

ABERDEENSHIRE LOCAL OUTDOOR ACCESS FORUM

NOTE OF 17th MEETING: 23 JULY 2007 BENNACHIE CENTRE, CHAPEL OF GARIOCH, INVERURIE

Present

Ken Thomson (Chair)
Molly Atkinson
John Brownlee
Cameron Ewen
David Fyffe
Alan Harper
Gordon McKilligan (deputising for Brian Martin)
Kelley Miller (deputising for Ron MacDonald)
Linda Miller (deputising for Bill Dow)
Alison Mitchell (deputising for Peter Dawes)
Cllr Debra Storr
Iain Taylor
Owen Vaughan

In attendance

David Finlay
Rona Gibb, Paths For All Partnership

Council officers present

Fred Gordon (Head Ranger) – for briefing session.
Helen Young (Access Ranger) – for briefing session.
Linda Mathieson
Colin Miller.

Part 1 -- Briefing Session

Fred Gordon gave a Powerpoint presentation on the work of the Council's Ranger Service with particular reference to outdoor access and SOAC. A display of SOAC-related educational materials was provided by Helen Young.

The following topics were raised by Forum members and/or Paths For All in the subsequent discussion, chaired by Ken Thomson:

- Education of dog owners re responsible access.
- Financial resourcing of the Council Ranger Service.
- Negative public image of landowners.
- Roadside litter.
- Non-Council ranger services in Aberdeenshire.
- Off-road motorised access.

Ken Thomson proposed thanks to Fred and Helen for their much appreciated input.

Part 2 – Routine Meeting

1 – Welcomes and Introductions

Cllr Debra Storr, newly-appointed Council ALOAF Representative; *Linda Miller*, Community Reserve; *Rona Gibb*, Outdoor Access Programme Manager, Paths For All Partnership.

Apologies

Peter Dawes; Bill Dow; Tom Johnston, Robin Maitland, Brian Martin, Cath Clark (Path For All Partnership).

Deputisings

As noted above.

2 & 3 – Minutes of Meeting 16 & Matters arising

Minutes approved.

Re Item 6 (Core Paths Plan) Ian Taylor reported that New Byth has circulated a paths plan. Contact IanT if no word in due course.

4 – Communications and Membership

- *Selection of Chair*: there being no other candidates, and with the approval of the meeting, KT was re-appointed Chair for a further term.
- *Rotation of membership*: as many of the current members' 3-year terms expire in February 2008, the Chair encouraged those concerned to consider whether any gaps in membership were likely to arise and, if so, to inform CM accordingly; also to advise of any potential candidates for new membership -- **Action: All.** Next ALOAF meeting to consider actions to ensure the desired continuity. D Finlay suggested this could be a topic for the next Annual Gathering. DS noted the importance of extending the opportunity to serve on ALOAF as widely as possible, while balancing this with the costs of recruitment. LM reported on the processes used thus far (large mailing list; public meetings; press releases). JB noted that the proposal for "local area" Forums was still on the drawing board. Agreed that "local" Forums should be a topic for the next ALOAF meeting agenda. In reply to a question from DS, CM said that "agencies" represented on ALOAF were selected by consensus.
- *ALOAF advice record*: the meeting noted KT's spreadsheet summarising ALOAF's actions on cases on which their advice had been sought. KT sought ideas on how best to summarise the Forum's work. JB suggested that the case advice spreadsheet could be put onto the ALOAF web page, subject to protecting anonymity of case details. OV recommended that there be a column stating the final outcome of each case.

5 – Proposal for Review of ALOAF by Members

Purpose is to review direction of ALOAF in relation to members' own expectations of the forum and to the progress of other LAFs. OV urged that relevant agency contacts also be given the chance to participate by giving their views on ALOAF. KT noted that pulling in agency input would widen the process – this deserved further consideration.

KT proposed a subgroup for the Review: JB (community); TJ (land management) – in absentia but had agreed; OV (access user). No objections received.

