

WILD LAND NEWS 52

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COMMENT: Land Reform - The Draft Bill

Article

The long-awaited Draft Land Reform Bill was launched at Aberfoyle in late February by the Deputy First Minister, Jim Wallace, and the (then) Environment Minister, Sam Galbraith. In reality this is three bills in one - Access, Community Right-to-Buy, and Crofting Community Right-to-Buy.

Access

The Access part of the draft bill is to be read in conjunction with a separate Draft Scottish Outdoor Access Code. In the event, the timing of the launch could hardly have been more ironic, coming only two days after the first confirmed case of foot-and-mouth in Britain. The public debate on the bill, though intense and acrimonious, was short-lived as the spread of the disease rapidly dominated the thoughts of land managers and widespread access restrictions were quickly in operation.

Although it contains worrying elements not included in the original Access Forum's recommendations, the Access section is probably the most robust part of the draft bill. Particular concerns will inevitably focus on the provision for police involvement which introduces an unwelcome element of criminalisation, and on the powers of land managers to suspend access rights for a period of time.

Nevertheless, it does indeed enshrine the right of access to all land, enclosed and unenclosed, and to all non-tidal inland waters. There are numerous exceptions such as those to protect residential privacy and public safety. Certain commercial developments would be out of bounds, as would plantations of vulnerable young trees and land on which crops are growing.

The draft bill specifically states that grassland is not to be treated as a crop and is therefore not out of bounds. Remarkably, the ensuing public debate became bogged down in the definition of "grass". In a move rightly described as "risible" by the Herald newspaper, farmers' representatives insisted that grass must be treated as a crop. The ludicrous implication is that we would be committing an offence by treading on grass while walking in the countryside.

It will be interesting to see how the access debate proceeds once the foot-and-mouth epidemic is over. After a long period of absence, walkers will be in no mood for further restrictions or the emergence of a "Keep off the Grass" culture in the countryside. Neither will the tourism industry which has been desperately hard-hit by the crisis. This appalling epidemic has at least demonstrated the extent to which the rural economy is dependent on recreation, especially on rambling and hillwalking. If people can't get out and about once they travel to the countryside, they won't spend their money going there. No doubt Parliament will take heed as the bill runs its course.

Community Right-to-buy

It is astonishing that such a flimsy piece of legislation as the community right-to-buy should form the centrepiece of the Executive's land reform strategy, and the draft bill appears to incorporate the weaknesses of the 1999 White Paper.

The earlier consultation document "Identifying the Solutions" stated that the right-to-buy "Would greatly empower communities" and "Would effect rapid change in the pattern of land ownership". To say the least, such statements are grossly over-optimistic. The process, after all, has to begin with a decision by a landowner to sell - hardly "empowerment" as there is nothing in the draft bill to act as an incentive for him to put land on the market.

Once the decision to sell is taken, however, the community has to purchase the land as lotted by the seller. If they only want a few acres but the whole estate of, say 10,000 acres, is for sale as one lot, they have to buy the 10,000 acres or forget it. Rather hopefully, the preamble states "there is clearly scope for a mutually agreeable solution to be negotiated between the parties". This is not "empowerment" - if such good a relationship exists between seller and community, there would be no need for legislation to give pre-emptive rights of purchase to the community in the first place. It seems far more likely that landowners will be hostile to legislation which they perceive as an intrusion, and will be less likely to co-operate.

Furthermore, valuation is to be based on open market prices, which in the case of Highland estates are often hugely inflated by their romantic appeal to rich dreamers from anywhere in the world, in search of a private kingdom. How are communities to match such prices? Where will the money come from?

It was the Land Reform Policy Group which claimed that the right-to-buy "Would effect rapid change in the pattern of land ownership". Yet its Deputy Chair, Isabelle Low, was reported to admit at a seminar in Thurso a few months later that "there probably is not going to be a huge number of communities waiting to buy land". The two statements are obviously incompatible, and in the light of this draft legislation the latter one seems far closer to the mark.

If the present Government is to be remembered for its land reforming initiatives, it needs to do much better and much more than this.

Hydro-Electric Schemes

Article

Richard Gilbert reports on another major threat to Wester Ross

Visitors to the Highlands cannot fail to notice the effect of hydro-electric schemes on the environment. The ugly drawdown scars on Lochs Cluanie, Glascarnoch, Quoich and Laggan to mention just a few, the pylons, overhead wires, concrete dams, weirs, bifurcation channels, turbine houses, access roads, towers housing sluice gate valves, iron pipes strung out across hillsides and depressing dried up river beds.

