

**The Highland Council
Ross and Cromarty Local Access Forum**

Minute of the Meeting of the Ross and Cromarty Local Access Forum held in the Council Chamber, Council Offices, Dingwall on Tuesday 26 March 2024 at 2.30 pm.

Present:

Mr N Chisholm

Mr A Dorin

Mr R Forrest

Mr T Forrest

Mr F Fotheringham

Cllr M MacCallum

Mr J Mackenzie

Mr H Munro

Mr D Tidmarsh

In Attendance:

Mr P Waite, Outdoor Access and Long Distance Route Manager

Ms G MacPherson, Committee Officer

Three members of the public were also in attendance.

Mr R Forrest in the Chair

1. Welcome & introductions to new members

The Chair welcomed 3 new co-opted members to the Forum, namely Mr Andy Dorin of Inverness Canoe Club, Mr David Tidmarsh, a Highland Volunteer Access Officer of the British Horse Society (Scotland) and Mr Nigel Shapcott of Cromarty Community Council.

2. Apologies for Absence

Apologies for absence were intimated on behalf of Cllr C Birt, Mr N Shapcott and Mr N Fraser.

3. Confirmation of Minutes

There had been submitted the minute of the meeting of the Ross and Cromarty Local Access Forum held on 3 October 2023 which was **APPROVED**.

4. The Highland Core Path Plan Review – West Highland & Islands update

The Forum was informed that the West Highland & Islands CPP review was close to completion and the Outdoor Access Manager (OAM) hoped it would be sent to the Scottish Government's DPEA division next month.

Members acknowledged the hard work involved and were informed that substantial delays remained in reports being approved by the Scottish Government. An example was provided, namely the Caithness and Sutherland Core path plan Review, which had been sent to the DPEA in 2019 and was still awaiting approval.

5. The Highland Council Access Ranger team update

Members were informed that the Access Ranger Annual Report 2023 had not yet been publicised due to sensitivity regarding future funding (and it was currently with senior management), however, a headlines summary was provided to the Forum.

The Report provided statistical information which had been gathered by the Access Rangers every Friday, Saturday and Sunday as part of an assigned patrol, such as a visitor site, beach or layby, with a record of what they saw and did.

It included numbers of vehicles, motorhomes, tents at the side of the road, and any recent signs of campfire. The data was collated every month and at the end of the season.

Numbers showed an increase in fires, outdoor toileting and littering, and examples were provided as to why this might have been the case, particularly in Skye, Caithness, Lochaber and Loch Ness.

It was concerning that fires had increased by 13% and that 233 fires were extinguished as they were in inappropriate or unsafe areas, despite the increase in high fire risk safety messages.

Engagement with visitors was generally very positive, providing advice on the SOAC, local facilities and a welcome to the Highlands. However, negative engagements where the public had been abusive, aggressive or otherwise confrontational, although a relatively small number, was still a rise since 2022 with no sign of abating.

During discussion, the following points were raised: -

Funding

- Scottish Government funding, through Better Places Fund, had ceased – it had been provided as part of Covid recovery and was no longer available;
- the Council was under extreme budget pressure;
- Scottish and Southern Electricity Networks (SSEN) had advertised for funding suggestions and while it was felt it might have scope, that source had been used previously for one post, and may be difficult to access;
- upcoming Visitor Levy could be used to fund the Access Ranger Service;
- the OAM had been contacted by the NC500 Chief Executive to discuss the possibility of funding;
- many of the free car parks were now operating an 'invitation to pay' for visitors to contribute. Any contribution was to pay for tourist facilities, but it was unknown if that money was ringfenced; and
- it was acknowledged that with no funding there would be no Access Ranger Service.

Volunteers and other Ranger Services

- Forestry & Land Scotland faced similar budgetary constraints;
- it had been hoped that there would be an abundance of volunteer rangers but while there had been some help offered for particular events, it hadn't been enough to cover the whole of the Highlands for a season;
- the deterrent for irresponsible behaviour was rangers on site; and
- current staff did not have capacity to organise volunteers.

Views

- the Forum felt disappointed that there would be no Access Ranger Service, particularly when statistics showed their good work;
- with no Access Rangers, the statistics would also stop; and
- Members thanked the OAM and his team for the work over the past year.

