

PLANNING AND ACCESS COMMITTEE

MEETING: NPAPC/04/2014

DATE: 30th June 2014

REPORT No.	NPAPC/04/2014/03
SUBMITTED BY:	Head of Visitor Management
LOCATION:	Land to east of Ardvreck, Arrochar
PROPOSAL:	Core Path Diversion

NATIONAL PARK WARD:	Lomond North Ward
COMMUNITY COUNCIL AREA:	Arrochar and Tarbet Community Council
CASE OFFICER:	Name: Guy Keating (Recreation and Access Advisor) Tel: 01389 722677 E-mail: guy.keating@lochlomond-trossachs.org

1 SUMMARY AND REASON FOR PRESENTATION

- 1.1 The NPA has received a planning application for a detached residential housing unit on land to the east of the residential property of "Ardvreck", Arrochar. Due to localised site constraints the unit will be located on a core path, effectively removing it from public use. The planning application for the house is dealt separately under delegated planning powers to the Director of Planning. This planning application will remain pending decision until the outcome of this committee item has been concluded.
- 1.2 This purpose of this report is to seek Members' approval of the core path diversion consultation process to ensure the NPA satisfies statutory organisational aims and obligations. This report aims to describe and assess the existing core path situation and make recommendations for a proposed diversion.
- 1.3 In accordance with the agreed Access Scheme of Delegation, this application is being presented to Members as it raises a new access issue for the NPA as it is the first occasion that there has been a proposal to divert a deposited core path. For this reason it is being presented to Members to seek their instruction in this regard.

2 RECOMMENDATION

That Members:

1. **APPROVE** for consultation the proposed Core Path Diversion as attached in Appendix 3. The consultation process will, if approved by Members, be for a period of 2 weeks.
2. **NOTE** that, subsequent to conclusion of the consultation process (if approved by Members) the appointed officer will report the findings of the consultation to the next available committee meeting with a final recommendation.

3 BACKGROUND

Description of Planning Application Site:

- 3.1 The planning application site is a small area of unmanaged semi-natural woodland located between Arrochar football pitch to the north and the Claymore Hotel driveway to the south. It contains a narrow sinuous stream which bisects the site in an approximately E-W direction (refer to **Figure 1** below for a site location plan).