In reply to a question from Linda Miller, Linda Mathieson suggested that ALOAF Members should choose individually whether to be anonymous or to include their name or “sector” identity when completing the review questionnaire. In any case, the individual forms would only be read by CM, who would tabulate the results. It was noted that p.61 of the LAF “Guide to good practice” contained suggested questions. Each LAF may approach its work differently. Rona Gibb noted that the various LAFs are all at different stages and therefore a standard national questionnaire would not necessarily be appropriate.

On input from agencies, there was further discussion about how to approach them and how to ensure a consistent response. DS suggested that a 2-level approach might be appropriate – seeking a corporate response and a response from the relevant agency’s ALOAF representative. **Action: the Review subgroup.** Additional suggestions in this context:

- add a couple of questions to the questionnaire.
- on web pages, invite open comments.
- use Council’s access mailing list.

6 – Aberdeenshire Council Access Update

- *Core Paths Plan:* LM reported that the Council has contacted relevant Community Councils in respect of 42 settlements for which further paths information was needed. About 10 replies so far. None requesting ALOAF help, but Council aware of ALOAF members’ involvement in 1 or 2 cases, e.g. Gordon McKilligan’s approach to Cornhill Village Association which has identified a significant local paths opportunity. Further ground-truthing proposed; also landowner contacts where Council unaware of any possible candidate paths. Hoping to consult with all community councils in writing by early September. LMC information may also assist contacts where appropriate. In response to an enquiry from KT regarding when the “initial draft maps” would be available to the Forum, it was suggested that this would probably be in September. 2nd round of informal consultation now predicted for late October/early November. G McK asked about the response rate on provision of LMC path maps to the Council; and their potential value to the CPP process. CM guesstimated that about 90% of maps had been received, but a smaller percentage would be directly relevant to the CPP as the majority of LMC paths were remote from settlements. KT noted that the internal consultation with ALOAF would now be shortly before the 2nd round of public consultation. In response to a question from D Finlay, LM clarified that land managers would be consulted before the comprehensive community council consultation. D Finlay commented that the timescale appeared optimistic, in that land managers may not have much time to devote to the matter at this time of year. Returning to LMCs, LM said that the CPP would consider LMCs where appropriate (and subject to consultation), given that they are already promoted routes, but it cannot be assumed that individual farmers would necessarily be supportive of this. Rona Gibb noted that this was an opportunity for land managers proactively to participate in the process. G McK observed that LMC schemes are short-term and priorities may change. It was noted that there are instances where the LMC recipient and the landowner are two different parties, and other instances of friction with neighbours due to

LMC paths. Rona Gibb noted that where people have started using LMC paths there may be issues when the LMC term expires. However, LMC routes offer an opportunity for longer-term managed access. In reply to a question from D Finlay, LM confirmed that Core Paths offer more permanency, although there is a process for reviewing Core Paths where there is just cause. D Finlay commented that he was unable to persuade another local authority to take this reasonable view. LM added that an occupier's liability would be the same whether a path is an LMC route or a Core Path. It was noted that NFUS and SRPBA would be happy to publish any CPP consultation information. In reply to a question from the Chair, Rona Gibb confirmed that ALOAF is not behind in progress on the CPP, rather it is keeping up with the rest, in that many are anticipating the 2nd round of consultation towards the end of 2007. Rona Gibb agreed with LM's suggestion that some access authorities may not have done as much preliminary work as Aberdeenshire. KT surmised that CPPs would be with Scottish Ministers from summer 2008. Rona Gibb reported that inclusion of Core Paths on OS maps would be done in accordance with the OS's routine updating schedule, i.e. not a special update for Core Paths; KT surmised that this implied that Core Paths would not be on standard OS maps for several years after approval. Rona Gibb informed the meeting about the SNH/PFAP collaborative advisory group known as "The Hub", which has been set up to deliver consistent advice on the CPP process to all access authorities, including a number of aims and objectives, viz:

