

THE CAIRNGORMS CAMPAIGNER

September 2015

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An Camus Mor



The camp site where An Camus Mor is to be sited

The court case brought by the Campaign against the development of An Camus Mor focused on the potential environmental damage of such a large scale development on the Spey, asserting that the Park Authority was legally obliged to ensure these were preventable prior to giving planning permission. The Authority asserted these would be controlled as development evolved. Whatever else, it has tied itself to that commitment and a

heavy obligation now rests on it to fulfil it. There is another important reason for opposing the development. A key task for the Park Authority is to protect the highly valued and highly protected core mountain mass of the Cairngorms. A principle of this, increasingly recognised globally, is that the success or failure in protecting such core mountain areas depends not so much in controlling development within them, but in

controlling development in the nearby surrounding areas. At least there is a need for a buffer zone between the two and the Cairngorms have this in the form of surrounding lower hills – except where both Aviemore and An Camus Mor will be developed. Here, Glenmore gives direct easy access to Cairn Gorm itself. It is at least doubtful if the consequent increase in pressure on the main mountain massif can thereafter be contained.



Happy days Stopover - but did this event benefit Aviemore?

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An Camus Mor continued

One more thing – it seems highly illogical to build a settlement directly across the river from Aviemore and indeed larger than it, while leaving no direct bridge connection between to create one larger integrated community sharing social and other resources. Instead, people from Aviemore wishing to use the promised social resources of An Camus Mor, and vice versa, must embark on a circuit of over two miles. Bob Reid tackles this issue gently below when reflecting on the Stopover Festival recently held on the site.

Stopover – A Reflection by Bob Reid

As Mumford & Sons' last song rang out on a 'cold' August night,¹ I wondered whether audience or artiste considered the significance. A full moon rising above Cairn Gorm and a shooting star had accompanied their first tune. What did this portend?

It was only when watching everyone leave that a significance of sorts dawned on me. Thousands of weary but contented Stopover Festival goers were retiring to their tents and camper vans while others headed home on foot or by car. Officialdom held that there were 18,000 people on the festival site that night, more than five times the population of Aviemore. The un-reconstituted planner in me computed that fact and considered the implications. I wondered how the roads would cope with the temporary flash flood of traffic. Did the local shops, especially the supermarkets, stock up with extra groceries? I supposed it was of little consequence given this was just for the weekend.

Or was it?

A conversation I'd had earlier with some local residents at the festival had given me pause. The festival site has an alternative future as a 'new settlement' – a village called An Camus Mor. It has a long planning pedigree dating back to the early 90s, when the idea of a new settlement was first spawned, long before the existence of a National Park or our Habitats Directives from Europe. The locals told of historic, visionary designs which envisaged An Camus Mor linked to Aviemore, with a river park in between, similar to the celebrated Ness Islands in Inverness, but based on the Spey. I made a note to self to find out more about these plans.

On this particular cold August night the simple planning necessity for 'connection' seemed incontrovertible as folk went the long way around, whether on foot or by car, to get back to Aviemore. I'd been told earlier that a foot bridge will eventually be built.

Somehow I doubted whether a more substantial bridge is beyond our current civil engineering capability. Must be some other reason.

As I travelled home in the dark (in more ways than were apparent) I struggled to find a rationale which could more than double the size of Aviemore but leave it quite so unconnected. Perhaps planners in future will be left to spot the king's new clothes and come up with a common sense solution.

Bob Reid ©2015

ACTION BY THE CAMPAIGN

Cairngorms Campaign legal challenge comes to a disappointing halt in the Supreme Court

Tim Ambrose Campaign Treasurer

Members may be curious to know how our legal challenge against the housing policies of the CNPA has progressed since the last update. The legal position is very disappointing, although there may be signs that the bigger picture is more encouraging.

After the Inner House of the Court of Session in Edinburgh dismissed our Appeal in July 2013, we had a short time in which to decide whether to take the issue to the Supreme Court of the United Kingdom. Our legal advisers believed our case was worthy, and agreed to work on a reduced fee basis as a measure of their commitment, and we reasonably expected that our case would be granted a Protective Costs Order, (PCO), which would limit our exposure to the CNPA's costs if we should be unsuccessful. As members will know, we decided to proceed and we lodged our Appeal to the Supreme Court on 13 August 2013, and the lawyers started on all the preliminary work drawing up the documents and arguments, to clearly define the issues at dispute for the Supreme Court.

