

## Response to Scottish Parliament Petition 1751 to "Create no wild camp zones in Scotland"

### Description

In September, the local SNP Councillor for North, West and Central Sutherland, Kirsteen Currie ([see here](#)), lodged a petition with the Scottish Parliament petitions Committee to create no wild camp zones in Scotland ([see here](#)). The petition was prompted by perceived concerns with the impact of camping and campervanning along the North Coast 500 ([see here](#)). Cllr Currie is office manager for Gail Ross, MSP, who is chair of the Petitions Committee (and declared an interest when the Committee first considered the petition).

I am delighted that through Parkswatchscotland I was asked by the Committee to respond to the petition. I decided to do so along with Bob Reid and Dave Morris who were both also involved in the development of our access rights, including the right to camp, which were then enshrined by the Scottish Parliament in the Land Reform Act 2003. You can read our submission [here](#). This follows Petitions Committee guidelines and is limited to four pages. In preparing that submission, however, we developed a more comprehensive case explaining why "no wild camp zones" are completely unnecessary. That full case is set out below.

With the Loch Lomond and Trossachs National Park Authority set to consider its formal 3-year review of its camping byelaws in December, it's more important than ever that all those concerned about access rights understand how they were meant to work and how the lack of resources to provide appropriate infrastructure is resulting in further calls to ban camping. Of particular concern in this respect is the lack of understanding of the legal framework for access rights by elected representatives, as demonstrated by this petition. Responsibility for much of that lack of understanding, however, lies with the LLTNPA which promulgated byelaws as the way to address problems associated with a small minority of people camping rather than implementing the framework provided by access rights. That is a sad failure by a National Park which should have been at the forefront of promoting access rights.

Responsibility for that failure appears to lie with the Park's former convener, Linda McKay, ([see here](#)) who built a new house for herself on the shores of Loch Venachar next to where people used to camp ([see here for example](#)). She appears to have made it her personal mission to ban camping and presided over no less than 13 secret Board Meetings to develop the byelaws ([see here for example](#)).

Over the next few weeks Parkswatch will be looking in more detail at why the camping byelaws have failed and why Scottish Ministers should reject the LLTNPA's likely recommendation that they should be made permanent.

Petition 1751 is likely to be considered by the Scottish Parliament's Petitions Committee in the New Year.

## The case against no camp zones

By Nick Kempe, Dave Morris and Bob Reid

### The legal framework

The petition appears based on a misunderstanding of the law, both the access provisions of the Land Reform (Scotland) Act 2003 and various Road Traffic Acts:

*“Currently there is no legislation that local authorities can utilise to allow them to prohibit wild camping.”*

This is not true. Both Local Authorities and National Parks have powers to establish byelaws or other measures to prohibit or restrict camping. They function as “Access Authorities” under the Land Reform (Scotland) Act 2003 (the “2003 Act”) and under sections 11 and 12 of that Act they have the power to suspend access rights or make byelaws which prohibit the exercise of access rights, including camping (see Appendix 1 – the byelaw making powers are also set out in the SPICE briefing on the petition). In addition, National Parks have powers to regulate access under para 8 of Schedule 2 to the National Parks (Scotland) Act 2000 (the “2000 Act”). It is that Act which has been used to create the camping byelaws in the Loch Lomond and Trossachs National Park (LLTNP).

The petitioner, in explaining the background to their petition, also conflates camping with campervanning and describes both as “wild camping”. Camping, i.e. putting up a tent, is one of the activities included within the 2003 Act and like the other activities can be exercised wherever access rights apply. The statutory right to camp was established in the 2003 Act by the repeal of part of the Trespass (Scotland) Act 1865 which had created the offence of occupying or camping on land without the consent of the owner or occupier (see section 99 and Schedule 2, section 1 of the 2003 Act).

Access rights as defined by the 2003 Act, however, don’t apply to motorised activities. Campervanning (the use of campervans or motorhomes) is instead covered by various Road Traffic Acts. These allow for vehicles to stop or pull off onto the side of the road and adjacent ground (up to 15 yards), presuming no damage is done to fences, gates etc. No traffic offence is committed, irrespective of whether the land is in public or private ownership:

Nevertheless, the Roads/Traffic Authorities, which include Local Authorities, have various powers to limit where vehicles can stop, usually to prevent obstruction of the carriageway, through Traffic Regulation Orders. These have been used, for example, to create a clearway between Balmaha and Rowardennan on the east shore of Loch Lomond in order to ease traffic flow along this narrow road. An indirect consequence of this clearway order has been the displacement of camper vans and motorhomes to other locations.