In the stampede for cheap power at any cost even the magnificently grand glens and lochs did not escape as Affric, Strathfarrar, Mullardoch, Fannaich, Luichart and Lyon were plundered.

Now, after fifty years, the power companies are returning, hoping to squeeze a few more megawatts from the rivers and lochs which had previously been considered uneconomic. It is the government's promise to pay twice the normal price for power generated from renewable sources that has stimulated the recent activity.

In the 1980s hydro-electric schemes were mooted for the splendid Grudie and Talladale rivers which rush down into Loch Maree from Flowerdale. Vehement opposition caused the schemes to be abandoned.

Ten years later plans were published for the damming of Loch a' Bhraoin in the Fannaichs but, again, the developers climbed down. However, this could have been part of an overall softening up process for, in 1999, Scottish and Southern Energy published plans for diverting the Cuileag river, which drains Loch a'Bhraoin, into pipes at the point where it plunges down a spectacular gorge to the Ullapool river below the NTS's showpiece, the Corrieshalloch Gorge. There was pathetically little opposition to this scheme which passed through the hands of the various planning authorities with scarcely a murmur. As I write trees are being felled, concrete is being poured and a turbine house is being constructed.

Meanwhile the Shieldaig forest, that primeval area of rivers and lochs which includes the impressive Corbett of Baosbheinn and is overlooked by Beinn Alligin, Liathach and Beinn Dearg, was fighting for its life. Highland Light and Power submitted plans for a hydro-electric scheme involving the damming of three lonely lochs: Loch Gaineamhach, Loch a'Ghobhainn and Loch a' Bhealaich plus the usual turbine houses, pylons, bifurcation, access roads and drawdown. In addition to their unique landscape qualities these lochs are the breeding ground for the rare Black Throated Diver. The scheme was to produce at best a measly 2.1 MW of power.

The Scottish Minister sent this scheme to Public Inquiry which was held in Gairloch in September 1997. It was opposed by SNH, Highland Council, MC of S and several individuals including myself and Robert Aitken. It took the reporter, Mr Penman, three years of deliberation before approaching his final recommendations. The opposition was confidently expecting success when Highland Light and Power suddenly withdrew their application.

HLP would not have wanted the result of the Inquiry to set a precedent for the future, but by their withdrawal they wasted a huge sum of money from the public purse and the pockets of hard pressed conservation and environment organisations.

Late last year HLP leaked plans for a new, even more ambitious, scheme expanding the area to include the wild and lonely Loch na h-Oidhche in the Flowerdale Forest. This would be the largest hydro-scheme seen in Britain since 1952. At a meeting with Gairloch Community Council HLP tried to offer financial incentives to the community for their support.

There is very little that anyone can do to oppose the scheme until the plans are published. Then the public has just five weeks in which to protest to Scottish Executive.

The previous scheme for Shieldaig Forest was sent to Public Inquiry on the strength of 300 protest letters from the public. It is absolutely essential to recruit as much opposition as possible and to get them ready to bombard the Minister with letters when the time is ripe. The Minister has three choices open to him:

- To sanction the plans.
- To send the plans to another Public Inquiry.
- To veto the plans.

I would ask all members of the SWLG to make a list of people who might be prepared to write in and to ask each of these people to do likewise. By this method we could get a thousand or more letters sent to the Minister.

The MC of S web site will publish the plans as soon as they are announced. If members could keep a regular eye on this site they will get the maximum amount of notice. The site is:
www.mountaineering-scotland.org.uk

I would like to think that the Shieldaig / Flowerdale scheme is one that every member of SWLG will oppose with the utmost commitment. In the same way that Friends of the Lake District routed BNFL at Public Inquiry in the 1980s to preserve the integrity of Wastwater and

Ennerdale Water let us, the SWLG, convince the Minister that we will not allow HLP to destroy one of the very last areas of wild and beautiful land in Britain. This is a battle that we must win.

Consider a few points:

1. If Shieldaig / Flowerdale is lost to the developers there will be a green light for hydro-schemes on many of the great rivers of the North West. The Gruinard, Ewe, Dundonnell, Traligill, Kirkaig, Inver, Laxford, Dionard etc.
2. If such a scheme was proposed for the Lake District, Yorkshire Dales, Dartmoor, Peak District or North Wales there would be a public outcry so damaging to the government that they could not allow it.
3. The wild places of North America, where they have infinitely greater areas of wild land, are protected by draconian restrictions on camping, fishing, trail walking, parking etc. There is no way that damaging hydro-schemes would be allowed.
4. The quality of the hill country of Wester Ross has no price. It is outrageous that laws permit it to be up for grabs by the highest bidder. Wester Ross has been put forward as a future National Park, it would be a travesty to destroy it before meaningful protection is bestowed.
5. HLP have lost all credibility by their actions over the previous planning application.
6. I cannot believe it is the government's intention that the extra guaranteed fee for power should encourage the destruction of one of Scotland's finest assets.
7. If the new scheme goes ahead it will generate only a minuscule amount of power and provide only one permanent job.
8. NPPG 6 (National Planning Policy Guideline No 6) from Scottish Executive states that "Renewable energy resources could more easily be developed in the Central Belt or Southern Scotland on sites close to large centres of population. The power would more likely come from wind generators and biogas plants." Scottish Executive must be held to this.