But on 11 February 2014, the Supreme Court turned down our application for any PCO, on the grounds (among others) that its provisional view was that our Appeal was unlikely to succeed, and also that we had no "personal interest" in the outcome – ie because the Campaign is a charity trying to protect the Cairngorms area by enforcing a legal principle, but has no direct (financial?) interest in whether or not the New Town of An Camas Mor, and the proposed housing estates in Carr Bridge, Nethybridge and Kingussie, are approved or built.

This was extremely disappointing news, and might have ended the legal challenge there and then, but by chance only two days later, on 13 February 2014, the European Court ruled that the UK was in breach of its legal obligations to ensure that environmental Appeals by bodies like the Cairngorms Campaign are not "prohibitively expensive" (Commission v UK, Case C-530/11). Our lawyers were convinced that the Supreme Court had acted incorrectly, and we submitted a detailed argument inviting the SC to reconsider its decision, emphasising the importance of the issue for the interpretation of the Habitats Directive in the UK, and its wide application in future planning matters. By any reasonable criteria, we

1. 'Hot August Night' is a famous live concert LP by Neil Diamond

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presented a strong and well-articulated argument. On 2 July, the Supreme Court briefly informed us that the decision was final.

In the meantime, things were moving on An Camas Mor. On 12 March 2014, the CNPA granted Planning Permission in Principle for "Development of new community (up to 1500 residential units .. associated business, community facilities and provision of infrastructure)." This was accompanied by strict conditions, many of which were caused by the need to comply with requirements of the Habitats Directive which we had argued in Court should have been resolved at a much earlier stage. Perhaps finding these conditions too onerous, the chosen developer, Springfield Homes of Elgin, pulled out of the An Camas Mor project in April 2014. The backers next deposited their Masterplan for the New Town, to which the Campaign, and many others, lodged weighty objections, and the Masterplan was withdrawn in July 2014. Since then, I am not aware of any further public activity towards the development of An Camas Mor.

While we were considering the implications of continuing without a PCO, there were several possibilities. We could mount an appeal to the European Court, or dare to continue with unlimited exposure to the CNPA's costs and seek a retrospective PCO after the hearing. Both these options were unattractive. Mindful of the value of an open Appeal to the Supreme Court in the perception of the world, (and the CNPA's lawyers were urging us to withdraw at once) we were keen to keep matters alive as long as possible, but without risking the Campaign's funds unreasonably. We decided to seek an adjournment, or stay, of the Appeal until the outcome of a similar case was decided by the Court of Appeal – a case which could have given us ammunition for our own arguments with a highly material change of circumstances. Despite continuing opposition from the other side, the Appeal was held open until February 2015, when the Court of Appeal was not helpful to us, and we reluctantly accepted that it would be futile to continue, and risk the Campaign's funds further.

We have been very fortunate to have received a couple of extremely generous, anonymous, donations, which have enabled the Campaign to meet its financial obligations despite the very significant costs of the wholly abortive Supreme Court appeal. Full details of the costs will be set out in the Accounts to 31 March 2015, which will be prepared for the AGM. In my previous professional life, I had a great respect for the legal judgements of The House of Lords (as it was then), and considered that they almost always "got things right". Our recent experience has been very disappointing to me. The six month period between our lodging the Appeal and announcing their refusal to grant a PCO, (if the refusal had come sooner, much wasted legal work and cost would have been avoided), the Court costs of £4820 we paid in November 2013 to "set" the Appeal and which they refuse to refund, and their effective refusal, against all the European rulings, to hear the arguments of a reasonable Charity against a public body which we see as acting against the interests of the Cairngorms are disappointing.

If any member has any questions on the detail of the

process please do not hesitate to contact me. The Board has tried to pursue this Challenge as far as possible, all the time being mindful that the Cairngorms Campaign is a Charity funded by its members and supporters, and that we must not risk funds unreasonably. We may never know to what extent the legal challenge has had an effect on the developers or the CNPA, but members can be assured that we remain vigilant to ensure that the strict conditions placed upon any development of An Camas Mor, or the other large housing estates proposed by the CNPA, will be satisfied.