There are therefore various legislative powers already available to National Park and Local/Roads Authorities to prohibit or limit camping or campervanning and to make contravention a criminal offence, if necessary. Included within these legislative powers is the ability to prevent or remove encampments. These have been used to deter persons from parking caravans in laybys on a long stay basis.

The apparent conflation by the petitioner of camping rights and rights of vehicles to stop off overnight is however perfectly understandable. This confusion arises because the Loch Lomond and Trossachs National Park Authority (LLTNPA) tried to use a single byelaw provision, as available under the 2000 Act (the national parks legislation), to apply to both vehicles and tents, without proper consideration of the interaction of such a byelaw with road and traffic legislation. The consequences of this mistake are explained below.

## **Rationale behind the current legal framework**

To be able to travel across land and water is a basic democratic right, to be exercised by everyone at any time. It may include the need to park a vehicle or bicycle, tie up a horse or land a boat. The legal framework described in the previous section protects these rights. Road Traffic Acts and the Highway Code have been regularly updated over decades and are fundamental to travel by motorised vehicle or bicycle on the UK road network. In Scotland, the 2003 Act safeguards many non-motorised activities including the right to walk across land and erect a tent. It is important to have due regard to the fundamental rights and liberties which are the bedrock of this legislative framework. Every effort should be made to avoid undermining or eroding these principles and recognise that any constraints should be reasonable and proportionate.

The 2003 Act is of relatively recent origin but was based on extensive negotiations between stakeholders in the National Access Forum (NAF) followed by legislative action in the Scottish Parliament. The Scottish Outdoor Access Code (SOAC) was brought into being by the 2003 Act and developed by the NAF, under Scottish Natural Heritage (SNH) guidance, before approval by the Scottish Parliament. This process recognised that almost all potential problems associated with public access to land and water (fires, litter, disturbance etc) could either be dealt with through existing laws, through education (assisted by the SOAC), or the provision of new infrastructure, such as parking places, toilets, camping pitches, paths and waymarking.

The framework set out under the 2003 Act for addressing problems is based on a staged approach, involving as necessary sections 10,11 and 12 of the Act.

In the first instance the SOAC (as provided for in section 10) is the principle guidance document for persons taking access, as well as for landowners and public bodies. It defines how best to take access to land and water, how to manage that land in order to facilitate access and how public bodies can support access takers and landowners to ensure, as far as possible, that these actions and activities are carried out in responsible ways. From time to time further, more detailed advice may be prepared by the NAF to supplement the SOAC and subject to SNH approval. This has been done, for example, to provide additional advice on such issues as the control of dogs, the organisation of events in the countryside and the management of informal camping, particularly in accessible roadside settings ([see here](#)). Such advice, through the SOAC and NAF work, is backed up by substantial education efforts, led by SNH, in the hope and expectation that public access to land and water can be secured in harmonious and enjoyable ways.

Section 11 (Power to exempt particular land from access rights) comes into play when the section 10 process is inappropriate or inadequate. It might be needed, for example, where access rights need to

be suspended where an event is taking place and it is necessary to charge an entrance fee. Or it can be used to dissuade persons from taking access where the use of SOAC and other advice is insufficient. It could be used, for example to dissuade people from camping in close proximity to formal campsites or too close to buildings or other structures associated with a settlement. Erection of "No camping" signs which would otherwise be unlawful under the 2003 Act would be allowable for land covered by a section 11 order. One further advantage of using a section 11 power is that non-compliance does not, by itself, lead to a criminal charge.

Section 12 (Byelaws in relation to land over which access rights are exercisable) provides last resort power available when the other options for managing public access, based on sections 10 and 11, have proved inadequate. They are last resort powers because the process of securing byelaws is quite complicated and because enforcement can be expensive and difficult, potentially leading to persons receiving criminal convictions. This is a serious matter that could affect a person's ability to, for example, secure employment, develop their career or travel to another country. This would be a disproportionate outcome if their only misdemeanour was to have pitched a tent near to a road or loch, complied with the "leave no trace" principles embedded in the SOAC but failed to purchase a byelaw permit..