The address to write to is: Minister of the Environment, Scottish Executive, Victoria Quay, Edinburgh, EH6 6QQ

If anyone wishes to write to me or send an E-mail my address is: Stac Polly, Crayke, York. YO61 4TB. rgilbert@supanet.com

Richard Gilbert is a member of the SWLG, as well as the Alpine Club and Climbers' Club. He is the author of ten mountaineering/hillwalking books, the most recent one being "Lonely Hills and Wilderness Trails" published in 2000 by David and Charles. His book "Exploring the Far North West of Scotland" won the Gold Award from Cola and the Outdoor Writers Guild for the best guidebook published in 1995.

The views expressed in this article are his own.

Loch Lomond and the Trossachs National Park

Article

Fiona Anderson and John Digney examine the consultation document in preparation for the establishment of Scotland's first National Park

If ever there was an illustration of the need to rationalise designations in Scotland, it is the map on the inside cover of this document. Regional Park, Environmentally Sensitive Area, National Scenic Areas, Forest Parks, National Nature Reserves, Sites of Special Scientific Interest, Special Protection Areas, Special Areas of Conservation.. and so on. You name them

- Loch Lomond and the Trossachs has got them, and many of them overlapping. A pretty pattern on the map, but meaningless to most people.

The consultation document was launched last November and sought responses on three main topics concerning the proposed National Park - Area, Powers and Representation. The SWLG Steering Team made its response in early February.

Area

The area for inclusion runs from Balloch in the south almost to Crianlarich in the north, and from Callander in the east to a point just beyond the Rest and be Thankful in the west. Comments were invited on certain possible extensions to this main area.

To the north, the boundary would dissect the Crianlarich and Tyndrum hills. We suggested that the extended boundary should be adopted to include these ranges in their entirety, as the usual hillwalking approaches are generally from the north and would otherwise be excluded. Similarly, to the north-east we urged the inclusion of the ever-popular Ben Vorlich and Stuc a' Chroin, together with Loch Earn because of its water-sports activity.

To the south-west the Argyll Forest Park extends as a limb to the Clyde, but its character is similar to that of the main area. National Park status might well provide the incentive for much-needed re-structuring of the dense commercial forestry plantations that have disfigured the region, and this together with its popularity as a recreational area persuaded us to vote it in.

To the south the situation was less clear-cut. We would have liked to see Flanders Moss included because of its important conservation status, but the intensity of local opposition to National Park status would have made it politically difficult at this stage. As a compromise, the area around the Lake of Menteith seems a logical candidate and we urged its inclusion.

Powers

We were glad that the original proposals for full local planning powers for the National Park Authority have been retained. This undoubtedly reflects the years of productive experience gained by the local authorities in the area working with the Interim Park Committee. In addition the NPA will have controls over minerals applications, hazardous substances and several other peripheral functions. With these powers the NPA stands a good chance not only of preparing effective planning policies based on a strong Local Plan, but also of influencing a wide range of land use and environmental concerns that are not subject to planning control, which is the chief omission from the report.

Strategic planning, which brings in a whole series of wider concerns from National Planning Guidelines, through population growth, to trunk roads, housing, tourism etc. is best left with the local authorities, with a few exceptions, namely forestry strategy, transport integration and traffic management. Indicative Forestry Strategies are advisory, but very significant in the Loch Lomond/Trossachs area, and should be prepared by the NPA in consultation with the local authorities. Transport and traffic are also important in a National Park so close to the Central Belt, as reflected in SNH's comment in their first report that "traffic management is expected to be critical in this area. It should be stated unequivocally that the local authority must liaise closely with the NPA on this and transport integration. All three will be included in the statutory Local Plan prepared by the NPA.