Operation of the Facilities on Cairn Gorm by the New Managers –Natural Retreats

In a previous newsletter we outlined the huge overall losses by the operation of the funicular and associated facilities on Cairn Gorm estimated at about £16m over eight years, with the Cairngorm Mountain Ltd finally being taken over by Highlands and Islands Enterprise (HIE) to rescue it from bankruptcy. A new commercial operator, Natural Retreats, is now to take over the operation with a 25 year lease on the site and operation. A Freedom of Information request to HIE confirmed that repairs and maintenance £1,701,500 had been carried out and it was investing a further £6.2m including a £4m loan to Natural Retreats to create a new day lodge (which was bought by HIE from Cairngorms Mountain only nine years ago for £3.6m). Ensuring the operation becomes financially viable is a major task and a key measure to realise this is by greatly increasing the numbers of summer visitors. Natural Retreat's vision for the development is given as, *"To elevate Cairngorm Mountain as one of the leading leisure and adventure resorts in Europe, offering high quality services across all aspects of the site. To invest and deliver a stepped change at Cairngorm Mountain, creating a visitor attraction that is diverse, commercially self-sustaining and maximising economic impact."* HIE was heavily criticised by a parliamentary select committee for not ensuring there would be value for taxpayers' money invested in the original construction of the funicular railway and now stated to the Campaign that, *"Standard accountancy key performance indicators (KPIs) will be used to monitor the effectiveness of the business on a quarterly basis while the wider impact will be quantified periodically through an independent evaluation – with a focus on job creation and (tourism) sector development"* Given the history of environmental damage and conflict with other recreations previous attempts to develop on the site have caused, some anxiety is reasonable among organisations like the Cairngorms Campaign. Three organisations, the Campaign, the North East Mountain Trust, and the Scottish Campaign for National Parks therefore arranged a meeting with the new operators on 28th of August on behalf of Scottish Environment Link (SEL) to discuss ways of avoiding future conflicts and unacceptable environmental damage to the area. This was attended, on behalf of Natural Retreats by Adam Gough (Head of Technical Services); Janette Jansson (Manager of Cairngorm Mountain; Andrew Mackie of their

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Architectural Design Team. Adam Gough emphasized the company's philosophy of sustainable development which attempts to balance economic and environmental interests. He spoke of the company's interest in projects adjacent to national parks in the USA and emphasized that the company took a long term view of its custodianship and hoped to leave the area in better condition than it found it. The day lodge will be rebuilt to provide an improved layout of the facilities and a more streamlined and welcoming entrance area. Natural Retreats had used the first year to get a better understanding of the operation of the site and is now starting to consider what developments to pursue. Mr Gough said that it was important to improve the visitor experience and make it more 'weather resilient'. This included activities for families when winter sports are difficult and increasing the educational aspects of what is offered. The importance of the funicular in respect of revenue was stressed with the great majority using it 'for the view'. Adam alluded to developments to enhance skiing facilities for children and improving snow retention through better fencing and additional snow making equipment. The development of mountain biking is part of their summer plans. The SEL representatives stressed that it was in everyone's interest that Cairngorm Mountain was successful but emphasised that the environmental implications of all proposed developments must be thoroughly considered. As a model for resolving the tensions between economic, environmental and other pressures, SEL representatives suggested that the Limits of Acceptable Change framework could be useful and information about this was given to Adam Gough. A fuller minute of the meeting will be posted on the Campaign's website.

Proposed Cull of Pine Martens

The Campaign noted, with some concern, a proposal by the Game & Wildlife Conservation Trust (GWCT) to undertake a controlled experiment to investigate the effect of removing pine martens on the breeding success of capercaillie.

The proposal has been developed as one of several research priorities agreed by the Capercaillie BAP Steering group and aims to establish whether or not the apparent negative correlation between pine marten activity and capercaillie productivity is, at the population level, a causal relationship. The project would entail the removal of pine martens in the broader Rothiemurchus area. Scottish Natural Heritage is part of this project and hence a letter detailing our concerns was sent.

There are situations where systematic culling of one species to protect another or a habitat is justifiable, as in the removal of hedgehogs introduced to the Western Isles. But such projects can arouse opposition, justified or not, and need always to be approached with care and a scientifically well-grounded case. This project proposes to cull one high profile protected species to protect another, a dubious proposal in the first place. Further, it is to be

carried out, not only in a National Park, but also in the most visited area of that Park where experience of wildlife is a significant factor in the local tourism economy. In this situation, the need for both caution and a well-grounded case is even more important. It is clear to us neither requirement has been met in this case.

