

Agenda Item	17
Report No	PED 42/13

## CAIRNGORM MOUNTAIN VISITOR MANAGEMENT PLAN: 'WALK@THE TOP'

### Report by Director of Planning & Development

#### Summary

A change to the Cairngorm Funicular Visitor Management Plan (VMP) to allow for access to Carn Gorm from the Top Station by way of guided walk, the so called 'Walk@TheTop', has been requested by Cairngorm Mountain Limited. Following a period of successful trials, SNH's advice is that there will be no effect on the integrity of the European site as a result of the proposal. It is recommended that the Council formally agrees to this permanent change to the VMP.

#### 1. Background

- 1.1 A plan for managing non-skiing visitors, The Visitor Management Plan (VMP) was submitted by the Cairngorm Chairlift Company as part of the planning application for the Cairngorm Funicular Railway. The VMP is a requirement of the legal agreement and planning permission. The VMP was formally approved by Scottish Natural Heritage and The Highland Council in December 2000. The purpose of the VMP is to protect the integrity of the adjacent areas which have been designated under the European Habitats and Birds Directives, from the potential impacts of non-skiing visitors as a direct consequence of the funicular development. This essentially operates as what is commonly referred to as a 'closed' system, whereby those taking the funicular to the top station cannot exit onto the mountain itself.
- 1.2 The Highland Council and Scottish Natural Heritage (SNH) received a request from Cairngorm Mountain Limited (CML), the operators, in early June 2010 to make a change to the VMP. The change was to offer guided walks from the top station to the summit of Cairn Gorm and back for a trial period; marketed as 'Walk@TheTop'. The trial was approved subject to conditions and monitoring. The guided walks commenced on 17 July 2010, finishing on 31 October 2010. The trial re-started on 1 May 2011 for a further season.
- 1.3 Highlands and Islands Enterprise, the owner, is currently tendering for a new operator for the facility. It is likely that aspirations for further commercial opportunities will be discussed in this context. As a result there may be further requests to amend the VMP, or potentially the legal agreement itself. If these are likely to be substantial changes then further consultation may be deemed necessary.

## **2. Consultation**

- 2.1 A consultation on this current change, organised by SNH on behalf of both SNH and the Council, was sent to a total of twenty four organisations and individuals on 14 November 2011 (Appendix 1). A press release concerning the consultation was sent out on the same day, which resulted in coverage in the local and regional media. Both the press release and the consultation letter referred to the availability of an electronic version of the consultation on the SNH and Council websites. The consultation period ran for six weeks and closed on 23 December 2011.

## **3. Representation**

- 3.1 A total of 19 responses were received; 3 responses from two local community organisations, 1 from a Public Agency, 4 from Non-Governmental Organisations and 11 from members of the public. Respondents and how they were coded for the purpose of analysis are set out within Appendix 2.
- 3.2 The analysis of the responses and SNH position on these are set out within Appendix 3. The main points and how these have been considered can be summarised as follows:

The proposal to provide guided walks. 10 respondents responded to question 1: two advising that there would be a significant impact to the European sites, eight advised there would be no impact. Of the two respondents who advised that there would be an impact, one did not provide a reason and the other advised that it would lead to increased erosion, litter and degradation of the sense of wilderness. Of the respondents who provided reasons that there will be no impact, most quoted the results of monitoring of the trial walks and one stated that the paths are outwith the European sites.

Additional measures. There were a number of suggestions in relation to managing the guided walks that included; time limited approvals, proper record keeping, regular monitoring of erosion and litter, options for sanctions if the walks are not properly adhered to such as byelaws and, the establishment of a Board to oversee the monitoring.

Other comments. A number of respondents raised additional points that were either partially related to the consultation or not related at all. These included suggestions for the guided walks to be provided by other businesses. There was a range of suggestion regarding access from those who suggested that the walks should be made more widely available such as across the plateau to those who did not agree with any access out of the top station. There were suggestions that the path network in the ski area should be formally monitored and maintained. There was also a request for the visitor management arrangements to be more integrated with other plans on the HIE estate. There was also a request to monitor and provide more information on the educational benefits of those participating in the guided walks.