While Access Authorities were given a power to create byelaws in the 2003 Act, it was only ever expected that such powers would be used in very specific situations such as where total exclusion of public access was required. Examples might be the need to prevent people from camping beneath an eagle's eyrie or walking through nesting colonies of terns on beaches where ongoing disturbance could lead to nest desertion. Byelaw arrangements based on partial exclusion are undesirable as this then usually requires the use of a permit system for those persons not excluded which is difficult and expensive to set up and administer.

The petitioner appears not to understand this legal framework and the rationale that underpins it. In addition, the petition seeks camping byelaws to address problems which are already covered by other laws. For example, the petition claims:

*"Any legislation which limited wild camping would also require to be flexible enough to allow local authorities to impose wild camping bans during periods of extreme dry weather. There have been many devastating wildfires throughout Scotland ignited as a result of careless camping."*

It would be interesting to know what evidence the petitioner has that many devastating wildfires result from careless camping. To the best of our knowledge the majority of wildfires, whether devastating or not, result from muirburn as, for example, in the fire that destroyed part of the protected Glen Tanar Caledonian pinewood last year ([see here](#)). However, whatever the actual position and we don't dispute that some fires may have been caused by the public camping, throwing cigarettes out of car windows etc lighting of fires is already controlled under the Civic Government (Scotland) Act 1982, Section 56 which states:

*Any person who lays or lights a fire in a public place so as to endanger any other person or give him reasonable cause for alarm or annoyance or so as to endanger any property shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.*

In 2012 the Scottish Government set up the Land Reform Review Group (LRRG) to review the land reform legislation as a whole and make recommendations for the future. Its final report, The Land of

Scotland and the Common Good, published in 2014 ([see here](#)), endorsed the statutory framework for access rights and concluded the main challenges lay in continued implementation of the 2003 Act:

In reaching this conclusion, the LRRG considered a number of issues which had been raised with them, including wild camping (extract in Appendix 2). Of these issues dogs were seen as being of the greatest concern and a number of educational initiatives have since been developed by SNH to address dog related matters.

An Interim Report had been issued by the LRRG in 2013 and this indicated that representations had been made to them by the LLTNPA which sought legislative modifications, throughout Scotland, which would restrict camping near roadsides and give a power to rangers to issue fixed penalty notices, in any location, for any behaviour that the ranger considered was not compliant with the SOAC. The LRRG did not accept these LLTNPA recommendations and commented in the Interim Report as follows (appendix 3):

*“However, the general view is that most of the complaints about access will be resolved by better **implementation of the Access Code** and better **visitor management** rather than by modifying the legislation. This is the core business of the National Access Forum (NAF). We therefore propose to **share the evidence from the LRRG submissions with the NAF, invite them to review it and to report back to the Group through our advisers.**”*

The rest of this post looks at the solutions that should be being applied to address the problems associated with success stories like the North Coast 500 and indicates why the use of camping byelaws is not an appropriate way to address problems associated with camping and campervanning close to the road network.

## Implementation of the Land Reform (Scotland) Act 2003

After the Scottish Parliament passed the 2003 Act new resources were put in place to help implement the legislation, both to develop and promote the SOAC and to develop new infrastructure, including paths, parking areas and information points. Access Teams were established across Scotland, funded by SNH, and much good work was done promoting the SOAC and resolving local access issues. For example, many access officers spent a considerable proportion of their time addressing parking issues because adequate and safe parking is so important to enable people to enjoy the countryside.

After the financial crash in 2008, the implementation programme started to collapse. SNH handed over funding responsibility to Local Authorities and they, unsurprisingly, prioritised funding into other areas of their responsibility. A significant proportion of access officer posts and associated funding streams have now disappeared and most Access Officers that do remain have other duties which are not related to access rights (like managing public parks).

At the same time in the last ten years there has been a massive increase in numbers of tourists arriving by campervan and visiting the remoter areas in Scotland. This has been brilliant for the local economy but local communities have been left with no means to address the issues. Twelve years ago many of the issues now being reported, whether to do with camping or campervanning, could have been addressed through the expertise and resources which had been developed by Access Officers. That is

not to say there would not have still been challenges, most notably the capacity of roads to deal with the increased traffic, but the provision of basic visitor infrastructure such as off-road parking places, litter disposal points and toilets could have been addressed. Now, local communities are faced with picking up the pieces, literally.

