

LLTAF Update: August 2022

West Loch Lomond, Breadalbane and Cowal

Upholding Access Rights

Port Nellan Estate – s14 non-compliant signage

Further to the previous update on this case, the NPA has now issued a formal pre-section 14 letter to the landowner to request the non-compliant signage near Loch Dochart is amended to comply with the access legislation.



Core paths blocked

FLS and several private forest operators have made good progress on clearing wind-blown trees from several recreational routes and core paths in the National Park area. Please follow site signage and any short, temporary diversions that remain.

Glenoglehead case

In preparation for a court hearing, the NPA undertook detailed site investigations and continued to monitor visitor numbers on the NCN7 / Rob Roy Way core path near Killin. Before any potential court hearing, the judiciary have recommended the NPA and the forestry company try to seek a resolution through the mediation process. Further developments will be reported to the Access Forum in the New Year. In the meantime, the NCN7 / Rob Roy Way and the NPA Glenoglehead car park remain available to visitors.

Strone - Rights of Way

The Access Team are supporting a community-led initiative to investigate whether there is evidence to support Right of Way status for two well-used links in the village.

Arrochar / Succoth transmission line upgrade

As previously reported, the Access Team and local communities continue to work closely with SSE / Morgan Sindal on the preparatory stages of this large-scale undergrounding project. Any further developments will be reported to the access forum in 2023.

Access Infrastructure Projects

West Highland Way

Unfortunately, an aging wooden footbridge near Inversnaid has been accidentally damaged and requires replacement. The NPA are collaborating with the site owners on a project to install a new bridge and upgrade c.80m of degraded path. A short, waymarked diversion is *in situ*.



Project site



Degraded path - WHW

Arrochar / Succoth Community Link

As previously reported - preparatory work is ongoing on the path improvement capital project.

East Loch Lomond and the Trossachs

Upholding Access Rights

Core Paths Plan Review and Gartmore House

As reported previously, the owners of Gartmore House successfully petitioned for a Judicial Review of the decision to adopt Lady's Walk and Butler's Walk as core paths. This was on two grounds – that the Scottish Ministers' Reporter had misapplied the statutory test under the LRA 2003 and that the NPA and the Reporter failed to comply with their duties under the Equalities Act 2010. The judicial review hearing took place on 10 December 2021. The judgement was published on 4 March 2022 and Lord Clark found in our favour on both counts. Gartmore House then appealed the decision.

The appeal hearing took place on Tuesday 8th November 2022 in the First Division of the Inner House of the Court of Session in Edinburgh – the highest civil court in Scotland. The three judges hearing the appeal were Lord Carloway, Lord Woolman and Lord Pentland.

There were two grounds of appeal:

1. Misinterpretation and Misapplication of Statutory Test under the Land Reform (Scotland) Act 2003 – specifically section 17. Various arguments were put forward regarding the wording of section 17(1) which states that a core paths plan should be “a system of paths sufficient for the purpose of giving the public reasonable access throughout their area”. The legal test for ‘sufficiency’ was debated and how this requirement should be interpreted. Gartmore House argued that the Lord Ordinary and the Reporter had failed to demonstrate why the Core Path Plan published in 2010 was no longer sufficient.
2. Error relative to statutory duty under the Equality Act 2010 – it was argued that Lord Clark erred in his construction and application of the Public Sector Equality Duty, as set out in section 149.

The hearing lasted several hours. Our legal team performed well and strongly defended our position, arguing that the decision of Lord Clark should be upheld. Our external and internal legal teams are pleased with how the hearing went. We are hoping for the court decision to be published before Christmas and will keep you updated

Loch Lomond Waterfront, Balmaha

The owner of Lomond Bank has erected a sign saying ‘no access to shore of Loch Lomond’ (see photo below). Access rights apply and this goes against a condition regarding access in a recent planning application. The first correspondence with the landowner was in October 2021 and there have been five other emails or telephone correspondence since then. The last two emails sent to the landowner received no response. He was told that if the sign was not removed by the 22nd of July we would look to serve notice on him to remove it. The sign was still present on 22nd July and we have worked with our Legal Team to produce the Section 14 notice.

We informed the owner that a Section 14 notice was being prepared. He has said that he will take the sign down but has a strong legal case that access rights do not apply to the area in question and he wants to discuss this. We have accepted the principle of a meeting but he has not responded as yet. A further site visit will take place to see if the sign has been removed.