## **4. Assessment**

- 4.1 On the basis of the success of the trials, which indicated 100% compliance, the proposed conditions of operation that are largely concerned with monitoring and reporting and having taking into account the comments

received from other parties, SNH was satisfied that the proposal would not affect the integrity of the European Site. CML was advised by SNH in April 2012 that they agreed to the proposed change. Agreement was informally given by The Planning and Development Service at this time in order for CML to have the benefit of a further season.

- 4.2 The Council is guided by the advice of SNH in matters relating to the protection of integrity of European sites. SNH has undertaken an appropriate assessment as required for proposals that may impact upon the integrity of European Sites. It is not considered necessary to undertake any further assessment. There is no reason to withhold this request for change.

## **5. Implications**

- 5.1 Resources involved are already contained within the Planning & Development Service budget.
- 5.2 There are no direct Equalities, Climate Change or Risk Implications arising from this report.

## **6. Recommendation**

6.1 It is recommended that Committee:

- i. Note the findings of the consultation and SNH's advice
- ii. Formally agree to the proposed change to the VMP to allow Cairngorm Mountain Ltd to operate the guided walk 'Walk@TheTop'
- iii. Note that further changes to the VMP may be required in due course.

Designation: Director of Planning & Development

Date: 15 April 2013

Author: David Mudie, Team Leader – Development Management (01463 702255)

Background Papers:

**PUBLIC CONSULTATION 14 NOVEMBER 2011 to 23 DECEMBER 2011**

**Cairngorm Mountain Railway: request to amend visitor management arrangements to include 'Walk@TheTop'**

We would like to hear your views on a proposal to add the 'Walk @ The Top' to the Visitor Management Plan that operates in association with the Cairngorm Mountain Railway.

The Highland Council (THC) and ourselves have, under the terms of the legal agreement associated with the planning permission for the Cairngorm Mountain Railway, received a request from Cairngorm Mountain Ltd (CML) to change the associated Visitor Management Plan (VMP). Following the public consultation on the original VMP in 2000, we undertook to consult further on any significant proposed changes. We think that this request is for a significant change.

We are seeking your views on the change now requested by CML:

To offer guided walks to the summit of Cairn Gorm and back from the top station using existing paths, plus use of other recognised paths within the ski area<sup>1</sup> that do not go in to the designated area.

We must carry out our functions associated with this development to ensure that the proposals will not have a damaging impact on the European designated sites that lie adjacent to the mountain railway. This is not a matter of choice but a requirement under law<sup>2</sup>. We approved a trial of the guided walks from 17 July 2010 to 31 October 2010 and from 1 May 2011 to the end of the 2011 calendar year. CML marketed this as the 'Walk @ the Top'. A summary of the monitoring of this trial is attached in Annex 1 to this document. The results have not raised any negative issues to date and we expect to approve this request. The decision on this proposal rests with us but we would value your advice in coming to a final view on whether we can be sure that the proposals will not have an impact on the European sites. In order to assist us with this process we are seeking your views on questions 1 to 4 below.

1. Do you think that the proposed change to the VMP would be likely to impact on the qualifying features within the European sites? If so, what type and scale of impacts do you predict?
2. Are there any additional measures that could be put in place to minimise or prevent impacts on the European sites, whilst allowing the change to the VMP? If so, what measures do you suggest, and how effective do you think they would be?
3. If your answers are supported by evidence of which we may be unaware, are you able to provide that evidence?
4. Do you have any other comments about the proposed change to the VMP?

Comments on the proposals should be submitted by email or in writing to ourselves or The Highland Council at the addresses below by 23 December 2011.

<sup>1</sup> The Cairngorm ski area lies to the north of Faicaille a Choire Chais and Cairn Gorm and includes Coire Cas and Coire na Ciste.

<sup>2</sup> The sites status means that the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended, (the "Habitats Regulations") apply. See <http://www.snh.gov.uk/docs/A423286.pdf> for detailed legislative guidance.