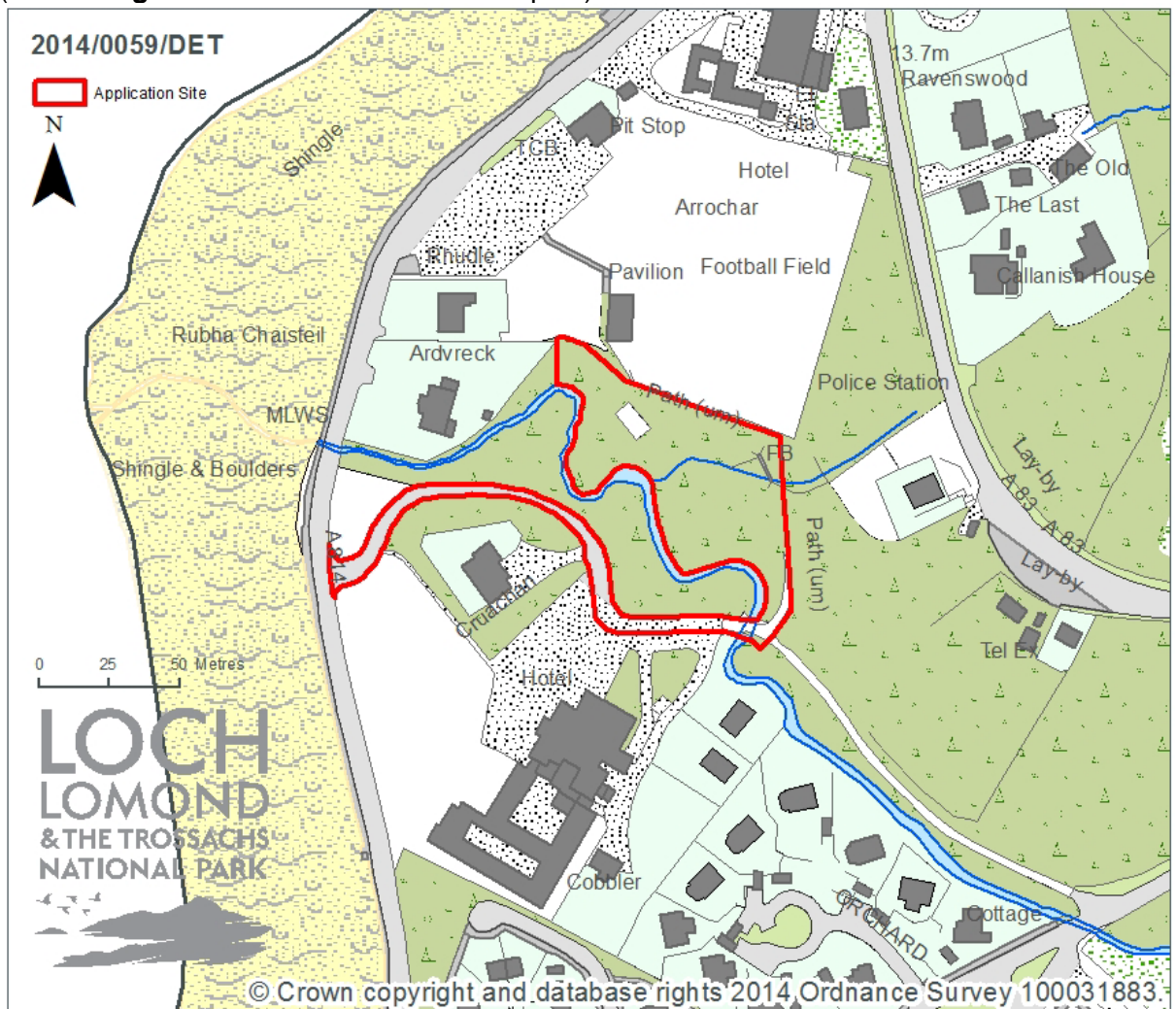


Fig. 1: Site Location Plan

Description of Existing Core Path:

- 3.2 From a recreation and access perspective, the site is generally unremarkable with one main feature of interest – a short (c.65 metres) core path. Currently, the path is visible at the site entrances but is little more than a vague desire line through the site interior. The path represents a potentially convenient link or 'short cut' between Church Rd. (B838) via the redundant football field, to Three Villages Hall / Loch Long shoreline area in Arrochar (refer to **Figure 2** below for the existing core path alignment).

