

Highland wide Local Development Plan - Main Issues Report Consultation Summary and Actions Sheet

Reference Number:	HWLDP-MIR-2
Organisation/Individual:	The Mountaineering Council of Scotland (Hebe Carus)

Action:

Immediate Response Required	
Meeting required with Respondent	x
Issue for Area Local Development Plan	
Further Information Required	
Other (Please Specify)	

If no box ticked - issues raised will be dealt with in preparation of the Proposed Plan.

Issues Raised in Response:

Purpose of Main Issues Report	
NPF2 for Scotland	
Vision for the Highlands	
Inverness and A96	
The A96 Corridor	
Phasing of Development	
Developer Contributions	
East Inverness	
Nairn	
Tornagrain	
Smaller Settlements in A96	
Caithness and North Sutherland	
Easter Ross and Nigg	
Development of Local Centres	
Wider Countryside and Fragile Areas	
Population and Housing	
Housing in the Countryside	
Affordable Housing	
Planning for an Ageing Population	
Gypsies/Travellers	
Retailing	
Developer Contributions	
Natural, Built and Cultural Heritage	x

Previously used Land	
Wild Land	x
Water Environment	
Renewable Energy	x
Flooding	
Waste Management	
Air Quality	
Sustainable Design	
Business and Industrial Land	
Accessibility and Transport	
Agricultural Land	
Subdivision of Existing Crofts	
Allocation of Inbye Land	
New Crofting Township	
Small Scale New Crofts	
Coastal Development	
Forestry and Woodland	
Minerals	
Open Space and Physical Activity	x
Access to the Outdoors	x
Comments on Consultation Process (+ve)	
Comments on Consultation Process (-ve)	

Key:

Background	Spatial Strategy	Policy Options	Consultation
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Notes:

Meeting to discuss policy wording for policies on access to the outdoors – Need Access Officer to attend meeting

Action Sheet Completed by:	SH
Date:	4/12/09



THE MOUNTAINEERING COUNCIL OF SCOTLAND

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19/8/09

Stuart Black
Director of Planning and Development
The Highland Council
Glenurquhart Road
Inverness
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M.C. PLANNING AND DEVELOPMENT	
24 AUG 2009	
JB	
RT	
MM	
FILE REF:	

Dear Mr Black,

MCofS comments for Local Development Plan Main Issues Report

Please accept these comments from the Mountaineering Council of Scotland (MCofS) on the Local Development Plan (LDP). We are recognised by the Scottish Government as the Representative Body for hill walkers, climbers and ski mountaineers. We have 10,000 members and aim to represent the interests of all the approximate 400,000 regular Scottish mountaineers on issues relevant to access to, and conservation of, Scotland's mountaineering environment. This makes a significant contribution to rural economies. Mountaineers contribute approximately £150 million to the Scottish economy each year. This includes hills, mountains, sea cliffs, upland and lowland crags. I have restricted comments to issues that are a priority for those we represent; primarily the contents of the current SPPs 6, 11, 15 and the NPPG 14 (updated in a draft SPP14). I have addressed these in the order which they appear in the condensed draft SPP which is likely to be finalised during the LDP drafting. This response is based on our consulted upon, and agreed, position statement available at www.mcofs.org.uk/access-position-statements.asp.

The MCofS position is that the planning system exists to sustain the quality of the environment while permitting appropriately located and designed development to benefit economic growth. This necessitates that the LDP conserves, and where possible enhances, the natural heritage of the area. This includes biodiversity and landscapes. The LDP must be drafted strategically with the perspective at the ecosystem level and with an appreciation of the significance of the planning authority's resources beyond the authority boundaries.

Rural Development (SPP15)

The MCofS believes that the central premise of the planning system is to sustain the quality of the environment while permitting appropriate development to support economic growth. As SPP15 states in paragraph 8, "wider economic and social objectives should also be considered as should Scotland's distinctive environment and heritage." Paragraph 26 specifically emphasising that even outwith natural heritage designated sites, the aim of economic growth should be tempered by the fact that, "one of rural Scotland's special features is the extent to which environmental quality is high outwith protected areas as well as within them." Paragraph 27 of SPP15 also emphasises this in terms of the LDPs, "Local Development Plans must recognise potential but they must also address constraints." Environmental protection actually promotes economic growth particularly in

more economically fragile rural areas. The businesses that rely on servicing the outdoor-oriented visitors and activities are vital to the Scottish Government's central purpose of economic growth. There should also be recognition that some forms of growth may limit other forms of growth such as tourism through the impact on the natural heritage, including landscape. The LDP should fully take into consideration the need for this balance and recognition of the huge economic importance of conserving natural heritage, including landscape, both within and outwith protected sites.