One response has been to try and develop new revenue streams to replace services which have been cut. Examples are the debates in Highland Council that have taken place about a tourism tax and, more recently, the introduction of car park charges. The other, which is perhaps understandable in the circumstances, is to try and ban the problem or pass it on to someone else. At its most extreme this is seen in individuals calling for an end to mass tourism but most commonly has focused on suggesting new bans on camping and campervanning.

It should be noted that most other European countries are faced with similar pressures from persons wishing to stop and rest while using the public road network, using a tent, campervan or motorhome. It is our experience that other countries on the European mainland have far better arrangements for dealing with these pressures, mainly through the provision of appropriate facilities, and have no need to intimidate their own citizens or visitors by the threat of criminal prosecution for stopping overnight close to the road network. Our politicians need to learn what happens in other European countries and apply the necessary political will to establish new infrastructure, properly resourced. That is the primary requirement for solving the problems that arise from informal camping in roadside settings and meeting their obligations under both road traffic and land reform legislation.

## **Would camping byelaws and new Traffic Regulation Orders address the issues?**

It was not anticipated that byelaws would ever be used to control camping, given the problems associated with permit systems and the fact that alternative measures were available. These included the use of sections 10 and 11 of the 2003 Act, as well as other legislation to control misdemeanours or damage that might arise from irresponsible or criminal activities associated with roadside activities. Also the responsibilities that were laid upon public bodies and landowners to manage land in ways that facilitated access, as a consequence of the 2003 Act, were expected to deliver improved facilities in the countryside, especially close to the road network in popular locations.

The experience of the LLTNPA in promoting a camping byelaw programme since 2011 provides plenty of evidence to suggest that it not a model worth pursuing further, either within the National Park or elsewhere. The resources spent on this programme would have been far better spent on providing camping pitches, water supplies, toilet facilities and parking areas in roadside locations throughout the Park. Instead the LLTNPA has spent large amounts of time and effort chasing around trying to find out who has or has not purchased a camping permit. The ranger service would have been far better deployed in helping to promote the SOAC amongst all visitors and taking appropriate action against landowners who still have "no camping" signs up all year round and dealing with commercial operators who engage in illegal activities such as fly tipping. Better engagement with the public as a whole would also enable advice to be given on good locations to camp or park which are easily accessible or adjacent to the road network. And Park staff should have been working much more closely with outdoor recreation interests to lobby politicians to deliver the extra financial resources which are desperately needed to bring the roadside infrastructure up to the European standards for

parking and camping.

The role of Police Scotland needs further examination. It appears that the momentum generated by Operation Ironworks in the LLTNP over the years has dissipated somewhat. If illegal activities are taking place in the Park it should be the role of the police, not park rangers, to tackle such situations. It is of concern that LLTNP rangers, as a result of the camping byelaws, appear to be shifting from educational to enforcement roles. This needs to be corrected, with a clear distinction made in the role of the police in dealing with criminal activity and rangers whose role should be restricted to reporting such activity, not actively intervening to stop it.

Encampments by caravans in laybys were one of the main justifications used by the LLTNPA for introducing the camping byelaws even though there was existing legislation (Criminal Justice and Public Order Act 1994, section 61, UK Parliament) to deal with encampments. Once this was realised and action taken under existing legislation the justification for using camping byelaws to solve this problem evaporated.

The camping byelaws have also proved to be of no value to the LLTNPA in their attempts to ban parking by campervans and caravans, to prevent anyone wanting to sleep in any sort of vehicle overnight, or to camp in a tent or shelter nearby. This is because existing road traffic legislation, as indicated above, remains in place for safety reasons, irrespective of any camping byelaws. After they had secured Scottish Government approval for the camping byelaws the LLTNPA finally understood that any vehicle can stop overnight lawfully on or close by the road network (up to 15 yards from the road edge) throughout the Park, subject to compliance with the Highway Code and any specific traffic regulations in each locality. Thus it was obvious that byelaws to prohibit camping were not a sensible option when sleeping in a vehicle nearby was a perfectly lawful activity.