- to work with agency area staff to review the "sufficiency" of proposed path provision.
 - since SNH is a statutory consultee, to seek to eliminate issues now rather than later.
 - to seek to remove inquiry-prone issues (e.g. cross-boundary anomalies; fair provision across all user-types; opportunities for different user-types when considering the CPP's area as a whole.
 - dealing with questions from agency area staff.
 - issuing guidance to access authorities (e.g. as a result of the recent meeting for access officers, attended by 26 of the 34 AAs [*including Aberdeenshire CM*]).
 - giving out good practice advice.
- *Upholding Access Rights:* The meeting considered LM's spreadsheet of access cases across Aberdeenshire, which had been modelled on similar work by the Cairngorms National Park Authority. LM offered to provide an updated version at every second meeting.
 - *2007/08 access spend:* LM's spreadsheets to go to Area Committees in August/September. D Finlay commented on lack of progress on the Causey Mounth. LM replied that it was still being kept in the longer-term, strategic picture, although it does not feature in this year's spending plans, i.e. the current spreadsheets. LM added that there is now a decision to be made by the Council as to whether to continue a similar distribution of projects as in previous years, or to focus on Core Paths. There are issues of funding and prioritisation of workload. D Finlay asked how much influence ALOAF is allowed to have. LM noted that a (*preliminary CM*) list was circulated to the January 2007 ALOAF meeting. However, the process is community/access user/landowner-led, so input from ALOAF is invited, although too late now for this year. Cllr Storr observed that January is the right time. LM said that a

paper could be prepared between now and January. The budget is small (£30,000 Council + £30,000 SNH).

7 – Access Advice

- (1) **Menie Estate:** matter still pending. Procedure is likely to be an Area Committee meeting, followed on 2 October by a site visit and hearing [*now changed to 27 September CM*] followed on 30 October by a special meeting of the Area Committee to consider the planning applications, followed (if Area Committee is minded to approve the applications) by a report to the ISC Meeting of 29 November. It would appear that ALOAF could make a submission to the hearing, but this would need to be arranged well in advance, ideally by end of August – **Action: KT & JB**. Replying to a question from OV, CM said that the requested Access Plan had not yet been received from the developers. It was understood that such a plan would be published on the website. JB proposed that the meeting give delegated authority for ALOAF's course of action to be decided at the ALOAF pre-meeting on 10 August, attended by the Chair and himself as Vice Chair; any other representative being invited to comment or to attend if they so wished. There was no objection to this proposal. With regard to the Council's proposed hearing, the procedure would be that those making representations should speak substantially to such written submission as would already have been provided, although some amplification of topics therein is allowed. Councillors can put questions to the speaker concerned.
- (2) **Tullo Farm:** CM reported that the Council had given advice to both parties. KT asked the meeting if it felt there should be further action by the Forum; nothing was suggested. In reply to a question from D Finlay, CM said that the Council cannot interdict an individual behaving irresponsibly. D Finlay felt that there was a lack of balance in the law on this point. No suggestions for further action were received.
- (3) **Potarch:** KT reported that he had exchanged correspondence with the estate shortly after the 21 May Forum meeting, which had approved his response to the initial approach, KM reported that SNH is working with the Estate on a Visitor Management plan, based on raising awareness, education and signage. The Plan would be passed to the Council's Ranger Service and LM, with an expectation that the Police would also sign up to the Plan. SNH would provide £5000 to the Estate for implementation, and there would be monitoring for 1-2 years by SNH. KT said that the proposed ALOAF letter to the Council regarding resourcing had still to be drafted and sent, following review by the next ALOAF meeting.
- (4) **Stock Mounth:** Enquiry from Scotways regarding obstruction to equestrian access. **Action: MA to investigate.**