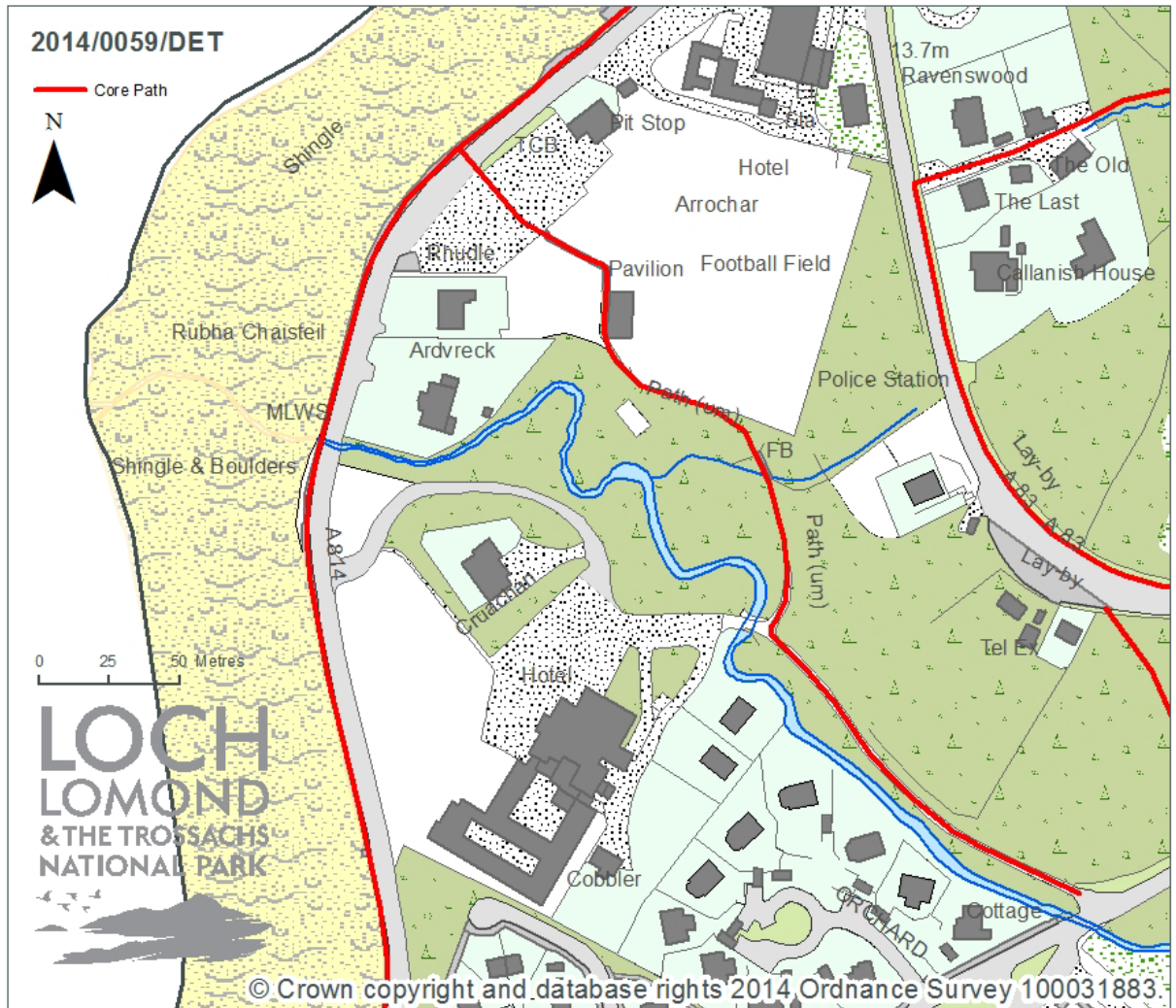


Fig. 2: Existing Core Path Alignment

- 3.3 This section of core path is accessed via an existing field gate (currently locked) and is relatively level until it ascends a short banking towards the former football field. The northern boundary is largely enclosed by chestnut fencing. The photos below (**Figures 3 to 8**) show the sequence of travel along this section of core path - moving south to north through the planning application site.

Agenda Item 6



Fig. 3



Fig. 4

Agenda Item 6



Fig. 5



Fig. 6

Agenda Item 6



Fig. 7



Fig. 8

Agenda Item 6

- 3.4 During the National Park Core Path Plan (2010) audit process, the path (S0655) was allocated the following scoring;

Criteria	1	2	3	4	5	6	7	8	9	10	Total
Path Section S0655	6	0	0	0	6	6	0	2	1	3	24

Scoring; 0 = Low importance, 6 = high importance

Criteria

1. Identified by the community as a priority.
2. Provides for or has the potential for a specific recreational use as a primary use.
3. Provides or has the potential to offer enjoyment of the Park's special qualities.
4. Promoted for visitors and tourism-linked activity with the potential for economic linked benefits.
5. Provides usable links with the public transport network.
6. Provides a functional route or link.
7. Provides a link between settlements, including cross-boundary.
8. Provides a short route option close to, or within, settlements or visitor destinations.
9. Forms a key link (or part of a link) to a wider network of paths or routes or strategic longer-distance routes.
10. Balances landowners' interests with exercising access rights.

- 3.5 An assessment of the above scoring is referred to in Section 7 of this report.
- 3.6 Local, anecdotal evidence suggests the path is now infrequently used and the more direct and easily accessible track/driveway is utilised instead.

