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Loch Lomond & Trossachs National Park Authority  
Carrochan  
Carrochan Road  
Balloch G83 8EG

12<sup>th</sup> January 2015

Dear Madam/Sir

### **Response to Your Park – Transforming our Lochshores consultation**

Ramblers Scotland is the representative body for walkers in Scotland and a governing body of sport. We have around 6,500 members and 54 walking groups across Scotland run entirely by volunteers. We work to secure and facilitate access to land, to protect the countryside and to promote walking.

We welcome the opportunity to respond to the Your Park consultation. We commend the park authority for the investment it is proposing to make to improve visitor facilities, and the excellent work which is being done to encourage responsible behaviour through the Respect the Park campaign. Much of this investment is long overdue and reflects decades of inaction by public bodies in the years preceding the establishment of the national park. The Loch Lomond and Trossachs National Park Authority have subsequently made substantial progress in correcting this situation and laying the foundations for future success.

In contrast to our support for the proposed investment programme, we are strongly opposed to the introduction of the proposed byelaws to restrict camping and other activities within the Park. We consider that these are unnecessary, are in conflict with enforcement of the criminal law, will unfairly expose responsible citizens to the risk of criminalisation and represent a serious threat to the effective operation of statutory access rights throughout Scotland as secured by the Land Reform (Scotland) Act 2003. The main focus of our response relates to this aspect of the consultation.

Furthermore, we have serious concerns regarding the understanding of the Board and its staff of the interface between byelaw provision within the National Parks (Scotland) Act 2000 and the statutory access rights provided across the whole of Scotland by the Land Reform (Scotland) Act 2003. This consultation suggests that the Board is not able to establish effective operational procedures which will ensure effective integration between these two legislative provisions. It should be noted that the Scottish Parliament has the clear requirement that 'All byelaws need to be consistent with the access provisions in the Land Reform (Scotland) Act 2003' (Scottish Outdoor Access Code, p13). We are therefore calling on the Scottish Government to take immediate action to bring the key interests together to try and resolve these problems within this national park.

We trust you will find our comments helpful, and we would be pleased to discuss any aspect of our response further.

Yours faithfully

David Thomson  
Convener

## Responses to consultation questions

*Investment Q1: Do you agree that over the next five years the National Park Authority should invest in improving camping provision within the three proposed Management Zones?*

Yes.

*Investment Q2: Do you agree with the proposed areas of opportunity for additional camping provision (marked on map 4)?*

Generally, yes, although the park authority should be open to future opportunities which may present themselves outwith these zones.

*Byelaws Q1: Do you agree that these byelaws should be introduced?*

No.

Ramblers Scotland was opposed to the introduction of camping byelaws on East Loch Lomond (ELL) in 2011 and we have seen no substantive evidence to indicate that these byelaws were essential in helping to resolve the problems at ELL. We are opposed to the introduction of further byelaws as proposed. We also believe that an independent review should be carried out of the existing ELL camping and alcohol byelaws with consideration being given to the removal of either or both of these byelaws. Our current view is that the alcohol prohibition byelaw should be retained and the camping byelaw should be removed.

The fundamental problems on ELL and elsewhere arise from impacts relating to visitor pressures from informal camping, both motorised and wild camping, taking place in a limited number of areas within the park. This occurs elsewhere in Scotland, both within the national parks and in many other locations, and is expected to become of increased significance in the future as Scottish Government policy to encourage more people to take physical exercise and to enjoy the outdoors begins to have a greater impact.

Scotland's national parks have an important role to play in demonstrating best practice in countryside management, infrastructure development, education and the encouragement of public enjoyment of outdoor environments. The management of the cumulative impacts of these high numbers of campers is one aspect of this role. In its investment activity on ELL, especially in the provisions at Salloch, in association with partner bodies, the park authority has provided an excellent demonstration of the way forward. Nevertheless, in establishing camping byelaws in this location, the park authority has taken a retrograde step. We believe such byelaws were not required to secure the successful use of ELL and have created a situation whereby those who are trying to camp informally in responsible ways are exposed to criminal prosecution. Furthermore the presence of these byelaws has stimulated demands for their extension within the Park, as reflected in this consultation, and elsewhere in Scotland.