Auchtubhmore and Glen Buckie Plantations, Balquhiddy

These are on the north side of Balquhiddy Glen and on the western flank of the Glen Buckie side-glen, respectively. Both have locked gates at the junction with the public road. We have been in touch with both owners and they have both agreed to install a side gate to allow public access. The side gate at the Glen Buckie plantation was installed on 11 August. A further site visit will take place to check on the Auchtubhmore gate.

Ross Priory

We had a complaint in September last year about misleading signs stating ‘no swimming’ in Loch Lomond from the shoreline immediately adjacent to the jetty at Ross Priory. The new jetty is private and the boat store also private. They argue that it would be irresponsible to exercise access rights to the area between the two as it is busy with boats coming in and out. The NPA agrees with this assessment, but the signs need to explain this and provide alternative places to swim. We have agreed on advisory signage to replace the ‘no swimming’ signs and they were installed in September this year.

Primrose Hill, Loch Katrine

Primrose Trail at Loch Katrine is promoted by FLS. We received a complaint that it has a kissing gate in a deer fence which is a barrier for cyclists and horse-riders and the adjacent gate is locked. FLS say it has been added to their work programme to replace – but no timeframe has been given.

Edinample Falls

Public access to the land above the falls has been blocked by a locked gate and ‘private no access’ signs which were erected after a hydro scheme was constructed in 2017-18. The Access Team wasn’t consulted on the planning application. The landowner is London based. I met the grounds manager on

site on 12 August – he said they had legal advice that access rights do not apply. I asked for that advice to be shared with the Authority, but it has not been sent so I will contact him again.

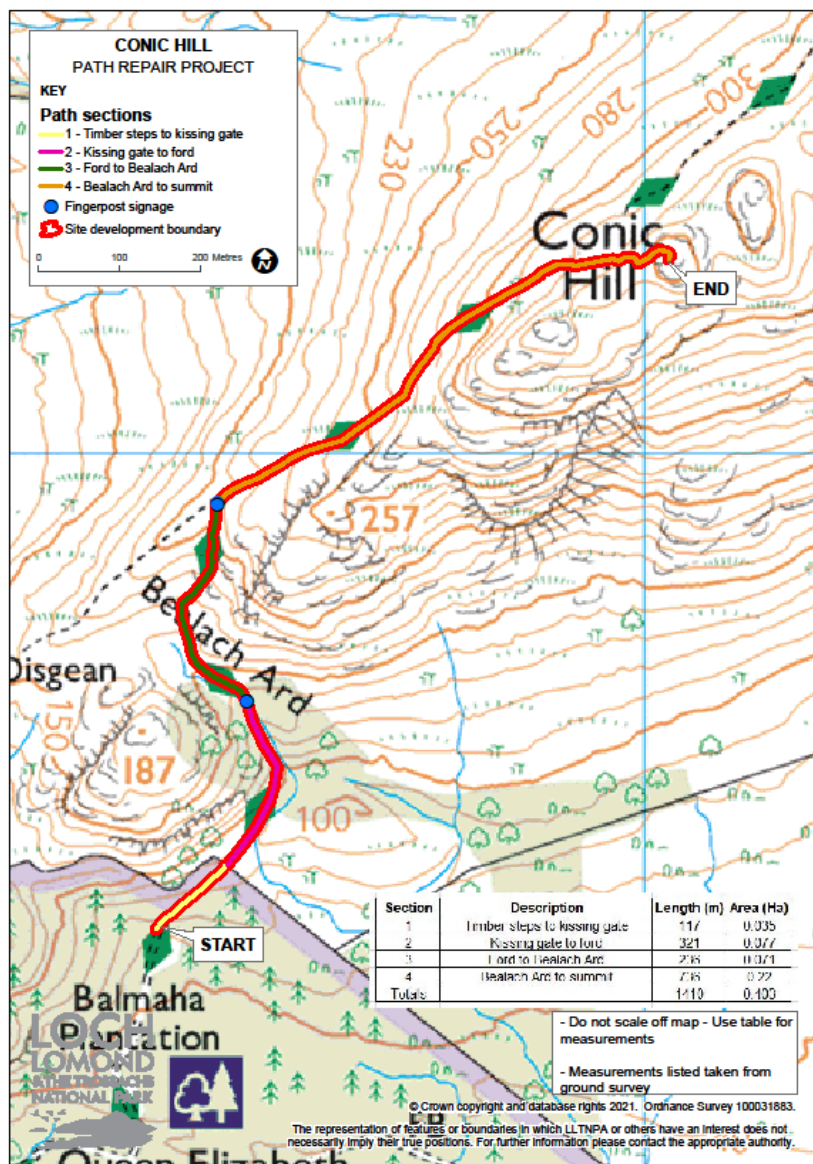
Runacraig, Loch Lubnaig

A holiday home owner has put up ‘private land - access for holiday cottage guests only’ signage on the loch shore land between the A84 and Loch Lubnaig. This is discouraging other holiday cottage guests in adjacent properties, as well as the other holiday cottage owner, from using it. The owner of the field has also verbally said that no-one else is allowed on the land. I have emailed the owner twice without a response and will continue to pursue the matter.

