

Access Issues

i. Udale Farm, Jemimaville

For this item reference to the report produced by Hector Munro is included.

Following the last meeting and discussion of this issue, Robin Forrest & Philip Waite met with Hector Munro to update him and request that he visit Mr & Mrs Henderson informally but as a Forum member to assess whether a compromise can be achieved. His report is included with the papers for this meeting.

Philip Waite has received a further email from Mr Paul Thompson on 20th September 2013 requesting what action if any has been decided. He notes that ‘the signage on the path has made it extremely difficult to gauge when we can responsibly enjoy access to the area.’

Questions for discussion:

1. Should The Highland Council accept the owners request for no signage of the core path or other improvements to the route, until such time as its core path status is reviewed?
2. Should The Highland Council ensure that the owners sign and gates be changed so as not to be discouraging to access?

ii. Flowerdale, Gairloch Estate

The residents of Flowerdale House, currently managing the Estate, have requested that the core path closest to the house be diverted. A statement on this will be submitted by Mrs MacKenzie prior to the Forum meeting.

A proposed diversion must meet a number of criteria.

Diversion criteria	
i.	Is not substantially longer in length than the original
ii.	Provides a surface as good or better than the original
iii.	Has the same width or greater than the original
iv.	It is not more difficult to pass along the route in terms of barriers or gradients
v.	Public enjoyment of the whole route is not impaired
vi.	Access is not obstructed or deterred before, during or after construction of the diversion.

If it is considered ‘de minimis’ it may proceed. However, if not then it may require planning consent and follow the procedure outlined in s208 of the Town & Country Planning Act 1997, which include consultation and meeting the full costs involved.

Questions for discussion:

1. Do the Forum consider the motives for the diversion are justified?
2. Does the proposed diversion meet the necessary criteria?
3. Is the proposed diversion 'de minimis' or should it go for wider consultation and follow the s208 procedures?

Ledgowan Estate.

There is ongoing correspondence with the Estates solicitor regarding the removal of locks on gates along the A890.

iii. West Lodge, Shieldaig

Further to the discussion at the last meeting the neighbouring landowners were informed that The Council was not in a position to take any action.

One neighbour padlocked open one of gates with a sign asking access users to complain about the gates to the Access Officer. Lodge owners found this intimidating and involved the police. The police also consider this a civil matter.

To date the Access Officer has received two responses for community members; one to support the Lodge owners and one complaining about the gates.

iv. Chalet 5, Mellon Udrigle.

Still no response has been received by the owners. However no further complaints have been received from the community of public. On visiting the site, one is able to gain access through the gap in the fank/shieling. If all parties are content with this arrangement it maybe resolved.

Report with regard to the section of core path RC08.05 passing through Udale Wood following an informal meeting between Mr Hector Munro, Land Manager Member of the Ross & Cromarty Access Forum with Mr & Mrs John Henderson and Mr Tom Henderson owners of the wood on Monday 24th June 2013

Description

The Udale Wood core path route leaves the Newhall to Cromarty public road opposite the Garage at the east end of the small settlement of Jemimaville, at the turnoff onto the access road to Udale Farm. It enters via a small cattle holding pen, an attractive 35 acre area of deciduous woodland through which runs the Udale burn. Historically this linear area of woodland contained the original approach road/drive/track (still marked on the OS Maps although little evidence remains), to the old house of Udale which once stood to the west of and slightly above the present day Udale Farm, but was demolished, at some point in the 1930's. After initially following the route of this drive, the core path veers off to the left following the shoulder of the steep ravine above the Udale burn until it once again joins the route of the drive at a point where the burn flows under a small stone bridge and the ravine shallows out, a short distance from where the burn issues from a disused mill pond. The path then turns sharp left and proceeds for a further 30-40 metres along the side of the pond until it exits the wood adjacent to a field gate and is supposed to continue on the old drive route between two open fields but now an impenetrable bank of whins. Clearly this section of the path has not been used for many years and if access has been taken it must have been along the edge of one of the fields until the access taker could gain the present tarmacadamed road to the West of Udale Farm.

Recent History of Udale Wood

Mr Henderson purchased Udale Farm some 30 years ago and from the outset saw the usefulness of Udale Wood for grazing and sheltering cattle. In the early days of his occupation he overwintered cattle there under contract. Later with the advent of the European Integrated Administration & Control System (IACS), Mr Henderson used the woodland area as part of his claim for entitlements under terms of the scheme. More recently, his son Tom has started a suckler cow herd as part of their farming operations and sees the use of the woodland as being an integral part of the success of this venture.

There has been a history of minor illegal activities by some, mainly juvenile Jemimaville residents, particularly in the lower section of the wood close to the houses, including the construction of an extensive and impressive off road bike circuit, the photographic proof of which clearly shows that considerable adult input was involved in creating jumps and berms, and in significant tree clearance etc. The sizeable parapet cope stones of the old stone bridge were at some stage thrown into the burn and a section of drystone dyke partly destroyed. In all of these instances the Henderson family feel they showed considerable constraint by not going to the police to report criminal damage to their property but instead by confronting the known perpetrators and their parents directly, which did not always meet with the contrite response they might have expected given the circumstances. Common access problems of dog faeces, litter, gates being left open, fires made and firewood removal have also occurred in the wood in the past.