Scottish Natural Heritage Achantoul Aviemore Inverness-shire PH22 1QD or <a href="mailto:SOUTH_HIGHLAND@snh.gov.uk">SOUTH_HIGHLAND@snh.gov.uk</a>	The Highland Council Planning Department Glenurquhart Road Inverness IV3 5NX or <a href="mailto:dev.management@highland.gov.uk">dev.management@highland.gov.uk</a>
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**Notes:**

A plan for managing non-skiing visitors ‘The Visitor Management Plan’ was submitted by the Cairngorm Chairlift Company as part of the planning application for the Cairngorm Funicular Railway. The VMP was approved by Scottish Natural Heritage and The Highland Council in December 2000. The purpose of the VMP is to protect the integrity of the adjacent areas which have been designated under the European Habitats and Birds Directives, from the potential impacts of non-skiing visitors as a direct consequence of the funicular development.

The funicular development and paths used for guided walks lie within the Cairngorms National Park, the Cairngorm Mountains National Scenic Area and adjacent to but out with the Cairngorms Special Protection Area (SPA) and Cairngorms Special Area of Conservation (SAC).

SPAs and SACs are designated under the European Commission Wild Birds and Habitats and Species Directives respectively. These are some of the largest European conservation sites in Britain.

Cairngorms SPA and Cairngorms Massif SPA support a number of qualifying bird species associated with woodlands, moorland and montane habitats. The species with most relevance to the proposed amendment to the VMP is the dotterel, a migrant species nesting on montane habitats (usually above approximately 850m) from late April through to late August.

Cairngorms SAC supports a number of habitats and species associated with woodlands, moorlands and montane habitats. The habitats with most relevance to the proposed amendment to the VMP are dry heath, alpine and sub-alpine heath and montane acid grassland.

**Enclosures**

- Summary of monitoring the trial guided walks (ANNEX 1).
- Map of ski area, designated sites boundaries, relevant paths etc.

## ANNEX 1 – Details of the trial period

### Background

The Highland Council and ourselves received a request from CML in early June 2010 to make a change to the VMP. The change was to offer guided walks from the top station to the summit of Cairn Gorm and back for a trial period. We approved the trial subject to conditions and monitoring. The guided walks commenced on the 17 July 2010 and stopped on the 31 October. The trial then re-started on the 1 May 2011 and will run to the end of this calendar year.

### Location and details

The trial walks started at the Ptarmigan station and followed a circular route using existing paths. These paths are the summit path which is a direct line between the top station and the summit of Cairn Gorm and, the Marquis Well path which lies to the east of the summit path. The paths are shown on an attached map.

### Monitoring results

#### 1. Number of participants

A breakdown of the number of walks offered and occurring including the number of participants is set out in Table 1.

Table 1

	No. of walks offered	No. of walks took place	1020	1100	1120	1200	1320	1400	1440
All walks	565	353	42	49	56	43	0	124	39
Walks 2010*	287	191	0	0	56	43	0	53	39
Walks 2011**	278	162	42	49	0	0		71	
		No. of participants							
All Walks		2174	241	318	361	281	0	771	202
Walks 2010		1179	0	0	361	281	0	335	202
Walks 2011		995	241	318	0	0	0	436	0

\*Walks offered in 2010 between 17 July and 31 October.

\*\*Walks reported on for 2011 between 1 May and 17 July.

#### 2. Compliance

A condition of participating on the guided walks is that those attending must return to the top station with the guide. There was 100% compliance with this condition during the trial period.

#### 3. Relationship with total users on Cairn Gorm

The calibrated total number of walkers recorded using the summit path of Cairn Gorm during the period 17 July 2010 – 31 October 2010 was 9041. The total number of walkers on guided walks during the same period was 1179. Guided walk participants therefore constituted 13% of the total numbers of users during this period.

#### **4. Dotterel**

We asked CML to record any dotterel seen on the trial walks because they are a qualifying feature of the adjacent European designated site. Dotterel are summer migrants to the Cairngorms and are usually present from late April to mid August. The recording spanned the periods 17 July – 31 October in 2010 and 1 May – 17 July in 2011. Nine observations of dotterel were made in 2010 and twenty in 2011. Dotterel were observed during the period 17 July to 16 August in 2010 and 1 May to 7 June in 2011. In 2010 a male with two chicks was observed around the summit dome between the period 17 – 28 July. This family was seen during an earlier, separate dotterel survey on the 13 July when the chicks were noted as being just capable of flying. This indicated that visitor use around the summit dome in 2010 did not displace this family. The absence of records between the 7 June and 17 July 2011 largely coincides with the incubation period when the birds are less obvious. Some observations of dotterel have been recorded since 17 July 2011.