6. Highland Local Access Fora Restructure

A report had been presented to the Forum regarding Local Access Fora Restructure and Forum members had been asked for their views on the possible options for future operation.

The Forum was also offered a fifth option (not included in the report) whereby the Council would have one Highland-wide Forum.

During discussion, the following points were raised: -

- it was felt that the Ross and Cromarty Local Access Forum (RCLAF) had been well served to date and preference would be to keep it as local as possible;
- local knowledge was critical;
- it was asked how similar RCLAF issues were to other Forums and an explanation was given. Members were also advised that some Forums had struggled to keep a full membership or consistent chair. Issues such as those could be solved with amalgamation, but it would need to be manageable for officers involved;
- it was suggested that an all-LAF meeting once a year could catch the Highland-wide issues; and
- Option 1 was the most favourable but the inclusion of the whole of Ward 5 (Wester Ross, Strathpeffer and Lochalsh) made for a large area. It was explained that the reason for this was due to the location of the Access Officers.

The Forum **AGREED** that Option 1 would be their preference.

7. Access Issues

Pefferly Way – Millnain Croft, Blairninich

The Forum was asked to consider the reply, previously sent to Members, from the owner of Millnain Croft and if that changed their view of the alternative route, or whether to continue to advise that Option B offered the best route and continue to a path order process if agreement was not possible.

Since the last meeting in October 2023, Mr McMaster, owner, had communicated with the OAM and as the Peffery Way Association had the opportunity to address the Forum at the last meeting, the Chair invited Mr McMaster, who was in attendance, to speak to this case.

Mr McMaster clarified that his family were not opposed to the Peffery Way itself, however they opposed the specific route. Mr McMaster provided context, described the difficulties he had experienced and confirmed to the Forum the reasons for their protest, which included the following: -

- the path would go through the middle of their land, rendering some of it unusable for his sheep;
- out of control dogs were a huge concern;
- they have had fence wires cut, signs for livestock taken down, and on the morning of this meeting, a man had run right through their sheep in lamb, insisting it's a public right of way;
- they had offered an alternative route for the path, which they felt may be suitable for all involved parties;
- The path width requested took away considerable benefit to them and it was questioned why other landowners had been provided an opportunity to suggest alternatives, however, it was commented that his proposals involved steep inclines;
- he assured the Forum that they were adhering to access rights and did not contest the public access rights. However, how they ran their croft was not up to others;
- the railway line was part of their croft with an IACS number;
- Mr McMaster and his family had received regular harassment both on the croft and locally, and stated they wanted a solution and to be left to run their croft in peace. They felt consistently expected to give away a plot of ground that they had bought and paid for, to their detriment, and they struggled to see how that was fair or reasonable; and
- Mr McMaster stated that carrying on as they were, would be preferable to forming the path, stating that the path would take land surface away from his livestock.

Forum Members were shown maps and photographic evidence of boundaries, the fence line at the railway, and an explanation was provided regarding the change of gradient, differences in land surface and the use of the land by the sheep.

During discussion, the following points were raised: -

- Mr McMaster was asked if he would be open to the alternative routes and where a compromise could be agreed;

- there was disappointment that after nearly 6 years, there was no agreement in this particular case;
- it was felt that there was no reason why sheep could not continue to use the land alongside those who used it as an access path;
- pressure on the McMaster family was acknowledged but it was also stated that a solution needed to be agreed;
- Mr Macmaster was asked if the old railway line had an IACS number, he confirmed it had;
- the purpose of the Forum in this case was to provide advice to the Council but any decision lay with the Council; and
- Mr McMaster was asked, if he chose to deny the sheep access to the area in question if the proposal went ahead, would it affect his subsidy. Mr McMaster replied yes.

The Forum was then asked to determine whether to remain with the decision made in October 2023 or to defer this item to the next meeting.

Decision

There were 5 votes in support of remaining with the original determination, 2 votes in support of deferring the item to the next meeting and one abstention.

Thereafter, the Forum **AGREED** to remain with the original determination “to strongly express its support for the Council to seek a Path Order for the route along the railway line at Millnain Croft, Blairninich.”

Path to Chanonry Point

After an explanation of the situation regarding storm damage at Fortrose & Rosemarkie Golf Course and the core path & public right of way to Chanonry Point, the Forum was asked to consider:-

- i. if Fortrose and Rosemarkie Golf Club was correct in their view that the path had been ‘lost’ and would require a diversion to remain on the golf course edge; and
- ii. if the golf club was correct in being able to prevent people from walking along the golf course.