The report, in seeking views on the main issue, namely planning controls, makes scant reference to land use changes not subject to planning control which will raise the most difficult problems for the NPA. The importance and scope of the non-statutory National Park Plan should be referred to, with reference to the large number of agencies, authorities and

land managers, public and private, who will be involved in drawing it up. Forestry Grant applications, agri-environmental schemes, hydro-electric proposals and bulldozed tracks are examples of activities which would have a significant effect on the National Park, but are not subject to normal planning controls. To stand the best chance of success in this, Scotland's first National Park, these agencies and managers could well be exhorted to do more than merely consult the NPA, but to work with it to achieve the best environmental gains for all concerned.

Representation

The proposal is for a Park Board of 25 members. A minimum of 20% of these would be elected local members, with the remaining members to be divided equally between those appointed by Scottish Ministers and those appointed by local authorities. We had no further comment to make on this distribution.

Although the timetable for establishment of the National Park has slipped from this summer to April of next year, the process is well under way. We have waited a long time for this.

Planning Controls for Telecoms Masts

Article

Alistair Cant examines the Executive's proposals

The Scottish Executive has issued a consultation paper on proposals for many new telecom masts to require full planning permission. At present masts under 15 metres in height are treated as 'permitted development'. This has led to concerns on three main fronts:

1. In the countryside masts under 15m can be erected virtually anywhere. There was an outcry and deliberate vandalism when a mast was erected in Carlops, a conservation village.
2. In towns and cities, people living next to high ground could find a mast erected without warning, causing loss of amenity.
3. The health worries of the radio waves affected people especially children as some masts have been located on local authority premises e.g. schools, tower blocks, etc.

In England and Wales the law has been changed so that such masts require 'prior approval' of the Planning Authority before development could proceed. This approach is unsatisfactory as the applicant is allowed to proceed automatically with the mast if the planning authority does not determine the application within a specified period (28 or 42 days, depending upon circumstances). This halfway house situation was not wanted in Scotland.

The Transport and Environment Committee of the Scottish Executive looked at the issue and make recommendations, most of which have been taken up by the Scottish Executive in its consultation over the proposed Scottish Statutory Instrument.

The proposals include the requirement for all masts (more than 3m high) to need full planning permission if they are:

1. New masts on the ground.
2. Certain new installations of telecommunications apparatus on buildings.
3. All new installations on the ground or buildings in National Parks, National Scenic Areas, SSSIs, European sites and other conservation areas, historic gardens or designated landscapes.
4. Radio equipment housing on the ground if it exceeds 3m in height or 90m³ in volume.
5. Radio equipment housing on a building if it exceeds 3m in height or 30m³ in volume.

The Scottish Executive's intention is that most masts will need permission, and the public will be involved through the neighbour notification system. It is hoped that there will be improved siting and design of masts as a consequence. A draft National Planning Policy Guideline (NPPG) has been written to encourage better design, siting and other issues.

The Wild Land Group has a few concerns although we wholeheartedly welcome these proposals. There has been some outcry in the papers that there are currently many masts being erected to beat the new regulations. This is unfortunate but is a by-product of our democratic system and we say better late than never.

The current planning system only allows one to comment on specific proposals from a developer. It does not allow a system where operators are forced to share masts, and certain locations are banned from having masts. The NPPG does have some good points about sensitive siting in wild land, but how careful will the Planners and Planning Committees be when there is a lot of pressure e.g. to 'modernise' the Highlands & Islands and provide full mobile phone coverage in every glen?

We have concerns over the ancillary buildings and access tracks for masts. These can be much uglier and more intrusive than the mast sometimes.

Some of the proposals relating to masts on buildings are quite detailed, and I have not addressed the health issues relating to masts and radio waves, as they are not the concern of the Group.

Overall a good proposal with some weaknesses but a definite improvement for wild land.

AGM 2001

**The AGM of the Scottish Wild Land Group will take place
on Saturday, 19th May 2001 at 7pm
in the Covenanters Inn, Aberfoyle**

After the formal business there will be an illustrated talk by DR. ROBERTAITKEN:

**"CAPTURING THE WILL O' THE WISP:
DEFINING WILD LAND IN SCOTLAND"**

Bob Aitken wrote his PhD thesis on "Wilderness Areas in Scotland" back in 1977, and has since then gained extensive experience of designated wilderness areas in America and Australasia. Bob invites you to join him first in a globetrotting slide talk to investigate some environmental and cultural dimensions of wilderness at home and abroad; and then in discussion to explore whether and how we can define "wild land" in Scotland.

All welcome

Pre-AGM walk

This will be up Ben Ledi, starting at 10.30am on Saturday from Ben Ledi car park, off the A84 across the metal bridge (Grid ref. 587092). Meet at west end of the bridge.

Camping

The Steering Team are camping at Cobleland camp-site from Friday. For details, contact the Tourist Information Centre on 01877-382352.