Landscape and Natural Heritage (NPPG14)

The MCofS is fully supportive of the need to protect and enhance Scotland's natural heritage, including landscapes. This is integral to many people's enjoyment of the outdoors. The LDP should reflect the importance placed on this in the current NPPG14, both within and outwith protected sites. The perception of Scotland as a wild place with a high quality of natural heritage underpins the economic benefits accrued from branding and as a marketing tool for tourism, despite the low numbers that actually many of these areas, and the absence of designated areas encompassing the relevant areas. The number of visitors or absence of designation cannot be used as an indicator of value.

We support the planning policy guidance with respect to the precautionary principle, and emphasise the need to consider that wildness is a resource that has only recently begun to be researched. Results so far suggest that despite the debate about whether truly wild land exists in Scotland, the nation's residents strongly believe in the importance of conserving the relatively wild areas of Scotland that still exist. Based on the precautionary principle these areas of relatively wild land should be conserved through LDPs while further research is conducted to build upon research into public perceptions of value (*Public Perceptions of Wild Places and Landscapes in Scotland*, SNH Commissioned Report, ROAME No. F06NC03, Market Research Partners, 2008) and GIS mapping development (*Wildness Study in the Cairngorms National Park*, Commissioned by the Cairngorms National Park Authority and Scottish Natural Heritage, Steve Carver et al, 2008). This consideration cannot be restricted to protected sites as none have wildness as a feature based on which they have been selected.

Conservation of what we have is more effective and efficient than attempting to reinstate or compensate natural heritage lost through inappropriately located or designed development. The LDP should note NPPG14 paragraph 10 that states, "land rehabilitation, landscaping and the creation of new or improved habitats ... can never offer adequate compensation for the loss of habitats which have developed by natural processes over many hundreds of years." As many development decisions often depend upon mitigation measures such as these, and primarily planners are not ecologists, balancing their value is an important but difficult calculation, hence reference to this statement would be greatly beneficial.

NPPG14 makes it clear in paragraph 11 that wild land is not just of local importance but is of much higher significance in some areas. These are recognised as, "mountain and coastal landscapes which are valued nationally and internationally for their quality, extensiveness and wild land character." There is no designation for wildness, and as such it is a complex issue to integrate into the planning system. The LDP may therefore be best to simply repeat the statement of the high importance of wildness in Scotland along the lines of the current NPPG14. Additionally, there needs to be recognition of the concept of limit in these areas as in paragraph 16; "the most sensitive landscapes may have little or no capacity to accept new development. Some of Scotland's remoter mountain and coastal areas possess an elemental quality from which many people derive psychological and spiritual benefits." These benefits are important for both mental and physical health of residents as well as benefitting the economy of the area through tourism and product branding. Gathering

research by SNH has shown wildness to be highly important to residents of Scotland, and its value is not dependent upon the respondent actually using the resource in a physical way. Wildness value is based on perception of the landscape as much as tangible features. The concept of perception must be included in the LDP and over-reliance on assessment of natural heritage importance based on number of potential observers, or presence of protected area, should be avoided. Paragraph 16 of NPPG14 states that, “planning authorities should take great care to safeguard their wild land character. This care should extend to the assessment of proposals for development outwith these areas which might adversely affect their wild land character.” The NPPG14 glossary definition is: “Wild Land: uninhabited and often relatively inaccessible countryside where the influence of human activity on the character and quality of the environment has been minimal.” It would be beneficial to include this definition in the LDP.

Although LDPs are local, all planning authority areas include features of nationally important natural heritage. Effectively, the LDP is the mechanism of planning authority stewardship for these areas on behalf of the nation. Paragraph 25 of NPPG14 states that, “development which would affect a designated area of national importance should only be permitted where:

- the objectives of designation and the overall integrity of the area will not be compromised;
- or
- any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social or economic benefits of national importance.”

This responsibility should be reflected in the LDP.

The LDP has a vital role in conservation of National Scenic Areas (NSAs). Unlike SSSIs and Natura 2000 sites, legislation and management statements cannot be relied on to guide development in these areas. The legislation provides little guidance and few NSAs have management statements. The MCoFS therefore believes that the planning authority should include development of management plans for NSAs as part of the LDP. There is a need to ensure that any new development in or adjacent to an NSA does not detract from the quality or character of the landscape. The MCoFS also advocates wider use of Areas of Great Landscape Value (AGLV) or local landscape designations.

