing strategies for managing access was briefly alluded to.
- g) A concern was expressed about the potential for ‘creeping’ limitations on access on a broad geographic scale. For example, upland land managers might wish to encourage access away from the hills during sensitive times such as stalking season, which might not be welcomed by low ground or forest managers who might have their own reasons for discouraging access to these places at that time.
- h) Clarification on the meaning of refuges was asked for – these are often “no-go” zones where access is limited in some way

### **Item 6 – Outdoor Access Casework**

- 12. **Case 4 Aviemore Highland Resort** – BG informed the meeting that AHR have appealed to the Sherriff Principal on the two elements over which the Sherriff ruled. Specifically these relate to ‘retrospectivity’ and curtilage. If AHR are unsuccessful there remain open avenues for further appeal. Irrespective of the outcome of the appeal the third element of the initial appeal will still require to be determined. This related to land management and will follow once the appeal on the other two elements is resolved.
- 13. **Case 60 Kinncraig** – FP clarified that ‘business premises’ referred to curtilage of the buildings in this case
- 14. **Ballater** - It was observed that Ballater still ranked highly in terms of number of cases. FP countered this by saying that most of the cases concerned one estate, and that several others had already been resolved through core path planning and other negotiations with land managers.
- 15. **Cairngorm Mountain Funicular** - BG informed the meeting that the closed system on the funicular has been raised again with the Park Authority receiving several letters from members of the public.

Whilst the Park Authority has already received legal advice confirming the position that access rights don't apply in this case, it was considered useful for the Forum to have an opportunity to be updated and informed about the situation. A paper will be scheduled for the May meeting.

**AP2: A discussion on the funicular will be scheduled for the next meeting**

**Item 7 – Abergeldie Estate**

16. FP updated the Forum about the action taken so far. She intimated that the designs for a self closing gate had arrived and were being considered. It was asked why the Park Authority didn't move to more formal action in this case – it was stated that the Authority felt there was some way to go and that the land manager had made some effort to improve access, although falling short of the ideal situation. Also no further complaints had been received about the obstructions since May 2008.

**Item 8 – Cairngorms Outdoor Access Trust**

17. Dougie Baird, the COAT Project Manager introduced this item. He informed the Forum that COAT now employs 2 Project Officers, one Project Manager and a part-time admin support. Affiliate representatives Andy Dunn and Robin Blythe have been elected to the Board to represent West and East Cairngorms areas respectively. The business plan has been largely dependent on CNPA funding initially but significant other funding has been coming in from SNH, Aberdeenshire Council and revenues from the Glenmuick car park. Grant applications have been lodged with LEADER, Climate Challenge Fund, Paths to Health and SNH. Work has started on a couple of bridge projects in Kingussie and Strathdon; and maintenance has been carried out on existing UDAT network, both low ground and upland. Climate Challenge Funding is being sought for a joined up community paths projects – a revised application with more declarations of community support is to be submitted. Assessment and surveys of pan-Cairngorms upland paths is underway; a workshop after Easter will prioritise paths to take forward and Lottery Funding and ERDF will be sought. Other work is being undertaken in the field of health and well-being; Alan Melrose is supporting volunteer walk leaders in Deeside and a leaflet of health walks is being produced.

18. It was agreed that Dougie should be invited to attend all LOAF meetings to give updates where necessary

### **AP3: Dougie Baird to receive a standing invite to attend future Forum meetings**

#### **Item 9 – Speyside Way Extension**

19. Bob Grant introduced this item and informed the meeting that under the 1967 Countryside (Scotland) Act, SNH are required to take responsibility for developing Long Distance Routes. As regards the extension to Newtonmore, SNH have sent a recommended route to the Minister for approval – the decision was imminent but has been delayed by a change of Minister. Once the line has been agreed it will fall to CNPA as the Access Authority to implement it. BG also informed the meeting that the CNPA have commissioned a review regarding the section of the route within the Park and that the contract will be let in the next couple of weeks.

20. It was asked whether the CNPA would be entering into agreement with land managers either for new sections of the route or where those between Council and land manager had expired. BG informed the meeting that on the whole the CNPA would have to be persuaded of a very strong reason for doing so – such as agreements to take vehicles onto land – and that, as access rights had been secured under the 2003 Act, there was correspondingly less of a need to use agreements to allow for access.

#### **Item 10 - Participatory Video Project**

21. The project steering group has decided to focus on eliciting views from people about dogs in the countryside, speaking to LOAF members; and members of the public and utilising key events such as the forthcoming workshop on “Dogs in the Countryside”. It is felt that there is a rich ground for opinions on varied topics such as caper; wildlife; domestic stock; other users; dog poo and working dogs. NB and KM are organising the programme and any editing will be done with the assistance of MacAulay.

#### **Item 11 – SNH Paths Policy**

22. DG introduced the item and informed the Forum that the policy had completed a public consultation process and is likely to be approved in June 09. The policy has four main objectives – to ensure paths are used by a wider range of people; to make local paths more accessible; to ensure a more coherent network of Long Distance Routes to and ensure sustainable access to the uplands

**AP4: FP to circulate a copy of the CNPA's response to the SNH Paths Policy consultation**

**Item 12 – AOB**

23. FP informed the meeting that the CNPA access team were in the process of preparing statements on objections to the Draft CPP for the local inquiry, dealing with 24 objections on 26 issues.

24. TMD informed the meeting of a presentation he had seen regarding a possible website version of Heading for the Hills, showing boundaries of estates and supplying contact details. The project is backed by the SRPBA and SNH.

**Item 12 – Date of Next Meeting**

25. Tuesday 12<sup>th</sup> May at Cairngorm Mountain (**Post Meeting Note - the date has been changed to Tuesday 5<sup>th</sup> May 2009**)