Background to Proposed Development:

Planning Application ref: 2014/0059/DET – Erection of detached dwellinghouse.

- 3.7 Under the agreed planning Scheme of Delegation the appointed officer has determined that this application can be dealt with under delegated planning powers. This planning application will remain pending decision until the outcome of this committee item has been concluded.
- 3.8 The following provides Members with a description of the proposed development and the implications it has for the existing core path in order to provide the background context only for this proposed core path diversion.
- 3.9 The proposal is for the erection of a two storey dwelling house with attached one and a half storey garage/ancillary accommodation to the rear. Access to the proposed dwelling would be via the existing private road leading from the A814.
- 3.10 A new internal driveway would be formed as part of the proposal which would access through the existing field gate and serve as the parking/driveway for the house.
- 3.11 The proposed development footprint is concentrated alongside the east boundary of the application site with the proposed vehicular driveway aligned along the existing core path (refer to **Figure 9** below).

Agenda Item 6



(c) Crown copyright and database rights 2014 Ordnance Survey 100031883

Fig. 9 – Proposed development footprint

- 3.12 Responses received relative to the core path issue are detailed in Section 4 of this report.
- 3.13 The applicant has been approached with the suggestion that the core path be retained alongside his proposed driveway and through the application site. The applicant responded by stating that he does not wish a core path to run past his house and requests the path is diverted.
- 3.14 It is determined that there is no other suitable location for the proposed house or driveway. If the house was to be re-positioned to another location this could result in a greater impact on existing mature trees within the site – which are covered by a Tree Preservation Order. The lack of any suitable alternative site entrance/driveway is also an important consideration in the context of the access considerations. The application therefore requires to be assessed as it stands on its own merits. The consequence of this is that if the house development is to be supported the core path requires to be diverted. These discussions have been conducted in the awareness that a suitable alternative for the core path does exist and this is discussed below.

Description of Proposed Core Path Diversion:

- 3.14 The proposed site access for the house (via the A814) currently acts as the driveway access for five properties, namely: Cruachan B&B; Claymore Hotel; 1 Burnside Cottages; 2 Burnside Cottages; and Cobbler Cottage.
- 3.15 Local observations have indicated the driveway currently functions as the local *de facto* access route, and the NPA do not anticipate re-designation will result in any significant changes to track condition or frequency of use.
- 3.16 To ensure the provision of a local access route is maintained, the NPA propose the core path

Agenda Item 6

is realigned to the Claymore Hotel / Cruachan driveway (see **Figure 10** below and **Appendix 3**). This would continue to provide a suitable and convenient link between Church Rd. (B838, Tighness area) and the A814 / Loch Long shoreline.