The LDP must fully consider development outwith protected sites. The NPPG14 states in paragraph 47 that, “planning authorities should seek to safeguard and enhance the wider natural heritage beyond the confines of nationally designated areas. The effect of a development proposal on the natural heritage can be a material consideration whether or not a designated area is likely to be affected, though the level of protection afforded to natural heritage interests outwith designated areas will not normally be as high as that afforded to sites of national or international importance.” The LDP must not, therefore, overly rely upon protected area boundaries for definition. The wider countryside is highly important as stated in Article 10 of the Habitats Directive. Although this has not been specifically transposed into UK or Scottish law, it is binding upon member states and therefore the appropriate location for its statement is the LDP. Article 10 is also referred to in paragraph 48 of NPPG14. Habitats and species cannot exist in isolation on protected sites and the wider countryside must provide services such as migration routes and locations for habitat expansion. It is also a primary area for people to enjoy the Scottish landscape, and hence must be respected in the text of the LDP.

Open Space and Physical Activity (SPP11)

The Land Reform (Scotland) Act 2003 (LRSA) has wide implications for the LDP. SPP11 paragraph 22 stated that, “access rights and core paths plans are material considerations in determining applications for planning permission. Access authorities have a duty to uphold access

rights over most land and inland water, not just on paths. Planning authorities should consider attaching appropriate conditions to ensure continuing public access.” Additionally, this is emphasised through SPP11 paragraph 66 where it is clearly stated that the complete range of, “resources such as rivers, lochs, hills, crags and paths support activities,” should be “fully considered.” The LDP should reflect this equality of importance of access on and off paths as these opportunities are important for local resident’s health and well-being as well as tourism. The LDP should refer to the statement in paragraph 66 of SPP11 that, “sport and recreation interests should be fully considered and planning authorities should consult with sport and recreation interests,” including “governing bodies of sport.” The MCofS is the governing body of the sport of climbing, and the Scottish Government-recognised representative body for hill walkers and ski tourers, and we welcome proactive consultation on relevant developments. In a number of instances, planning authorities have accepted statements within development Environmental Statements and later been made aware of the true level of importance of the development site for recreation when the governing body have learned of the development and responded. Unfortunately, this occurs on an ad hoc basis but such problems could be avoided by engaging with representative groups directly. In terms of recreation, particularly in the mountaineering environment, local community consultation, although important will not be sufficient. The importance of consideration of recreation is further supported in paragraph 67 of SPP11, “many outdoor sports and recreation activities depend on the quality of the environment and the planning system has a key role in safeguarding the settings where these activities take place.” This is particularly relevant to mountaineering activities.

Renewable Energy (SPP 6)

The SPP6 in paragraph 8 states that the aim is that, “progress towards the 2020 target continues to be made in a way that affords appropriate protection to the natural and historic environment without unreasonably restricting the potential for renewable energy development.” This explicitly places the emphasis on renewable developments fitting around the constraint of protecting the environment, not the converse. The natural heritage (biodiversity and landscape) is often the primary issue in wind farm applications, especially in relatively wild areas. The LDP must reflect the principle that the planning system cannot sacrifice habitat for the purpose of fighting climate change when gradual the natural heritage on proposed sites are often those already most at risk from climate change with little or no capacity for migration or habitat establishment elsewhere.

Paragraph 10 in SPP6 states that, “the Nature Conservation (Scotland) Act 2004 (NCSA) places a statutory duty on all public bodies to further biodiversity while exercising any of their functions. Planning plays a key role in fulfilling this duty and in ensuring that the natural environment remains a key contributor to the sustainability of human activity and to the quality of life.” This should be reflected in the LDP, including strategic location planning for renewable developments.

Paragraph 19 in SPP6 states that, “any benefit, including mechanisms for negotiating with communities, is offered entirely at the discretion of the developer. Benefits that cannot be considered material in planning terms should not be taken into account when assessing whether a specific proposal is acceptable.” It is important to include this reminder that sweeteners for the local community are not material in planning decisions.

Paragraph 44 in SPP6 states that, “likely environmental effects of any new grid infrastructure required to accommodate renewable energy developments should be taken into account as far as possible as part of the SEA process, so that appropriate spatial or criteria based policies can be developed to take account of the overall effects of implementing the plan.” In the LDP, necessary infrastructure must be taken into consideration when defining preferred areas for renewable

developments. A spatial framework for wind farms should be included in the LDP or supplementary guidance. Annex A in the current SPP6 should be referred to in this context.