8 – Events, Training, Information

- **31/10/07: NAF/LAF Joint Meeting:** LM said that Bob Reid (Convenor of NAF) is very keen for ALOAF and AbOAF to be involved. KT suggested that a way forward might be for Alison Mitchell, Rachel Sharp, Bob Reid and himself to confer over a local contribution to the programme. Suggestions put forward included:
large applications, e.g. AWPR, Menie (OV); CPP (LM, possibly suggested by Bob Reid). Joint Meeting will occupy entire day this year. Numbers will

depend on venue (previously 2 LAF members plus 1 access officer from each authority). In discussion, it was noted that the NAF differs from LAFs in that the NAF is purely advisory, while LAFs are statutory and can make decisions. D Fyffe suggested that to be effective, a joint NAF/LAF debate should have an angle, e.g. "Do LAFs have teeth?" OV suggested the questions "How seriously are we taken? How can we get involved?" Also, "How can LAFs feed into NAF?" CM advised that he would be away at the date of the meeting itself, but that he could provide normal assistance in the early stages of the arrangements.

- *6/10/07: Recreational User LAF Representatives Workshop 6/10/07*: KT and MA to attend.
Future speakers for ALOAF meetings: Bob Reid, 9/07 – discussion on how much scope he should be invited to cover. Suggested topics: NAF; issues arising from implementation of LRSA; recent legal cases. LM reminded the meeting that John Risby had offered to speak about WIAT; scheduling could be discussed at 10/8/07 pre-meeting.
- *Kinfauns Castle case*: AM reported that RAS is not going to appeal the decision. Their preference is to seek changes to the legislation. LM cautioned that this is the 1st case so should await results of further cases.
- *Liability case (Highland)*: Rona Gibb advised that the High Court ruling in favour of Highland Council is far more significant than the Kinfauns case, and should give land managers a degree of comfort regarding liability and natural hazards.
- *Tuley case*: MA reported that this concerned obstruction of equestrian access on a woodland track. The landowner was required to remove the obstruction. CM noted that this was a balanced judgement which also protected the more fragile paths from damage by horse traffic. KT and KM suggested that the landowner had inadvisedly taken an inappropriate pre-emptive approach.
- *SOAC and above cases*: it was noted by KM and CM that in both the Kinfauns and the Tuley cases, the Sheriff did not find SOAC useful (partly because of the considerable freedom of interpretation which could be accorded to relevant sections). SNH needed to be aware of this.

9 – Agenda suggestions for next meeting

- All to think of questions for Bob Reid for the next meeting.
- KT will be away (JB to Chair).
- DS gave her apologies in advance.
- CM: 2 items discussed tonight – Local area access forums
 - Process for ensuring continuity/rotation of membership. RG: Some Forums have protocols for rotation.

10 -- AOB

- NFUS has appointed a Reserve to deputise for Tom Johnston when required, in place of Ross Williams. Name to be announced. [*Subsequently advised that the appointee is Andrew Robertson, Titaboutie, Coull, Tarland* CM]
- CM reported receipt from Paths For All Partnership of two new advice booklets:
 - "Public Access and Land Management", SNH 2007;
 - "Advisory Signage for Outdoor Access", PFAP & SNH no date (?2007).
- JB noted Jamie Hunter's absence from this meeting and 2 previous ones, thus requiring CM to take the Minutes. CM explained that on the first 2

occasions there were mitigating circumstances; including that on the 2nd occasion he had failed to send an invitation to JH. However, there was no explanation regarding his absence at the present meeting and no apology had been received [*subsequently advised by JH that he had been on sick leave. CM*]. His presence was requested at the next meeting. It was suggested that ALOAF might complain to the Council.

- Regional meeting/training for LAF members: Rona Gibb notified the meeting that there will be a Regional Forum for northern LAF members on 28/11/07 at Inverness. RG to discuss with CM and LM the form to be distributed to ascertain the types of training desired. It was requested that the timing be coordinated with train times for convenience of delegates.
- Dates of 2008 meetings to be on agenda for next meeting. OV suggested that these should be timed to tie in with the Council's budget cycle. LM advised that any project proposals should therefore be input in January. DS advised that for major strategic funding discussions the cycle begins in September.
- Advance apologies received from DS for the next meeting.

11 – Date of next meeting

17 September 2007.