Access Infrastructure Projects

Conic Hill Path

Planning permission for the path upgrade was granted in January 2022. The specification is for a 2 metre-wide, stone-pitched path from the forest boundary to the summit, with associated drainage and landscaping. The contract went out to tender in December 2021 and we appointed ACT Heritage Ltd as preferred contractors in late January 2022. The path is split into four sections (see map below). The overall cost of the project is now just over £900,000 allowing for inflation and fuel increases.



Landowner agreements were signed on 15 October 2022. Stone was transported from Dumbarton Quarry between 17-24 October and bagged ready for helicopter uplift from 24 to 31 October. Helicopter uplift took place from 31 October to 4 November and construction work on the ground started on 7 November 2022 after both the Scottish and English half-term holidays. It is hoped Sections 2 and 3 will be complete before Easter 2023. These are the timber steps and bedrock section to the ford and then on to Bealach Ard, which is the platform where the first views of Loch Lomond can be gained. Section 3 is being worked first before Christmas and Section 2, the long flight of timber steps outwith the forest, will commence from mid-January onwards. This topography on this section is constrained by steep slopes on one side and a burn on the other. There is no room for walkers to pass while work takes place so the path will be closed for 9 to 10 weeks from mid-January to March 2023 while the steps are replaced. Section 4, from Bealach Ard to the summit will be completed over the same timeframe in 2023-24 as will section 1, the short flight of timber steps within the FLS owned Balmaha Plantation.

The existing path is being replaced with 2 metre wide stone pitching. Existing trampled sections and braided lines will be landscaped and seeded to discourage future use. Section 3 to Bealach Ard is within the Conic Hill SSSI and areas of alkaline fen vegetation for which the site is designated will be roped off to prevent damage while the path line is being worked on (photos of current work below).



Helicopter bags on path section 3

Continued below...



Pitching at the start of section 3



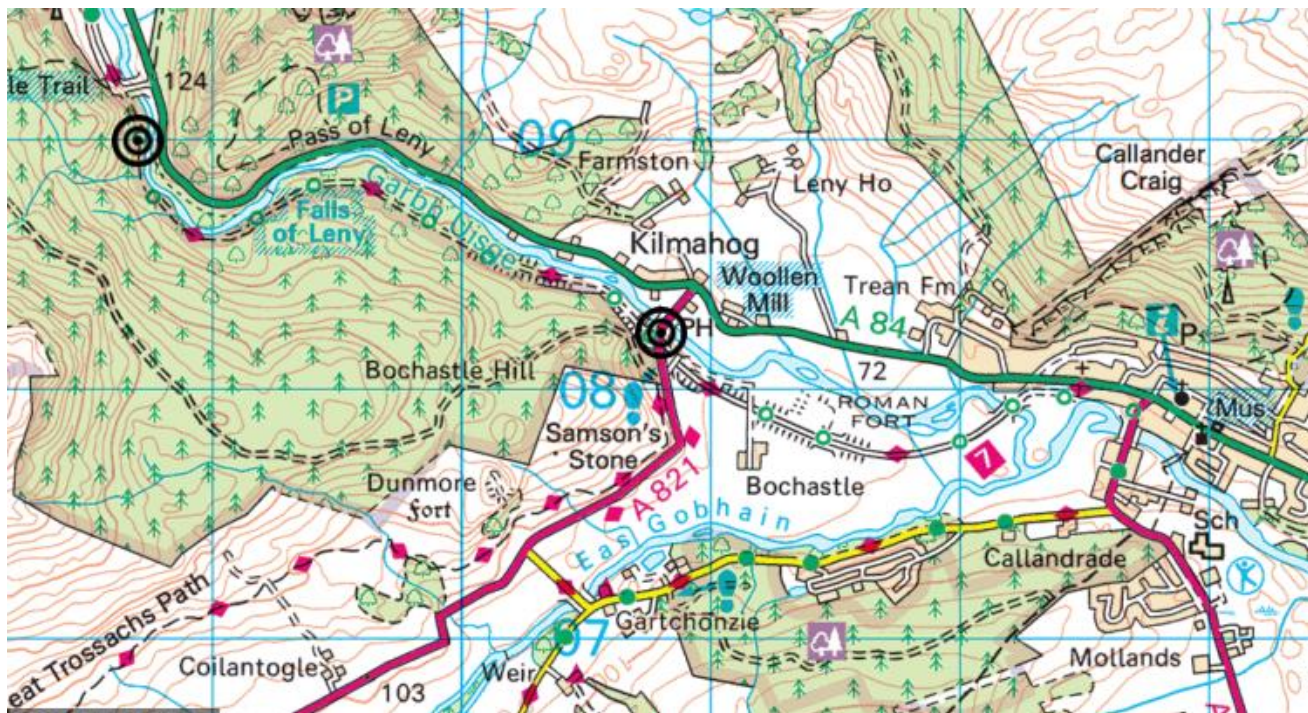
Next section of pitching with side ditch