The provision of powers to establish byelaws was included within Scotland's national parks and land reform legislation. The Scottish Parliament included these powers as a measure of last resort to be used when all other alternative legislative, management and educational measures had failed to resolve problems relating to public access to land and water and where other activities, either by the public or land managers, were being seriously affected by the ongoing public access situation. This does not appear to apply to any land within the Loch Lomond & Trossachs national park. All existing experience seems to point to the conclusion that all public access issues, including the issues arising from informal camping, can be resolved through education and publicity, infrastructure provision and appropriate application of the existing criminal law. This applies not only to ELL but to every other location in Scotland where such issues arise.

Unfortunately we do not consider that the present Park Board and staff are capable of resolving the byelaw issue. In their promotion of byelaws over a number of years the staff have failed to engage in

a constructive dialogue with outdoor experts and, it would appear, also with Police Scotland and its predecessor bodies in trying to resolve how to use the various measures available to resolve public access problems. For example, in a meeting to discuss public access issues in August 2014 between senior National Park and Ramblers Scotland staff, the former Chief Executive, Fiona Logan, was asked to explain the Board's position with regard to the current byelaws at ELL and future proposals for the Park as a whole. Ms Logan had, at the time of the introduction of the ELL byelaws, publicly stated that these were potentially a temporary measure which were deemed necessary in support of the introduction of new facilities at Salloch and the byelaws could potentially be removed at the stage when the project was reviewed (October 2014). With regard to the rest of the national park, the strategic planning documents produced in recent years had given no indication of any intention to promote byelaws elsewhere in the Park. Although byelaws were mentioned as potential management options in consultations relating to visitor management on the islands and in the Five Lochs area, we were assured by officials that they had no plans to introduce further byelaws. During the discussion with Ms Logan in August 2014 she gave no indication that there had been or was likely to be any change in 2015 and beyond in the Board's position on the byelaws issue. We now know of course that the staff and Board members were at that time developing proposals which were radically different to the existing position.

Furthermore, we have now seen the submission made by Mr Kevin Findlater to this consultation. As a former police officer with responsibilities over many years in this area, latterly as Chief Inspector and as lead officer for Operation Ironworks, his views are of considerable significance. Indeed we doubt if there is any other police officer in Scotland today who has the accumulated wealth of experience in dealing with public access issues in the national park to compare with Mr Findlater. Like ourselves, Mr Findlater, appears to recognise that the park authority has been very successful in many aspects of its work since its establishment in 2002. The exception is in its promotion of byelaws in an inappropriate way.

By comparison we should perhaps note situations where byelaws or similar legislative provisions to control public access are necessary in Scotland. One obvious example is wildlife protection laws which make it an offence to go too close to the breeding sites of specially protected species, and signs are usually in place to forewarn the public of such situations. Another example is airports where legislation and appropriate signage warns the public not to go beyond certain points without authorisation or reasonable excuse. Clearly this is essential to prevent members of the public from walking into areas, either inadvertently or deliberately, where aircraft are manoeuvring. Similar considerations might apply in future to, for example, car rallies where the application of temporary byelaws might be necessary to ensure that such events can take place with due regard for public safety. Such situations are, however, completely different to those where public access over land in general is concerned, including when it is associated with informal camping, and where any difficulties do not lead to the prevention of other activities, as would be the case if bird breeding or aircraft manoeuvring was concerned. Within the park the effective application of the existing criminal law, along with associated management, infrastructure and education measures, would appear to be all that is required to resolve problems. The application of byelaws in such a situation is inappropriate.