The LLTNPA approach provides salutary lessons about the problems of trying to regulate access through byelaws and permits. When they were first introduced in 2011 along 7 kms of the east side of Loch Lomond, the LLTNPA gave strong indications that this was a temporary measure and similar bans would not be appropriate in other areas of the Park. Despite these assurances the camping byelaws were extended to cover around 150 km of loch side and roadside in 2017, without any real consideration of the alternatives or the consequences. The Park's consultation process on this proposed extension was regarded as deeply flawed and an analysis of the mistakes is provided by one of the authors in appendix 4.

There was widespread opposition from outdoor recreation interests to this extension and a submission was made to the Scottish Government in Nov 2015 by Cameron McNeish (outdoor writer and broadcaster), Dennis Canavan (former MSP, convenor of the Scottish Parliament's cross party sports group) and MP) and two of the authors (see Appendix 5). This briefing included recommendations on alternative measures to resolve public pressure problems in the Park. Each of the four authors had over 20 years of experience in the development of Scottish access legislation. A further submission to the Scottish Government was made in Feb 2016 by one of the authors (appendix 6)

The opposition also included a submission from a retired senior police officer with Central Scotland Police. Chief Inspector Kevin Findlater, had been the most experienced officer responsible for policing in the eastern sector of the Park and had pioneered the development of Operation Ironworks from 2008 onwards. This police led initiative had considerable success in curbing anti-social behaviour and

criminal activity in the eastern part of the Park and was recognised by the NAF as an effective way of dealing with such problems. He described the proposed byelaws as “wholly unnecessary” (para 14, Appendix 7). In 2013 Kevin Findlater was awarded an MBE for “his service to the environment and to the communities within Loch Lomond & The Trossachs National Park.”

The LRRG considered the progress made following passage of the 2003 Act and their conclusions (appendix 2), which included a reference to wild camping, were as follows:

*“The main tasks at present should be the continued promotion of the Code [SOAC] to build on existing progress, and its improved implementation on the ground. In carrying this out, it is important that access authorities are taking account of the concerns of both land managers and access users. Among the issues raised with the Group were concerns about wild camping. There is also a continuing need for promotion of the Access Code [SOAC] and education, including the publication of guidance of good practice. Existing examples include the management of informal camping. There is a need for adequate resources to support the promotional and educational work required to improve the implementation of the SOAC. There is also concern that the pressures on SNH and access authority budgets and their many other responsibilities, are squeezing this provision. The Group considers that Scottish Ministers might give clearer direction across government and other public bodies to ensure that they play their part as appropriate in the promotion and delivery of responsible public access.”*

In reaching their conclusions the LRRG will have been aware of the work carried out by the NAF to help implement the 2003 Act. This included the production of guidance on informal camping in 2008 which was updated in 2016. Both were promoted as SNH publications (Appendix 8 “Managing informal camping under the Land Reform (Scotland) Act 2003”). This is described as guidance “for those managing issues relating to informal camping, particularly in accessible roadside settings.” Its emphasis is the provision of appropriate infrastructure plus positive engagement with visitors, based on the SOAC advice. But it also provides an outline of all relevant legislation relating to activities that could be regarded as criminal and advice on how to seek police assistance in such situations. Reference is also made to byelaws, but the only example given is the use of alcohol prohibition measures in public places. The NAF would have been reluctant to promote the use of byelaws to control camping partly because of the practical difficulties associated with partial exclusion systems involving permits (see above) and the harsh reality that any such statutory limitation would, in effect, return Scotland to the trespass situation of 1865, at least for land close to roads.

Despite the conclusions and recommendations of the LRRG, the advice of NAF and all this opposition from outdoor recreation experts, the LLTNPA continued with its byelaws extension project and received Scottish Government approval. It has had to devote an extraordinary proportion of its resources on trying to implement these camping byelaws. It has failed to resolve the issues, in some cases made them worse and pushed problems onto other public bodies. Examples of this include:

- £100k was initially spent on camping management zone signage, including dozens of no camping signs, in what was 4% of the land area in the National Park. This has proved insufficient and likely expenditure to date is between £200-250K on signs alone
- Total expenditure on the camping byelaws project, including all set up and staff costs over the first two years, is believed to be in excess of £1million. On going annual costs are believed to be substantial but difficult to quantify due to a new method of reporting by the LLTNPA. ..