**Respondent codes**

## Member of Public

1P	Member of Public
2P	Member of Public
3P	Member of Public
4P	Member of Public
5P	Member of Public
6P	Member of Public
7P	Member of Public
8P	Member of Public
9P	Member of Public
10P	Member of Public
11P	Member of Public

## Community Groups

12C	Kincraig & Vicinity Community Council
13C	Aviemore & Vicinity Community Council
14C	Aviemore & Vicinity Community Council

## Non-governmental Organisations

15N	The Mountaineering Council of Scotland
16N	Ramblers Scotland
17N	Royal Society for the Protection of Birds
18N	Cairngorms Campaign

## Public Agencies

19A	Cairngorms National Park Authority

## Analysis of consultation responses

Answer	Number of respondents	Respondent codes & comments	SNH response
<b>Question 1: Do you think that the proposed changes to the VMP would be likely to impact on the qualifying features within the European sites?</b>			
Yes	2	6P 9P	Rejected (see below for rationale).
No strong view			
No	8	1P 2P 5P 14C 15N 16N 17N 19A	Noted.
Don't know			
Reasons for views	5	1P Monitoring of dotterel showed no impact during the trial period. 2P Monitoring of dotterel showed no impact during the trial period. 5P Because the paths are outside the EU designated sites. 16N Monitoring of dotterel showed no impact during the trial period. 19A Monitoring information is not indicating impacts to the EU qualifying features.	Accepted.  Accepted.  Accepted.  Accepted.  Accepted.
<b>Question 1a: If so, what type and scale of impacts do you predict?</b>			
Yes	1	9P Increased erosion, the risk of litter and a degradation of the sense of wilderness that the plateau provides.	Rejected in relation to the European sites because the guided walks do not go into these sites. However, we appreciate the risk of increased erosion and litter, and reduced wildness, outwith the European sites in the ski area. These points are reflected and we will draw them to the attention of CML and HIE.

Answer	Number of respondents	Respondent codes & comments	SNH response
<p><b>Question 2: Are there any additional measures that could be put in place to minimise or prevent impacts on the European sites, whilst allowing the change to the VMP? and</b></p> <p><b>Question 2a: If so, what measures do you suggest, and how effective do you think they would be?</b></p>			
Yes	3	<p>9P Strict annual limits to the number of people who use the guided walks (examples of this are used in National Parks in the USA).</p> <p>9P A regular review of key indicators – erosion, litter and sense of wilderness and the establishment of a mechanism to adjust the annual limit depending on the results.</p> <p>9P the establishment of a Board to review the results and provide recommendations to an existing Board of higher authority. Representation on the Board should include walkers/users, environmentalists and operators.</p> <p>9P The establishment of a Byelaw with perhaps a fixed penalty for littering, straying off path and failing to return with the guide.</p> <p>15N Monitoring should continue with a review of approx. every four years in consultation with SNH.</p> <p>17N Sanctions are implemented consistently in the event of anyone leaving the party against the instructions of the guide.</p> <p>17N Accurate records are kept of adherence to agreed procedures for regular review.</p>	<p>Rejected: limits are not needed because the guided walks do not enter the European sites.</p> <p>Rejected: because the route does not enter the European sites. Nevertheless, the points are reflected and we will bring them to the attention of CML and HIE.</p> <p>Rejected: not necessary to protect European sites because legislation demands new proposals that could affect these sites meet strict legal tests. Nevertheless we will bring this suggestion to the attention of CML and HIE to consider for issues arising within the ski area, outside the European sites.</p> <p>Rejected, this is not required to avoid damage to the European sites, because the guided walks do not go into them.</p> <p>Accepted: monitoring and review will continue to take place annually.</p> <p>Accepted: any sanctions would apply to CML through the Visitor Management Plan.</p> <p>Accepted: this will be implemented through the Monitoring Scheme associated with the Visitor Management Plan.</p>