Writing to SNH, we pointed out there is very little evidence that pine marten predation is a significant factor in the decline of Capercaillie and significant evidence to strongly indicate that it is not but is driven by factors other than predation. Hence, even if an impact of pine marten predation on Capercaillie numbers were identified and removed by wide scale marten removal, it would not prevent the decline of Capercaillie. So what would be the point of the study? This undermines the whole rationale for the experiment. Underlying the proposal is a simplistic model of predator prey relationships and hence the design of the proposed experiment would not permit any valid conclusions to be drawn from the result. It might in fact produce results that could be misused to promote further the "culling" of pine martens and indeed a model for wider practice in sporting estates.

We further pointed out that the proposed cull experiment also suffers from at least two further underlying problems. Removal of the species from an area creates vacant territories which are colonised by replacement individuals from surrounding areas. These are then culled, re-vacating the territories, leading to new occupiers moving in, and so the process continues. The culled area becomes a "sink" for the species over a much wider area. Culling of pine martens over the proposed four forests would thus impact on populations of martens and, potentially also, Capercaillie over a much wider area.

In their reply, SNH acknowledged both capercaillie and pine martens are legally protected and for an experiment of this type to be justified and the methodology to be robust and scientifically defensible, even to obtain a licence to do so. SNH have therefore undertaken to ensure a scientifically robust design of the experiment is undertaken, but we remain sceptical of this whole project and its underlying rationale.

Hilltracks in the Scottish Hills

This has been a matter of continuing concern to the Campaign, not least because the proposal to exercise some planning control over the creation of such tracks into wild areas and their subsequent landscape impacts has led to landowners hurriedly creating even more of them widely in the hills. These have often been crudely made with inadequate drainage and lack of regard to landscape impacts. The Campaign submitted detailed, well illustrated evidence at the start of the government consultations. Pressure of work on other issues has prevented close involvement by the Campaign but it was one of the signatory organisations of letters to the minister for Local Government and Planning urging more effective control. Below, Helen Todd of the Ramblers Association,

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one of the key figures in the campaign to obtain planning control over track construction, summarizes the situation and we thank her for this input.

Hill Tracks Update by Helen Todd of the Ramblers Association

Last year the Cairngorms Campaign, working with other organisations through Scottish Environment LINK, was successful in getting a measure of protection for our upland landscapes with regard to the construction of new hill tracks. This has particularly been an issue of concern in the Cairngorms since the 1970s when a track was bulldozed up to and across the Cairngorm plateau by Glen Feshie estate. Following a change in permitted development rights legislation, all landowners must now notify local authorities in advance of any new hill track construction or improvements. This will mean building methods should be improved and at least authorities will know where new tracks are located, even though it falls short of the full planning application we were calling for.

We are now asking for your help to ensure that this new legislation is working. Tracks will still be constructed until the snow arrives, so if you are out walking in the Scottish hills please keep an eye out for any new tracks. If you come across such a track, please send a photo of the track plus its location and any other information you can gather to hilltracks@scotlink.org. LINK can then check that the planners have been informed of the track, and in that way monitor the effectiveness of the new legislation in advance of the government's own review in December. Also, if anyone is interested in helping to monitor the weekly planning lists of local authorities, LINK is putting together a team of 'trackers' who will be checking for new track applications from August to October. Volunteers should contact Beryl Leatherland of Scottish Wild Land Group who is coordinating this work, on beryl@chway.plus.com

Demise of the Cairngorms National Park Authority's Sustainable Tourism Forum

Scottish Environment Link had two members on the CNPA's Sustainable Tourism Forum including a representative of the Cairngorms Campaign. CNPA has now dissolved this forum, basically because of lack of support from representatives of the tourism industry. Sustainable tourism involves the consideration of not only the economic impact of tourism development but also its social and environmental impacts. There is a large volume of research and experience that the tourism industry classically overdevelops and damages itself and associated communities, not least through unacceptable environmental impacts on the basic resources of landscape and wildlife it is founded on. These considerations simply never got on to the agenda, despite attempts by SEL reps to raise such issues. The Forum simply did not address the issue of sustainability in its core remit and it is thus not surprising that the industry basically ceased to support it.