- The Ranger Service has been turned into a quasi-police force, checking on a daily basis whether campers have permits within permit areas and taking the names and addresses of 1000s of people who have camped without a permit. Evidence suggests that thousands more have camped without receiving any warning. The cost of this is unknown but is likely to be Â£millions as the Rangers formed the largest component of the Park's workforce.
- People are now concentrated into camping permit areas within the camping management zones (CMZs) without any new facilities such as a water supply, camping pitches or temporary toilets in most CMZs. This has resulted in problems associated with human waste getting worse in some places.
- In many of the camping permit areas the majority of the land is totally unsuitable for camping due to steepness, wetness, rough ground or dense tree and shrub cover.
- The LLTNPA claim to have provided over 300 new camping places to justify the introduction of byelaws and permits. This is complete fiction. They have done no modification of ground or vegetation to create such "places" or pitches in the majority of locations they have simply introduced permits to control the use of land that has been used for camping by generations of outdoor recreation enthusiasts.
- Despite the heavy "policing" besides Rangers the Park employs its own police officer the permit system has not prevented some tents from being abandoned, litter dumped and trees being cut down. Evidence suggests that many of the anti-social behaviour problems, like drinking parties, which weren't really about camping at all have been displaced elsewhere. The Rangers have been trying to get people to "do the right thing" but without appropriate infrastructure e.g. litter collection points, toilets or provision of firewood for a price by local businesses neither education nor enforcement appears to have had the allocation of resources that are needed.
- The Park has failed to develop further campsites as originally planned there are just two, both on land owned by Forestry and Land Scotland in part it appears because now that camping is banned landowners can leave the problems to the National Park to pick up and have no incentive to provide land for new infrastructure. Indeed there are indications that landowners in effect hold the LLTNPA to ransom refusing to release land for camping provision unless camping byelaws are in place to protect their own private interests.
- Belatedly the Park has acknowledged, through its appointment of a Litter Prevention Manager earlier this year, that despite all the photos it had published of litter and other damage caused by campers (see Appendix 6) that the main sources of litter in the Park have not been caused by camping. The litter levels alongside the A82, for example, are a national disgrace and have been made considerably worse by the lack of litter disposal points in appropriate locations. Fly tipping is also a serious problem.
- And, for reasons explained above, the Park has effectively had to abandon all attempts to ban the parking of campervans and caravans because of its misunderstanding of the relationship between the camping byelaw provisions in the 2003 Act and Road Traffic legislation..

All of this is doubly ironic because the LLTNPA was the last Access Authority, post 2008, to retain significant resources which could have been used to address infrastructure issues. It has both an Access Team and a Ranger Service, by far the largest in Scotland, who between them have the expertise to address the underlying issues but have been diverted from doing so in the mistaken belief that byelaws and permits could address the camping and campervan issues.

Unfortunately, the LLTNPA is still trying to claim the byelaws are a success and it will be no surprise if they recommend that the byelaws are retained when they produce their 3 Year Report for Scottish Ministers at the end of this year. A further massive waste of public funds can be anticipated while alternative options are ignored.

## Conclusion and recommendations

The increase in visitor numbers to many rural areas in Scotland has brought considerable benefits to local communities, with new income coming into the local economy, but with that are associated problems, many of which have nothing to do with campervanning and camping. There is a real danger that these problems can be exaggerated, as happened in the Loch Lomond and Trossachs National Park (the incidence of anti-social behaviour that took place there was actually among the lowest in the country despite the drinking parties). It would be in the public interest therefore if data on the extent of problems being experienced was collected to enable an overview across the Highlands and to prioritise where action is needed.

We believe the answer to the camping and campervanning element of the issues will lie in better roadside facilities, as found in every other European country, combined with the proper enforcement of our existing laws to prevent litter, fly tipping and damage to trees and vegetation whether by visitors or local residents (fly tipping is a significant issue in the LLTNP). A drive along one of Scotland's main arterial routes, the A9 between Perth and Inverness is just one example of a lack of such roadside facilities which no other country would tolerate.

In Scotland there is an urgent need to apply strong political pressure at both local and national levels to secure the necessary land for such facilities from private owners and, in some areas, from Forestry and Land Scotland. FLS could, however, also play a major role in the development of parking and informal picnic and camping areas on their own land, although this would probably require a significant adjustment to their corporate plan and policy objectives. The Scottish Parliament should be taking the lead in emphasising how poor current arrangements are and explaining what needs to be done to bring Scotland up to the sort of standard that is accepted as normal in the rest of Europe. A great deal can be achieved through better direction and coordination of Scottish public bodies and that should be the focus of Parliamentary effort..