MCofS supports the specific advice on the need for wind farms to take recreational interests into account in assessing proposals and preparing policy. Primarily, based on experiences so far, this means minimising the disruption to access. Wind farms can, due to their location requirements, be sited in areas (e.g. hill tops) that are popular for sport and recreation purposes, making the need to take these interests into account, particularly relevant. Local community consultation alone is not sufficient to consult on this type of impact, and there would be benefit in the LDP recognising areas where recreation is important. The MCofS would be willing to engage in the necessary analysis.

MCofS urges in drafting the LDP the planning authority take a long-term view of developments with a long lifespan. Vulnerable habitats are likely to experience irreversible impacts even where not directly developed, such as those through hydrological changes to peat. Peat takes centuries to develop and depends on suitable hydrological conditions. In these cases habitat compensation or restoration is not a credible mitigation for loss due to the nature of the habitat. Planning gain is unlikely to outweigh these very long-term, or permanent, impacts.

Please do not hesitate to contact me to discuss these issues further. In addition to our interest in the LDP, the MCofS would appreciate notification of any developments that affect upland areas. The Planning etc (Scotland) Act 2006 requires formal pre-application discussion for major schemes. Although the MCofS does not represent a local community, it is recognised as the Scottish Government as representing the non-geographical community of mountains which number approximately 400,000 participants a month. As argued above many wilder areas are rarely visited, and when they are it is often by the mountaineering community rather than local communities, hence the necessity for genuine consultation that MCofS is involved at the earliest opportunity in relevant developments.

Yours sincerely



Hebe Carus

Access & Conservation Officer

PP

Dawn Sutherland

From: hebe carus [REDACTED]
Sent: 22 October 2009 11:32
To: devplans
Subject: highland wide LDP

please accept attached commnets on Main Issues Report
thanks
hebe

Hebe Carus- Access and Conservation Officer

Please reply to- [REDACTED]
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22/10/09

Dear Sir

I previously sent a letter detailing issues the MCofS considers priorities to address in the Main Issues Report (dated 8/09). We welcome the recently released MIR which, in the main, addresses the issues we raised, but requires more clarity on a number of important aspects. The points in the letter remain applicable, and this submission should be read as additional rather than substituting.

The MCofS position is that the planning system exists to sustain the quality of the environment while permitting appropriately located and designed development. This necessitates that the Local Development Plan (LDP) conserves, and where possible enhances, the natural heritage of the area. This includes biodiversity and landscapes.

Walking and mountaineering is hugely important to the Highland economy. A research report for the Highlands area (Economic Impact and Development Opportunities for Outdoor and Environment Related Recreation in the Highlands and Islands - Walking and Mountaineering, George Street Research and Jones Economics, 2003/2004) found that walking / mountaineering brought in "a net annual expenditure of £245.7m for 2002/2003 and the equivalent of 4,466 full time jobs. A further 1,737 indirect and induced jobs were supported by walking and mountaineering tourism." The wildness and landscape are main attractions for this spend and regional branding and also form the context for cultural heritage and the area identity important to residents.

Natural, Built and Cultural Heritage

The first bullet point of your preferred option raises the issue of what is meant by "known features" and how they might be mapped. As this is not defined, we can only assume what is meant is "designated." If this is incorrect, then we would appreciate a further explanation before the deadline for comments on the MIR such that we can comment on this point with mutual understanding. If this is to rely on designated features, then we must object. A large part of the valuable natural heritage in Highland is outwith designated sites. There is currently no designation for "wild land," or one that specifies this as a feature for selection. NPPG14 makes it clear in paragraph 11 that wild land is not just of local importance but is of much higher significance; "mountain and coastal landscapes which are valued nationally and internationally for their quality, extensiveness and wild land character." National Scenic Areas are not a substitute for recognising wild land and hence cannot substitute for wildness as a "known feature." There has not been a well-researched mapping of wildness as the SNH attempt was produced as an indicator of the very best examples rather than a map of where land displays this feature. Recent more in-depth pilot work in the Cairngorm National Park has shown the areas to be much more extensive (Wildness Study in the Cairngorms National Park – Final Report, University of Leeds, Steve Carver et al, March 2008).

The MCofS supports the third bullet point in general, but it fails in delivering what is required through too narrow an application by restricting the positive and holistic approach to biodiversity. This approach needs to be taken in respect of landscape also. Inter-visibility is a major impact on the experience of any landscape, and in Highland, maybe more than any other area, in a large part it is long distance views from moderate to high altitudes that define the area. Landscape also must be approached at an appropriate scale and in an holistic manner.