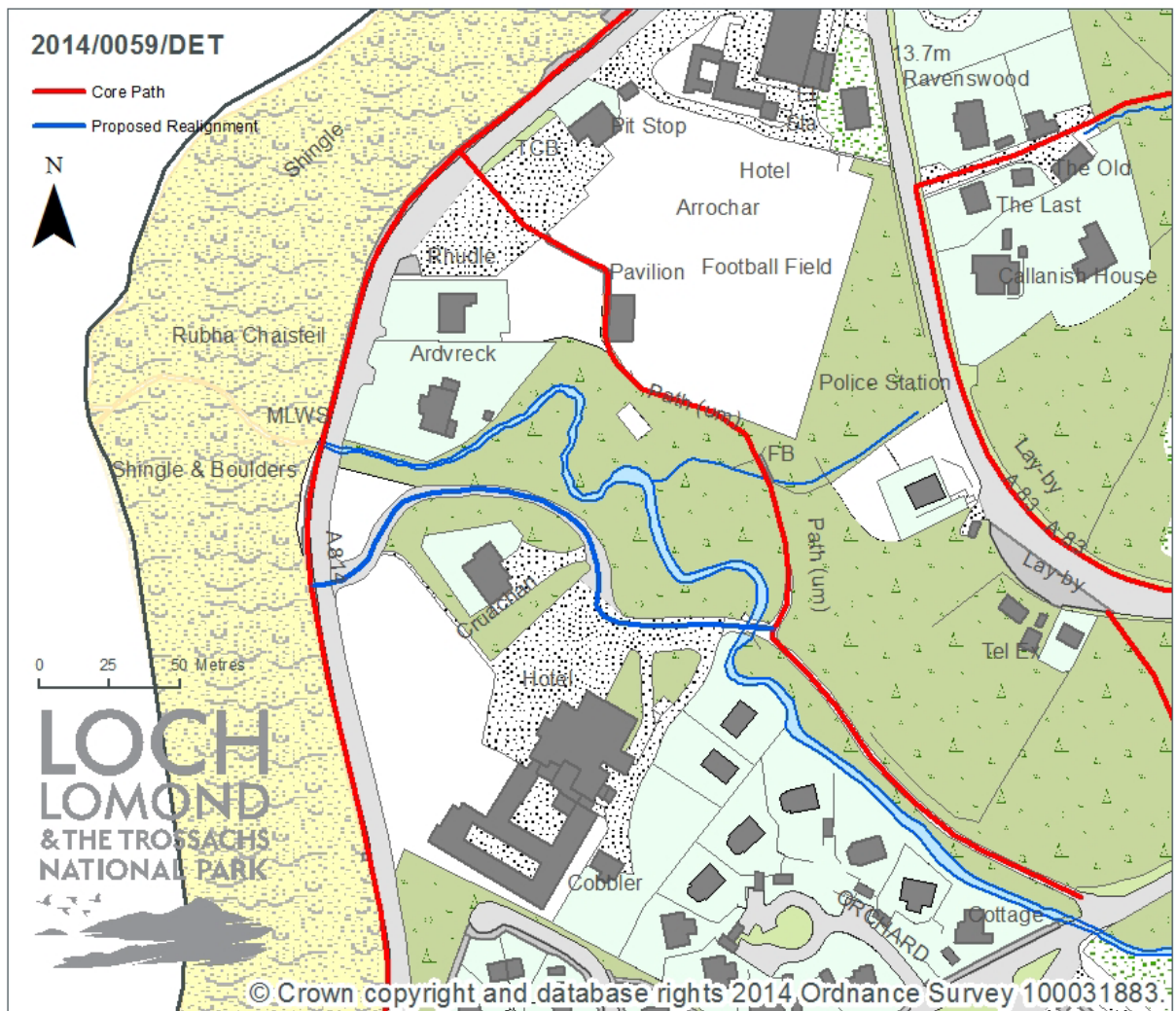


Fig.10 – Map illustrating existing and proposed core path alignments

- 3.17 The photos below (**Figures 11 to 17**) illustrate the character and appearance of the proposed core path diversion – travelling in a west to east direction from the Claymore Hotel towards the A814 junction.

Agenda Item 6



Fig. 11



Fig. 12

Agenda Item 6



Fig. 13



Fig. 14

Agenda Item 6



Fig. 15



Fig. 16



Fig. 17

- 3.18 It is considered that this *de facto* route is of sufficient width, and of an acceptable character, to be a suitable core path connection.

4 CONSULTATIONS AND REPRESENTATIONS

Responses to Consultations:

- 4.1 Informal consultation has been conducted with the two most affected neighbouring properties on the proposed core path route and also the Community Council. The responses received to this informal consultation are noted below:

Arrochar & Tarbet Community Council

Community Council meeting dated 15/05/14 to discuss the planning application and core path provision:

“The CC unanimously agreed they have no objection to the new house build application and that to allow this to happen the Core Path should be re-routed.”

Claymore Hotel

Correspondence relates to communication between NPA and the Claymore Hotel re: planning application and the provision of local access routes.

Date: 22/04/14

Dear Mr Keating

With reference to the core path realignment, I write to confirm that after careful consideration and further discussions with our landlord, we would not agree to the core path being realigned across our land.

I'm sorry I'm unable to assist you further with this matter.

If you have any queries please do not hesitate to contact me.