How to fund new infrastructure is an equally pressing issue. We would commend here a tourist tax, rather than parking charges which tend to affect local people even more than visitors. Such tax arrangements exist in most other European countries and are used to empower local communities in remote areas. In Scotland, they are not supported by the official representatives of the tourism sector and as a consequence have not been supported by the Scottish Government. We believe the claims that a tourist bed night tax would deter visitors is wrong. Increasingly, tourists find and book accommodation through on-line companies some of which impose considerable charges. For example, Booking.Com charge providers a 15% booking fee which means if you pay £45 for a night's accommodation £6.50 of this is being sucked out of the country. Its surely time Visit Scotland set up a national booking system which could then channel money back into local infrastructure.

We also note from a recent report that in excess of Â£22 million of additional tourism income appears to have been generated in 2018 from North Coast 500. It would require only a small proportion of such income to fix the infrastructure problems associated with NC 500. It would be better to expend effort to allocate some of that income to improved infrastructure spend, along with proper enforcement of existing laws, rather than waste time, energy and money in a futile attempt to ban campers and caravanners.

It should also be noted that the final report of the LRRG made the recommendation that public funding for agriculture and forestry development should be used to encourage land managers to deliver improvements in facilities for public access. This proposal should be examined further as public funding support for landowners is in the process of adjustment, either as a result of Brexit or reform of the Common Agricultural Policy. Such funding could include payments to support the development of informal camping pitches, picnic sites and associated parking facilities close to the road network.

**The overall conclusion is no new legislative action is required to meet the concerns of the petitioner. Existing rights and regulations provide an adequate framework for travel on the road network and for stopping, resting and taking access to adjacent land, including camping. The primary focus should be on the management of vehicles, not tents. Where problems arise these are primarily due to failures in public policy and the application of appropriate financial resources to deal with vehicular parking and associated activities. Central to these problems is the poor provision of facilities adjacent to the road network, in most of Scotland. There is a need for public bodies to be brought together to discuss how better policy guidance, coordination and funding support can be achieved in and around the road network. Better facility provision in relation to parking, camping, toilets, litter and waste disposal, law enforcement by the police, provision of information and guidance and the use of transport, police, tourism, agriculture, forestry and heritage budgets to deliver better outcomes is required virtually everywhere.**

**We recommend that a working group is set up, led by Transport Scotland and SNH, with input from appropriate stakeholders, such as the National Access Forum and Police Scotland, to identify what action is required by public bodies and their political leaders to secure the necessary improvements. No further action is needed by the Scottish Parliament in response to this petition.**