The OAM informed the Forum of discussions held with the golf club regarding the core path. As a result of the storm damage the golf club did not require to reinstate the path, however, as they are installing armour rock as a coastal defence, they must accommodate the path and not cause an obstruction. The Club was of the view that there was no legal obligation to reinstate the core path and that they were not obligated to allow people to walk along the edge of the course, stating this would be unreasonable as it could be dangerous or prevent golf from being played.

However, on inspection it would appear that the Club had allowed for a 2-metre path width by the 1st tee and had backfilled behind the armour rock along the 1st

fairway & 2nd tee. This backfill was soft sand and not a suitable walking surface however, it may firm up when vegetated.

During discussion, the following points were raised: -

- it was understood by the Forum that if the coastline moved (in cases such as erosion), the path moved;
- that if the golf club were to divert people to the beach, there had to be a safe route at high tide;
- it was not the fault of the golf club that the land had eroded but having laid armour rock, backfilled with sand, they had made the surface unusable;
- access rights would apply to the golf course whether this was the core path and right of way or not;
- people would use the firm ground which was likely to be further inland unless or until the new sand area firms up; and
- the golf club should have created an appropriate useable path.

The Forum **DEFERRED** determination and asked that more information be provided from a legal point of view.

It was also suggested that this issue should be forwarded to the local Community Council.

Muckernich,Tore, possible right of way

The Forum was invited to consider the validity of the witness statements, whether the public right of way had expired, and if access rights applied to the route (and if so, if the owner should be asked to remove obstructions).

During discussion, the following points were raised:-

- it was confirmed that of the 5 witness statements received, 2 were provided by those who knew the path but had not used it and 3 were provided by those who had not walked the path since the 1990s;
- the relevant statutory provision, section 8 from the Prescription and Limitation (Scotland) Act 1973, stated “the right has subsisted for a continuous period of 20 years unexercised or unenforced, and without any relevant claim in relation to it having been made, then as from the expiration of that period the right shall be extinguished” therefore it was suggested that people had left it too long to raise the issue;
- the path might still exist, but it did not appear to be used, as evidenced by the witness statements and photographs taken;
- the farm owner was adamant that there was no right of way, and actions had been taken to obstruct access;
- it was asked if access rights applied to this area, and if the path was within curtilage of the farm owner’s shed;
- there had been intentional blockage by the owner to hinder access to the path;

- if it was to be made an access, work would be required as it was overgrown; and
- the local school wished to use the path.

Thereafter, the Forum **AGREED** that the witness statements were valid, other than the two without direct experience, and all evidenced that the public right of way had expired.

On the question of access rights, the Forum expressed a willingness to visit the site to fully consider this. The OAM would write to the owner and arrange a site visit for the Forum members.

8. Exemption from Access Rights, S11 Land Reform (Scotland Act) 2003 –

Snowman Rally

It was confirmed that no application had been received from Snowman Rally organisers.

Strathpuffer

The OAM provided a report from areas around the course after this year's event. This was following concern expressed after last year's event on the condition of some of the paths. The approval of the Access Exemption Order was given on condition of suitable re-instatement. Photographs from the all abilities loop, which was used as an overnight camping area, and sections of the core paths areas showed large muddy puddling, often causing people to walk on the edge damaging vegetation. It was stated that the damage caused this year didn't seem to be more than last year, however, it was cumulative with deepening and widening muddy areas and so required attention before it got even worse.

It was suggested that before and after photographs would be helpful in future.

The Forum **AGREED** that the OAM would write to the organisers to ask them to re-instate any damaged areas and the core paths particularly. A failure to do so might lead to this Forum not recommending any future Exemption.

9. National Access Forum Matters

Wildfires

It was felt that after the last meeting, there was not much the Forum could do in terms of wildfires, except continue the message of using gas stoves as the level of risk was less (although the level of fire was still as devastating).

10. Any other business

There had been no other business.

11. Date of Next Meeting

There had been a suggestion of a date from Committee Services, Thursday 10 October 2024, which would allow both Elected Members to attend, however it was confirmed by the OAM that a Doodle Poll would be carried out both to arrange the next meeting and the Tore site visit.

The meeting concluded at 5.30 pm.