The MCofS welcomes the recognition in the alternative option of the importance of not purely relying on designations, and the importance of heritage interests in the wider countryside, however with the present description of the preferred option it is not clear how this pitfall is avoided in that option either, if at all.

Wild Land

This description of wild land in this section and the definition in the glossary do not accord with those in the existing planning guidance (NPPG14 and draft SPP). There is no suggestion in these existing descriptions of the human influence needing to be absent as requiring to be a “permanent human influence.” Very little, if any, human influence can be described as “permanent.” Bulldozed tracks can be reinstated (although at great cost and over many years), buildings and roads can be removed, renewable energy developments may not be permanent (although most permissions do not require full restoration once decommissioned, if that ever happens). Using the word “permanent” makes the description “largely unaffected by permanent human influence” so all-encompassing it loses any real meaning, and even the SNH map with the very best indicative areas, permanence is not used as a criteria. The last sentence of the first paragraph reflects wildness much more effectively in recognising that it is an experience or a perception. Perceptions are based on features that are visible at any one time, hence are irrespective of permanence. All reference to permanence must be removed for this section to have any useful meaning. Specifically, the definition in the glossary should follow that of the NPPG14, which is likely to be copied directly to the new SPP. Inclusion of the agreed definition is especially important for a concept, the interpretation of which varies so widely as “wild land.” The current NPPG14 glossary defines as follows: “Wild Land: uninhabited and often relatively inaccessible countryside where the influence of human activity on the character and quality of the environment has been minimal.” This definition was extensively discussed and honed and must replace the LDPs attempt at a new definition, else there will be no one understanding of the terms meaning within planning.

NPPG14 paragraph 16 also states that, “the most sensitive landscapes may have little or no capacity to accept new development. Some of Scotland's remoter mountain and coastal areas possess an elemental quality from which many people derive psychological and spiritual benefits.” The DP must include the concept of limit to capacity due to the areas sensitivity, and that this is not dependent upon a designation, but on wildness.

There is a worrying absence of the concept of developments outwith a valued area (not specified as designated, and therefore including areas of wild character) needing careful consideration. Paragraph 16 of NPPG14 states that, “planning authorities should take great care to safeguard their wild land character. This care should extend to the assessment of proposals for development outwith these areas which might adversely affect their wild land character.” Non-inclusion of this would mean extremely weak landscape protection in Highland, particularly due to the inter-visibility point expressed above.

The MCofS welcomes the option to identify areas of wild land and include these as a development constraint. However, without an explanation of how this is to be done and not using the accepted definition, this option is likely to be ineffectual. As discussed above, the SNH mapping is indicative of the very best wild land, but is far from exhaustive of wild land areas and much less of land with wildness character. The recent study mentioned above found general agreement of areas mapped as wild land based on a range of criteria with different weighting (Wildness Study in the Cairngorms National Park – Final Report, University of Leeds, Steve Carver et al, March 2008). This methodology is the only attempt at a well-researched mapping exercise, and should be extended to Highland to give a robust map of wild land. Use of the SNH maps should not be applied inappropriately.

The alternative option is not a real alternative as it is misleading. Although correct in stating there is no legislation, is wholly incorrect in suggesting wild land is, or could be, a local designation. As stated above there is no designation that includes wildness as a selection criteria. Additionally, the NPPG14 made it clear that wild land is of national importance. Highland is the primary location of this national resource, hence it must take pride in conserving it as an identifying feature of the area and as stewards for the national resource. It can only be assumed that this mistake in localisation of its importance was as a result of the mistake in the first draft of the updated SPP. This has now been agreed to be corrected in the second draft for the same reasons stated in this paragraph.

Sustainable Development and Climate Change

The MCofS recognises the dire situation the world finds itself in with respect to the threat of ever accelerating climate change and that we need to address this threat immediately. We need to tackle this in an effective way while recognising it needs addressed at a strategic national level. There is little point in sacrificing the environment to save the environment, or indeed compromising one industry in the area while benefitting another. Developments not only need to be well” designed and built,” but probably most important with respect to impact, they need to be appropriately located. This needs to be made clear in the introduction to this section. The location must be strategic in terms of where the payback time for carbon is shortest (i.e. avoiding remote areas or peat soil) and where it does not remove even more of the finite and dwindling resource of landscape with wild character.