The inappropriateness of byelaws in the national park can be summarised as follows:

- They do not and cannot distinguish between persons who are acting in a criminal manner and those who are engaged in activities for which they have rights secured by the Land Reform (Scotland) Act 2003.
- It is fundamentally wrong for persons who are acting in a lawful manner under the principle legislation that secures public rights of access to Scotland's land and water to find themselves at risk of criminal prosecution through the mis-application of other legislation which also has a bearing on public access to land.
- Scotland's land reform legislation, including the 'right to roam' was recently subject to scrutiny by the Scottish Government's Land Reform Review Group with the conclusion that this was working well and no substantial changes were necessary. We therefore think it is extremely unlikely that the Scottish Government would approve these byelaw proposals from the park

authority as they would remove a significant element of statutory access rights from most of the low ground area in the Park which is close to public roads and capable of being used for camping.

- Experience from Operation Ironworks and other actions strongly indicates that the existing criminal law, supplemented by alcohol prohibitions as necessary, is adequate for dealing with illegal activities within the national park. Recent national changes in permitted alcohol levels in relation to driving will further help to resolve alcohol related problems within the national park.
- If further experience indicates that the existing criminal law, which encompasses provisions for anti social behaviour, breach of the peace, damage, littering, driving motorised vehicles and various traffic management laws, is inadequate for dealing with problems within the park, then this suggests that changes are needed at national level, as such problems could be occurring outwith the park area. Trying to develop byelaws to address such problems just within the national park is wrong and would lead to confusion amongst the public and park managers.
- We do not consider that any changes are needed to existing criminal law provisions to solve the stated problems. If the main difficulty lies with enforcement and the resources available for this we would be happy to join with the park authority in making appropriate representations to Police Scotland and the Scottish government to try and resolve any such problems.
- When the existing byelaws were introduced to ELL we understood they would be subject to independent review by October 2014 and the conclusions of such a review would then inform future proposals and action. In reality the review has been conducted by the park authority itself and is therefore not independent, and new proposals for byelaws have been formulated before that review was completed and subject to external comment. The evidence base for the new proposals is extremely weak. This is not how public bodies in Scotland should conduct their affairs.
- Part of the difficulties that have arisen in recent times in this NP has been the steady reduction in the availability of informal camping locations, sometimes due to their 'upgrading' to more formal caravan and chalet facilities. We note the desire of the park authority to persuade landowners to establish new informal camping facilities. While we are unsure as to whether this is a realistic option, we do support the intention.

*Byelaws Q2: Do you agree with the wording of the proposed byelaws?*

No.

The wording of this consultation document is misleading in that it gives the impression that the byelaw proposal is primarily to deal with camping problems on loch shores. In reality the proposal is about restricting access to extensive tracts of land, most of it well away from loch shores. Furthermore, because of the geographical constraints within the national park, due to steep hillsides, cliffs and plantation forests, the byelaws would restrict access to most of the land in the glens where camping is feasible. The consultation document gives the impression that the proposals are about restraints on limited areas of land in sensitive locations, when the truth is that the proposals are about extensive tracts of ground, most of which are of a non-sensitive nature, in most of those areas of the national park which are most easily accessed by the public, whatever their abilities.

These byelaw proposals have introduced concepts of "nuisance" and "damage", and even tried to legislate on how people carry out their toilet functions. It is quite absurd that the park authority has allowed itself to stray into such areas. If it was in the public interest to legislate on such matters then that would be done at national level, by the Scottish Parliament. As far as we are aware existing

nature conservation legislation, for example, is perfectly adequate to deal with the sort of “nuisance” and “damage” that appears to concern the park authority.

We note the proposed exemption from the byelaws for landowners and their tenants. We suggest that this could mean the operation of a different legislative regime for those who are, for example, camping by a loch while engaged in a fishing activity, compared to those who are camping in exactly the same manner while on a walking or cycling visit. It is difficult to imagine anything more likely to lead to legislative confusion in the minds of the public!

*Byelaws Q3: Do you agree with the proposed zones for the byelaws?*

No.

We do not support the proposed byelaws and therefore do not agree with any of the proposed zones.

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