Kind Regards

Steve Boricic
Property Director
Shearings Hotels

Cruachan

The Cruachan B&B confirmed they have no objection to the proposed diversion.

Date: 03/04/14

Dear Guy

We have no objections to the proposed change to the core path route. The only thing to consider may be the construction traffic using the route should the planning for the house be granted, as well as the hotel vehicles already using the driveway. I also note that our secretary has replied to you with the CC comments.

Kind regards

Diana Page

Cruachan B&B

5 POLICY & LEGISLATION CONTEXT

National Park Aims:

5.1 The four statutory aims of the National Park are a material planning consideration. These are set out in Section 1 of the National Parks (Scotland) Act 2000 and are:

- (a) to conserve and enhance the natural and cultural heritage of the area;
- (b) to promote sustainable use of the natural resources of the area;
- (c) to promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public; and
- (d) to promote sustainable economic and social development of the area's communities.

Agenda Item 6

- 5.2 Section 9 of the Act then states that these aims should be achieved collectively. However, if in relation to any matter it appears to the National Park Authority that there is a conflict between the first aim, and the other National Park aims, greater weight must be given to the conservation and enhancement of the natural and cultural heritage of the area.

Other Material Considerations:

- 5.3 National Park Partnership Plan (2012-2017)
Visitor Experience Policy 3: Recreation and Access

Legislative Context:

- 5.4 Land Reform (Scotland) Act 2003 (*LRA*) Section 17 and 20 (see **Appendix 1**)

6 ASSESSMENT

- 6.1 The proposed development of a single house would be located on the core path. Unfortunately, the house location and site constraints prevent an alternative alignment through the immediate area. This development would effectively mean that the path will no longer exist.
- 6.2 The Community Council discussed this proposal at a recent meeting and a response was received from Cruachan B&B. Both parties raised no objection.
- 6.3 A letter of opposition was received from the Claymore Hotel to the proposal for a core path diversion along the private driveway. The reasoning for their opposition was not provided.
- 6.4 The consultation process will provide for further comments to be received and considered.
- 6.5 It is considered that the existing core path offers a low quality recreational experience. Furthermore, the presence of the locked gate, (and absence of complaints to the NPA about the blockage), illustrate the primary recreational / active travel route between Tighness and Loch Long is the route of the proposed diversion.
- 6.6 The proposed core path is of a sufficient width and nature to continue to accommodate this local access. Therefore, it is deemed that this proposal is a reasonable and pragmatic solution given the context and that prior to any re-designation a consultation exercise should be initiated with notice of the NPA's proposal.
- 6.7 It is considered that the proposed core path diversion complies with the Statutory Aims of the National Park and all other material considerations.

Agenda Item 6

- 6.8 Section 20(2)(b) of the Land Reform Act provides the instrument by which the NPA can divert 'the line of a core path, or part of that line...' in the appropriate circumstances (see **Appendix 1**).

7 CONCLUSION

- 7.1 In light of the above assessment and to ensure the NPA satisfies the statutory aim of supporting recreational enjoyment in the Park and our statutory responsibilities under S.17 (1) of the LRA (see **Appendix 1**), it is recommended that the NPA invoke powers under S.20 (2) (b) of the LRA and seek to divert core path S0655.
- 7.2 During the core path assessment and audit process, path S0655 was awarded a maximum score of 18 for community priority and functional link criteria. The local demand clearly exists for a link between Tighness, Loch Long shoreline, 3 Villages Hall, local amenities and public transport connections. The new proposed alignment could deliver the direct, off-highway, link required in this area.
- 7.3 As a constituent of the diversion process, the NPA will place a 'NOTICE OF AMENDMENT OF CORE PATHS PLAN' on site and in the local press (see **Appendix 2**) to ensure the local community have the opportunity to comment on the proposed change.

8 RECOMMENDATION AND NEXT STEPS

- 8.1 Therefore, it is recommended to Members that this consultation process be agreed and commenced.
- 8.2 Following from Member's approval of this consultation process it is intended to report the findings of the consultation to the next available committee (August) and present a final recommendation in light of the findings of this consultation.