## Appendices

### **Appendix 1 - Provision for byelaws in the Land Reform (Scotland) Act 2003**

## 12 Byelaws in relation to land over which access rights are exercisable

- (1) The local authority may, in relation to land in respect of which access rights are exercisable, make byelaws—
  - (a) making provision further or supplementary to that made—
    - (i) by sections 2 and 9 and under section 4 above as to the responsible exercise of access rights; and
    - (ii) by section 3(2) and under section 4 above as to the responsible use, management and conduct of the ownership of the land;
  - (b) specifying land for the purposes of section 6(j) above;
  - (c) providing for—
    - (i) the preservation of public order and safety;
    - (ii) the prevention of damage;
    - (iii) the prevention of nuisance or danger;
    - (iv) the conservation or enhancement of natural or cultural heritage.
- (2) Byelaws made under section (1)(c) above may, in particular—
  - (a) prohibit, restrict or regulate the exercise of access rights;
  - (b) facilitate their exercise;
  - (c) so as to protect and further the interests of persons who are exercising or who might exercise access rights, prohibit or regulate—
    - (i) the use of vehicles or vessels;
    - (ii) the taking place of sporting and recreational activities;
    - (iii) the conduct of any trade or business;
    - (iv) the depositing or leaving of rubbish or litter; and
    - (v) the lighting of fires and the doing of anything likely to cause a fire,on the land.
- (3) Byelaws made under this section shall not interfere with the exercise of—
  - (a) any public right of way or navigation; or
  - (b) the functions of a statutory undertaker.
- (4) Sections 202 to 204 (byelaws) of the Local Government (Scotland) Act 1973 (c. 65) apply to byelaws made under this section as they apply to byelaws made under that Act, but with the following modifications and further provisions.
- (5) The references to one month in subsections (4), (5) and (7) of section 202 shall be read as references to such period of not less than 12 weeks as the local authority determine.
- (6) The local authority shall, at the same time as they first make the proposed byelaws open to public inspection, consult the persons and bodies mentioned in subsection (7) below on the proposed byelaws.
- (7) Those persons and bodies are—
  - (a) every community council whose area includes an area to which the proposed byelaws would apply;
  - (b) the owners of land to which the proposed byelaws would apply;
  - (c) such persons as appear to them to be representative of the interests of those who live, work, carry on business or engage in recreational activities on any land affected by the proposed byelaws;
  - (d) the local access forum established by them;
  - (e) every statutory undertaker which carries on its undertaking on land to which the proposed byelaws would apply;
  - (f) Scottish Natural Heritage; and
  - (g) such other persons as they think fit.
- (8) ~~The local authority are, for the purposes of subsection (6) above, to be taken as having consulted a person of whom or a body of which they have no knowledge or whom or which they cannot find if they have taken reasonable measures to ascertain whether the person or body exists or, as the case may be, the person's or body's whereabouts.~~

**Appendix 2 – Extract from the Land Reform Review Group final report – The Land of Scotland and the Common Good•**

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- 11 The Review Group appreciates that some inter aspects of the SOAC changed. However, while in the future, the Group does not consider a re in time. The main tasks at present should be th on existing progress, and its improved impleme it is important that access authorities are tak managers and access users. Among the issues dogs not under control, blocked accesses, tensio by mountain bikes and horses and concerns al can arise from commercial and intensive acces
- 12 Issues over dogs, including commercial dog wa most widespread of these problems. In part, th many people's outdoor recreation, with surveys adults are accompanied by a dog. While some i are generally criminal offences that can be re dogs need to be addressed by continuing e problems listed above tend to arise in particu solutions. However, there is also a continuing r education, including the publication of guidance guidance developed by a number of different o on golf courses, the management of informal water responsibly.

- 13 There is a need for adequate resources to sup required to improve the implementation of th

## **Appendix 3 – Extract from the Interim Report (2013) of the Land Reform Review Group**

*There was a significant number (120 responses, or 25%) of submissions to the LRRG on this matter and issues of access arose in several of the visits made by the Group. In general, there was agreement with the view of the Overview of Evidence on Land Reform in Scotland that there is little appetite amongst access stakeholders for significant changes to the provisions of Part 1 of the Act.<sup>14</sup> However, there were concerns that its implementation was not as successful as it might be. Blocked access, dog fouling and dogs not under control, tension between anglers and canoeists, damage by mountain bikes and horses, and difficulties surrounding wild camping were some of the issues raised. However, the general view is that most of the complaints about access will be resolved by better implementation of the Access Code and better visitor management rather than by modifying the legislation. This is the core business of the National Access Forum (NAF). We therefore propose to share the evidence from the LRRG submissions with the NAF, invite them to review it and to report back to the Group through our advisers.*

**Appendix 4 – No longer a National Park: A critique of the Your Park Recommendations and consultation undertaken by the Loch Lomond and Trossachs National Park and recommendations on how to avoid this in future. Nick Kempe June 2015**

[\(see here\)](#)

**Appendix 5 – Briefing on the proposed camping bye laws • Denis Canavan, Cameron McNeish, Dave Morris and Nick Kempe November 2015**

[\(see here\)](#)

**Appendix 6 – Open Letter to the Minister after approval of the Loch Lomond and Trossachs camping byelaws • Nick Kempe February 2016.**

[\(see here\)](#)

**Appendix 7 – Submission by Kevin Findlater to the Your Park consultation**

[\(see here\)](#)

**Appendix 8 – Managing informal camping under the Land Reform Act 2003 • Guidance paper for land and recreation managers. SNH (2016)**

[\(see here\)](#)

### **Category**

1. Loch Lomond and Trossachs

## Tags

1. access rights
2. camping
3. Camping bye laws
4. LLTNPA
5. Scottish Government
6. scottish natural heritage

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## Author

nickkempe

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