The Hendersons View

The Hendersons are clearly upset that they were not made aware, that the route had been put forward as a core path at the draft stage, as they would most certainly have objected and put forward the alternative route of the present access road to Udale Farm which is of an identical length and joins the core path route through to Poyntzfield at exactly the same point as the current route through Udale Wood. Whilst they understand now that the process of choosing the core path network did take place openly, was advertised and they somehow missed it, they nevertheless feel strongly that as owners of land involved in a proposed core path they should have been approached directly and they also maintain they never received the Access Officer's letter, said to have been sent to them in August 2007. They reiterate all the points they put forward in John Henderson's letters of 4th December to Geoff Robson and Philip Waite regarding the effect on their business and add that to their certain knowledge no-one has taken pedestrian access through the bank of whins (now part of the core path), between their fields for decades, but concede that on occasions they had seen individuals from Jemimaville walking their dogs along the endrigns of their fields. The family accept that the public has a right of responsible access but they feel strongly that the core path may have been foisted upon them by a very few members of the community with whom they have had words in the past and that it is not only totally unfair but will also adversely effect their livelihood. There is a perfectly acceptable alternative route which they will propose at the time of the review. This route is readily available now for the general public to use.

In the meantime they would ask for a moratorium on any further work eg. signage, clearing of whins, inclusion on maps etc., taking place until the review and that they are left to continue the use of Udale Wood for normal agricultural purposes.

Conclusion

With my various hats on I have known both the Henderson family for many years and Paul Thomson, although for not quite so long. Mr Thomson and his family have for a number of years been residents of Jemimaville and they would appear to have been some of the principal players in the bike track saga and without knowing who and how many of the public voted for this particular core path I can only surmise that those who took part in the activities in the wood were also the proposers of the route through Udale Wood.

Inevitably, I suspect that there is an element of 'clash' between certain members of the community and the Hendersons here, but putting that to one side and trying to look rationally at the situation. Although it clearly is marked as a track on the OS map, it is equally obvious on the ground that no regular access has been taken over certain sections of this track for many years, born out not only by the ground conditions on site, but also the fact that John Henderson outwintered cattle in Udale Wood as far back as the 1980's. And by the stretch of impenetrable whins between the two fields. Undoubtedly access has been regularly taken within Udale Wood itself, and I see no reason why this cannot continue as part of the wider access network but the proposal to clear a way through the bank of whins to form the core path appears at best to be a desire to provoke and at worst confrontational when it could have been so simply avoided by proposing the perfectly acceptable and

pleasant alternative route in the form of the access road through Udale Farm. Although marked 'no through road' this route links directly to the track leading to Poyntzfield, on to Poyntzfield Mills and eventually the B9160. It is far easier walking and is no less direct being equidistant to the current core path designated route.

When I suggested this as an alternative to the Hendersons, I expected a negative response as not only does it go within a few yards of their own house but it also goes very close to their farm buildings. However, they made no objection, explaining that although when they first purchased Udale farm this had been a private road, some years ago due to a determined neighbour further up the hill continuously lobbying the Council it had eventually been adopted.

The use of Udale Wood for cattle has clearly been a genuine long term occupation and not just a whim to thwart access takers. Jemimaville is a very small rural community in which the Hendersons as the local farming family play a leading part, it would be tragic if the argument over the core path was to blow the community apart when a simple compromise is available allowing the public to have their desired core path and the Henderson to carry on their farming enterprises. The parties all realise that the core path designation cannot be changed until the review but I would recommend that the forum take no action for the present other than in meantime promoting the use of the farm access road as a temporary solution.

HM.

Anarly,
Jemimaville
IV7 8LU

John & Jean Henderson,
Udale Farm,
Poyntzfield,
IV7 8LY

23rd September 2012

Dear John & Jean,

I appreciate that you've had issues with 3rd party use of your land along the Udale burn and that this may have influenced your decision to undertake a major change in the way that you manage this land.

At the same time, I'm sure you appreciate what an important access path this is for locals. It has certainly been used regularly over the 25 years that we've lived in Jemimaville, and given its position close to the village this is clearly a "well used" track under the terms of the Land Reform (Scotland) Act 2003.

Whilst your decision to fence the paddock that provides access between the village and the burn is clearly within your rights, several of us in the village were surprised by your decision to leave a bull in the paddock this weekend.

Whether intentional or not, this is clearly hindering our access rights, and represents one of the specific examples of unreasonable landowner behaviour that is highlighted on page 58 of the Scottish Outdoor Access Code:

"leaving an animal that is known to be dangerous in a field or area where there is a path or track that is likely to be used by the public".

This action also appears to contravene the advice to farmers in the HSE Agriculture Information Sheet No 17S, which deals with cattle and public access.

In line with the guidance in the Scottish Outdoor Access Code, as a first step, I'm therefore respectfully asking that you do not keep the bull in the paddock, or alter the layout of the fencing and gates so that we can access the well used path between the public road and the mill pond without encountering the bull.

With best wishes,

Paul Thompson
Cc . Phil Waite, Highland Council Access Officer