St Fillans to Lochearnhead Railway Path

We have secured funding from Sustrans Network Development Team for technical design and construction work for the 1.1km section to the West of Glen Tarken Bridge. This received planning permission last month. Construction costs are £267,000 plus VAT and the plan is this will take place in the final quarter of 2022-23. Sustrans has also agreed to fund design work for the section from Lochearnhead to Glen Beich (phase 7) and through Ardveich and Derry Woods (phase 6). Concept design work has been completed for phase 7 and detailed design for phase 6.

NCN7 Barrier Removal, Kilmahog and Ben Ledi car park

We are working with Forestry and Land Scotland (FLS) and Sustrans to reduce barriers and pinch points on the National Cycle Network Route 7 (NCN7). Sustrans has identified a number of locations and infrastructure on the section from Callander to Strathyre that do not meet current design standards and exclude certain users. We are working with them to improve accessibility at three locations. These are the eastern and western crossings of the A821 at Bochastle/Kilmahog and the access point for NCN7 into the Ben Ledi car park. A location map is below.



The crossings on either side of the A821 do not meet current design standards and are not accessible for some adapted and recumbent bikes as well as being awkward to use for all cyclists, horse-riders and wheelchair and pushchair users. We appointed Stirling based consultants Raeburn, Farquhar & Bowen (RF&B) to develop designs and they were completed in September with an estimated cost of £60,000 plus VAT. This work will be wholly funded by Sustrans. Planning permission is required and we are working with RF&B to submit this as soon as possible. RF&B and their surveyors, Brownriggs, will act as tender and contract supervisors and we hope to install these by the end of the financial year.

Strategic Updates

Sustainable Travel Study

The contract for the strategic 'Sustainable Transport & Modal Shift Study and Options Appraisal' for the National Park is ongoing. The consultants, Anson Consulting, held an initial online stakeholder session in October to generate 'buy-in' and support from key players such as the local authority Transport Planning teams, the Regional Transport Authorities and key local operators such as the waterbus companies. Don attended on behalf of the LLTAF. A second in-person 'visioning' event will take place on 24th November. We are working with the consultants on the development of an online survey to enable local communities, business and others with an interest to contribute their comments.

The purpose of the study is to provide a strategic understanding of the existing challenges and potential solutions associated with improving the sustainability of travel to, from and within the Park. The major focus is on visitor journeys as these account for the bulk of transport-related carbon emissions. The consultants are on track to report by the end of the financial year, but we hope to gain interim insights as they work through their brief.

Loch Lomond Bylaw Review

The public consultation on proposed new bylaws for Loch Lomond close on 19th October and 383 responses were submitted. We are currently in the process of collating these responses and analysing additional data which will enable us to refine and finalise the proposed bylaws. These will be presented to the NPA Board on 30th January 2023, with papers published on the website from 18th January. Assuming Board approval, the proposals will be sent to Scottish Ministers for final decision, expected to be around Summer 2023, but dependent on other ministerial business.

Transport Scotland – Cycling Framework

Transport Scotland is currently consulting on a draft Cycling Framework and Delivery Plan for Active Travel in Scotland 2022-2030. The Cycling Framework for Active Travel sets out their strategic priorities and shared actions to maximise cycling's contribution in realising the Scottish Government's long term [Vision for Active Travel in Scotland](#): *That Scotland's communities are shaped around people, with walking and cycling the most popular choice for everyday short journeys*. They describe their top priority for the achievement of this vision as 'the delivery of more dedicated, high quality, safe cycling infrastructure, effectively resourced, where fair access is ensured and uptake is supported with training and education'.

The consultation may be access here: <https://www.transport.gov.scot/publication/draft-for-consultation-august-2022-cycling-framework-and-delivery-plan-for-active-travel-in-scotland-2022-2030/>