		<p>17N A more robust method of preventing non-skiers leaving the Ptarmigan building. Careful records of leakage are kept.</p> <p>17N Any approval should be for a time limited period, suggest five years, and subject to review of its environmental impacts before any further extension is agreed.</p>	<p>Reflected: we will discuss this issue with CML. CML record leakage as part of the Monitoring Scheme</p> <p>Rejected: because the legal Agreement and VMP allow us to review and amend the VMP at <u>any</u> time, if it leads to an impact on the European sites.</p>
No strong view			
No	4	<p>1P 6P 14C 19A</p>	Noted.
Don't know			
Reasons for views	1	19A Continue monitoring.	Accepted.
<b>Question 3: If your answers are supported by evidence of which we may be unaware, are you able to provide that evidence?</b>			
Yes	2	<p>1P The consultee provided evidence that no additional measures are needed based on personal experience of participating in a guided walk.</p> <p>6P SNH should respond to public opinion as well as scientific advice.</p>	<p>Noted.</p> <p>Noted: the main purpose of this consultation is to seek peoples' views. However the legislation that protects European sites demands that strict legal tests are met before proposals that could affect sites are approved.</p>
No strong view			
No	1	17N Does not have figures on current level of leakage from the top station but anecdotal evidence is that the number is significant and increasing.	Reflected: we will discuss with CML.
Don't know			

Answer	Number of respondents	Respondent codes & comments	SNH response
<b>Question 4: Do you have any other comments about the proposed change to the VMP?</b>			
Yes	16	<p>1P The requirement for walks to be guided appears to be contradictory to the Land Reform (Scotland) Act 2003.</p> <p>1P There will be people who seek to be guided and this could prove a business opportunity for CML or others to offer an extended range of guided walks e.g. Cnap Coire na Spreidhe and Ben Macdui.</p> <p>1P Supports SNH's indication that it is minded to approve the request from CML.</p> <p>2P Supports the proposed change to the VMP.</p> <p>2P Believes that the information supplied with the consultation demonstrates that there is no reason why walks cannot be extended and, that the top (station?) were open to the public then the same results would be seen.</p>	<p>Rejected: people have no statutory right to use the funicular and can only do so if they choose to buy a ticket. Buying a ticket means that people enter in to a contract with the operator. This contract includes the condition of no access from the top station. The guided walks from the top station are not a right and one can only participate if one chooses to buy a ticket. Therefore if people participate in a guided walk they also enter in to a contract which includes a condition that the walks are led by a guide.</p> <p>Reflected, we will bring this to the attention of CML.</p> <p>Noted</p> <p>Noted.</p> <p>Rejected in relation to open access because evidence from CML's visitor surveys suggests that open access will not protect the European sites. The surveys indicate that, if access was open at the top station, 82% of funicular users would go for a walk, and that 60% of walkers (who are not currently using the funicular) would use the train to gain access from the top station. Not all people would go in to the European sites but it was estimated that</p>

			those that would were in the region of 30-40,000 pa.
		3P Objects to the proposal because the fragile habitats should be protected not exposed to further damage.	Rejected: the walks are outwith the European sites but we note the comments in relation to the ski area and will bring this to the attention of CML and HIE.
		4P People should not be allowed to leave the funicular.	Rejected as a 'blanket rule' because the purpose of the Visitor Management Plan is to prevent damage to the European sites, not to prevent people leaving the funicular.
		5P The paths used for the guide walks should be maintained.	Reflected: we will bring this to the attention of CML and HIE.
		5P CML should provide more interpretation at the Base station and Ptarmigan station about why the area has and should have more protection.	Reflected: we will bring this to the attention of CML
		5P CML should provide more visible carbon offset contribution signs in the car park at on paths.	Reflected: we will bring this to the attention of CML.
		7P Broadly in favour providing the route is identified on a map and not marked on the ground.	Reflected.
		7P Does not support guided walks only being led by CML staff. CML should not be granted a monopoly of provision of services, other than their infrastructure, from the summit station This should be available to other suitably qualified guides.	Reflected: we will bring this point to the attention of CML.
		8P Supports the application by CML to run guided walks.	Noted.
		10P Supports the proposal being made on a permanent basis.	Noted.
		10P Wants all people to be allowed to leave the top station whenever they want.	Rejected: see reasons given above to 2P.