Renewable Energy

The updated Highland Renewable Energy Strategy (HRES) must reflect the vital points made in the preceding paragraph if renewable energy developments in Highland are to deliver the best climate change mitigation payback while minimising the negative impacts. The map provided on page 50 only addressed the impact on designated sites so ignores impact on wild land, it does not explain “significant protection,” and does not address the huge potential impacts of developments less than 20 MW. The HRES update must address these aspects. HRES consultation must be done in parallel with the LDP consultation else the opportunity for wide comment from the area’s residents will be lost. Highland Council should be as committed to open debate about this advice as it is on the LDP. The MCofS believes inclusive debate and opportunity for comment on this supplementary guidance is as vital to fulfil Planning etc. (Scotland) Act 2006 as much as it is for the main LDP.

It is accepted that different areas will be suitable for a particular technology or combination of technologies, however respondents to this document are hampered in their ability to comment by the fact that it is the precise technology planned for a particular area that needs comments more than the recognition that any particular area may be appropriate for some technology. Different technologies have hugely varying impacts, and it is the impacts that concern many people.

The first bullet point of the preferred option states that targets are not a “ceiling.” They also should not be regarded as a “floor.” There should not be pressure to accept marginally acceptable development just to achieve the target just because not enough development proposals have come forward in the least impacting areas. This could be avoided by providing guidance on the areas where the most positively regarded developments could be located. This would encourage concentration of applications in these areas, hence achieving the best climate change mitigation while avoiding the most damaging impacts without pressure of achieving targets in marginal areas.

The preferred option is based on unexplained supplementary guidance. It is desirable to keep the LDP to a manageable length, but in respect of renewables, it is the supplementary guidance that contains the necessary detail to judge potential impact and therefore fully comment on the development plans. This means that unless the updated supplementary guidance is presented alongside the LDP, then consultation is only partial, which is not acceptable, else we are being consulted on with only part of the information available.

The alternative option is only one very narrow negative option and could be interpreted as an attempt to gain respondents acceptance of the preferred option, presenting the choice as development versus little development / spread of economic benefit of development to new areas of Highland. The MCofS strongly feels that such a stark choice is misleading and does not promote positive open debate. Ironically, the alternative option would result in an outcome that would probably be preferred by those we represent i.e. retaining a resource of remote areas where there currently is little or no development. However, this outcome would be for the wrong reasons and we would much prefer to comment on the basis of positive discussion and justifications. We believe that micro renewables are a positive contribution Highland can make to mitigating climate change while minimising impact. However, even these developments need carefully located and designed. Additionally, micro renewable definition must be more clearly stated in the glossary. It needs to be made clear that they are developments for capturing energy for the use within the communities,

else they just describe a different format for ownership of major developments for commercial sale to the grid. The latter should not be regarded as micro renewables.

Access to the Outdoors

The MCoFS promotes as wide a range as possible of opportunities for responsible outdoor access. We believe that barriers should be removed as in bullet point 4. Equally important is prevention of new barriers, either permanent or temporary. Unfortunately, some developments have introduced temporary (but still a matter of years) barriers to access without good reason. One example being the Glen Doe Hydro development where the local Access Officer said it was impossible to enforce the access agreement the access authority has believed it had made with the developers. This must not happen again. Development conditions must be tightened up to ensure this situation does not arise again. Planning conditions preventing unnecessary barriers to access must be made in such a way that they are written, clear and enforceable within a meaningful timescale and prioritised such that repeat applications from the same developer are not permitted to repeat the use of the apparent loophole, nor new developers to unnecessarily prevent access, even if only temporarily.

The preferred option needs tightened up. It needs made clear that access has equal weight under the Land Reform (Scotland) Act 2003 (LRSA) whether on core paths, undesignated paths or off-path. The option bullet points, as presented, suggest a hierarchy of importance with core paths at the top. This equality of importance should be made clear as discussions with developers suggest the continued misconception that access along a path takes higher precedence than off-path. Bullet 3 needs strengthened considerably to agree with the guidance on LRSA which states that “where appropriate, local authorities should consider attaching a suitable planning condition to enable them to ensure reasonable continuing public access” (Guidance for Local Authorities and National Park Authorities on Part 1 of LRSA). Bullet 3 must be considerably strengthened to bring it in line. Planning control needs more than to merely “take account of access rights.” The example planning condition attached to the guidance for local authorities may assist with easing enforcement, or hopefully avoidance of difficulties through mutual understanding.

Please do not hesitate to contact me to discuss these issues further.

Yours sincerely

Hebe Carus
Access & Conservation Officer