Background Planning Documents: <http://www.lochlomond-trossachs.org/planning/>
Click on view applications, accept the terms and conditions then enter the search criteria as 2014/0059/DET.

List of Appendices: **Appendix 1** Extract of Land Reform (Scotland) Act, 2003
Appendix 2 Example of Consultation Press Advertisement
Appendix 3 Map showing Proposed Core Path Realignment

Appendix 1

Land Reform (Scotland) Act, 2003.

S.20 Review and amendment of core paths plan

(1) The local authority shall—

(a) at such times as they consider appropriate; and

(b) on Ministers requiring them to do so,

review the plan adopted under section 18 above (or that plan as amended under this section).

(2) Where, following a review of a plan under subsection (1) above, the local authority consider that—

(a) a core path should be removed from the plan; or

(b) the line of a core path, or part of that line, should be diverted,

the authority may amend the plan by removing the core path from the plan or, as the case may be, by diverting the line of the core path on the plan.

(3) The local authority may not amend the plan under subsection (2) above unless they are satisfied that it is expedient so to do having regard to—

(a) the extent to which it appears to them that persons would, but for the amendment, be likely to exercise access rights using the core path; and

(b) the effect which the amendment of the plan would have as respects land served by the core path.

(4) Where the local authority stop up, or divert, a core path by order under section 208 of the Town and Country Planning (Scotland) Act 1997 (c.8) they shall amend their plan accordingly.

(5) Subsection (8) of section 18 above applies in relation to the amendment of a plan under subsection (2) or (4) above as it applies in relation to the adoption of a plan under that section.

(6) Where, following a review of a plan under subsection (1) above, the local authority consider that the plan should be amended so as to include a further path, waterway or other means of crossing land such as is mentioned in section 17(2) above, the authority shall draw up an amended plan.

(7) Sections 17(3) and (4) and 18 above apply in relation to a plan drawn up under subsection (6) above as they apply to a plan drawn up under section 17(1) above.

Agenda Item 6

S.17 Core paths plan

(1) It is the duty of the local authority, not later than 3 years after the coming into force of this section, to draw up a plan for a system of paths ("core paths") **sufficient for the purpose of giving the public reasonable access throughout their area.**

(2) Such a system of paths may include—

(a) rights of way by foot, horseback, pedal cycle or any combination of those, being rights which are or may be established by or under any enactment or rule of law;

(b) paths, footways, footpaths, cycle tracks or other means of access (however described but not falling within paragraph (a) above) which are or may be provided by or under any enactment other than this Act;

(c) paths which are or may be delineated by a path agreement under section 21 or a path order under section 22 below;

(d) other routes, waterways or other means by which persons may cross land.

(3) In drawing up the plan, the local authority shall have regard to—

(a) the likelihood that persons exercising rights of way and access rights will do so by using core paths;

(b) the desirability of encouraging such persons to use core paths; and

(c) the need to balance the exercise of those rights and the interests of the owner of the land in respect of which those rights are exercisable.

(4) The plan may consist of or include maps showing core paths and, where it does not, shall refer to such maps.

Appendix 2

Example of Consultation Press Advertisement

NOTICE OF AMENDMENT OF CORE PATHS PLAN

Notice is hereby given under Section 20 (5) of the Land Reform (Scotland) Act 2003 (“the Act”), that on **Date**, Loch Lomond & The Trossachs National Park Authority (“the Local Authority”) amended the core paths plan, drawn up under section 17(1) of the Act in respect of the Local Authority area.

The amendment is the realignment of Core Path S0655, Tighness, Arrochar between OS Grid Ref: **NS. XX and NS. XX**

A copy of the amended Plan, any maps to which it refers, and the list of core paths has been deposited at the offices of the Local Authority at: Loch Lomond & The Trossachs National Park Authority, Carrochan, Carrochan Rd., Balloch, G83 8EG , and may be inspected there free of charge during business hours. Copies of these documents can also be purchased from the Local Authority either at the above address or by application sent to the Recreation & Access Advisor at the above address.

Appendix 3

Map showing Proposed Core Path Realignment