		<p>10P The funicular was not only paid for by skiers but by everyone. There is no reason to discriminate against walkers, photographers, ecologists who also paid for the concrete and steel on the mountain.</p> <p>11P Registered concern about an open ended change to the VMP to allow access to the detriment of the summit area.</p> <p>12C Support the proposed change to the VMP. Hopeful that open access may be achieved in the future.</p> <p>12C Monitoring of visitor numbers and impact on the plateau condition should continue so that confidence in the change can be maintained.</p> <p>This information would also support consideration to extending the guided walks principle where ground conditions allow.</p> <p>13C The present system of restricting access to Cairn Gorm from the funicular should be abolished and free access for all should be allowed. There is no scientific suggestion that allowing public access to the mountain would cause any significant damage.</p> <p>13C The present VMP should be abolished and replaced by prominently displayed</p>	<p>Rejected: we do not agree that there is discrimination against these users. People have no statutory right to use the funicular. When people buy a ticket they enter in to a contract. The same rules apply to everyone who purchases a ticket both in the ski season and non-skiing season.</p> <p>Rejected: any approvals made through the VMP are not open ended. The VMP is subject to an annual review and any element of the VMP can be amended or stopped at any time should the results of monitoring show an impact to the European sites.</p> <p>Noted in relation to proposed change but Rejected in relation to open access, see response to 2P above.</p> <p>Accepted: annual monitoring will continue.</p> <p>Reflected, this will apply to the areas outwith the European sites but would have to be subject to fresh consideration if it involved the European sites.</p> <p>Rejected: see reasons given above to 2P</p> <p>Rejected see reasons given above in 2P</p>
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		<p>guidelines on how to behave on the mountain.</p> <p>14C The VMP is not necessary and should be removed.</p> <p>15N The priority of protecting the EU sites must remain the purpose of the VMP and the 'closed system'.</p> <p>15N Welcomes the plan to restrict the route to actively-managed ground using existing paths within the ski area that do not go into the designated area.</p> <p>15N Monitoring of compliance and numbers should continue and be reviewed on a regular basis. Expect restrictions and the option of withdrawal of consent retained and used if necessary.</p> <p>16N Approval should continue on a trial basis, with approval given on an annual basis, until such time as the path to the summit is completed and along the whole of the Marquis' Well return route.</p> <p>16N It should become an obligation on HIE to establish and maintain the path infrastructure along with maintenance arrangements agreed by SNH, to support these guided walks so long as the funicular continues to operate.</p> <p>18N The proposal should be reviewed in the context of soil/plant systems in the wider HIE estate and beyond.</p> <p>18N The proposals should be reviewed in the context of other plans such as the VMP and, HIE estate management plan and footpath plan.</p> <p>18N Broaden the monitoring to include erosion and</p>	<p>Rejected see reasons given above in 2P</p> <p>Accepted.</p> <p>Noted.</p> <p>Accepted: monitoring will continue and the option of withdrawal of consent is available through the VMP and associated legal agreement.</p> <p>Rejected, because the legal Agreement provides for ongoing review and mechanism to change any part of the VMP. The point in relation to path completion is reflected and will bring this to the attention of CML and HIE.</p> <p>Reflected: path maintenance within the European sites is carried out in consultation with SNH. There are no obligations to maintain the paths in the ski area but this would be good practice and we will bring this point to the attention of CML and HIE.</p> <p>Reflected: we will bring this point to the attention of CML and HIE.</p> <p>Reflected: we will bring this point to the attention of CML and HIE.</p> <p>Reflected: we will bring this to the attention of CML and HIE.</p>
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		<p>educational impacts.</p> <p>18N Guided walks should only take place on paths that can withstand the use.</p> <p>18N Make it clear that the trend of change at the top station is not a route to reopening the top station.</p> <p>19A CML should make the monitoring information more accessible to the public.</p> <p>19A CML should consider access from the Ptarmigan beyond the ski area in to designated sites during the ski season.</p>	<p>Reflected: we will bring this point to the attention of CML and HIE.</p> <p>Reflected: we believe that CML and HIE are aware of this point.</p> <p>Accepted: we have been discussing this topic with CML.</p> <p>Reflected: we will bring this to the attention of CML.</p>
No strong view			
No	2	9P 17N	Noted.
Don't know			
Reasons for views			