Consultation on the Cairngorms National Park Authority's New Plan and Policy "Active Cairngorms"

The growing evidence of the close links between inadequate physical activity and premature death has stimulated the Park Authority to promote a policy in line with Scottish national policy of promoting increased physical activity by the resident population within the Park. This policy aims to achieve this by designing places that encouraged physical activity (eg all ability routes), promoting best practice in recreational activity and environmental appreciation, and promoting healthy lifestyles through use of the Park's facilities. The Campaign responded in detail to the proposals, seeing much that it supported such as encouraging people to be more active. We stated the benefits of outdoor recreation extended far beyond improved physical health to include reducing loneliness and isolation, improved mental health, developing appreciation and understanding of the natural environment, and stimulating personal development of young people through challenging adventurous activities. These should be part of the rationale supporting the activities. The Campaign pointed out however that these ambitions increased pressure on the Park's natural resources and, although there were several statements in the document referring to the importance of protecting these, there was a need to frame the proposals under Active Cairngorms more clearly within those constraints. The Campaign and the North East Mountain Trust therefore arranged a meeting with Mr David Clyne of the Park Authority. This proved useful this issue in particular was discussed and reassurance gained on this point. The Campaign also emphasized the need for a more thorough situation analysis of the vulnerabilities of the Cairngorms and the opportunities for outdoor recreation they provided. From this, deductions about policies could be more clearly derived, some setting of priorities, and an assessment of potential actions against the financial and other resources available for the design and delivery of the policy.

Culling of Mountain Hares on Grouse Moors

Data gathered by Dr Adam Watson and other evidence demonstrated that drastic culling of mountain hares is taking place on estates covering large areas of the Eastern Highlands. Piles of corpses of hares dumped in the heather have been found by members. The practise is based on the belief that reduction on mountain hares reduces tick populations but there is little scientific evidence to support this. As an Annex 5 species under the Habitats Directive, mountain hares are required to be managed sustainably and ten organisations including the Campaign issued a public statement highlighting their concern over this widespread slaughter and its likely impacts on the future of the species. SNH has been urged to take action. Latest news is that it has been agreed between SNH and the Scottish Government that the Government will be seeking legal advice on the situation. It seems likely this advice will need to cover the various levels of culling from heavy duty and indiscriminate through to lower levels of management.

Talking Point

Perils in the

Half hidden beneath the flowing waters of the burns and rivers of Scotland lives an oft overlooked creature – the freshwater mussel. Most get washed away but just a very few get drawn into the gills of salmonid fish where they clip on and grow till ready to migrate to the sea. It is its ability to develop freshwater pearls which were much valued and traded until recent years. The tinkers traditionally exploited this. Would you follow-on hunger, who would overlook a free meaty meal waiting to be picked out of the river? It occurs in fast flowing waters all over Scotland, but has declined on the Spey over the last few years. According to SNH it is one of the world's most endangered molluscs.

Now a project, Pearls in the Landscape, has arisen to protect and restore it - and thereby hangs a tale of conflicts in land use throughout the catchment across the UK, all Natura 2000 sites, all designated Special Areas of Conservation (SACs), and it includes the Dee and the Spey. The mussel species the mussels clearly depend for survival. Among other measures such as education and awareness-raising, a key aim is to restore the *Dee Riparian Woodland Restoration Scheme aims to reduce these effects by establishing native trees over 70 kilometres of river in the Dee catchment including tributaries like the Cluny and the Ey. This is a major effort. But will it succeed?*

Well, why is the mussel declining? In truth nobody really knows. Could it be high levels of phosphate? Perhaps in some areas. Or could it be that the river contains a small pearl? The impact of this is uncertain. Is it rising water temperatures caused by climate change inhibiting the mussel? For various reasons, restoring riverbank tree cover (riparian woodlands) is a good move. Take water temperatures. DEFRA predicts that, under a 'business as usual' scenario, "the temperature of the river will rise by 1.5°C in the upper area." This could inhibit the successful spawning and growth of salmonids and hence the mussel dependent on them. Shading the riverbank can have other values. Their roots stabilise river banks, reducing erosion. They draw mineral nutrients from the water that later land on the river supply food sources for young fish and other river wildlife. And then of course they deposit twigs and branches into the stream which is handily called, harbours water insects and other lifeforms that provide food for salmonids and habitat where young fish are produced. The Basin Management Plan for the River Dee (of which more later) states that, "*The river Dee is considered to be the best example of a river which have been largely deforested and have lost their riparian woodlands as natural seems- an example of the "Shifting Base Line" concept. In fact a "natural" river there would be far different – and biologically much richer.*

However, "Back at the Ranch" as they say, Pearls in the Landscape has set out to restore the riparian woodlands and there are only two ways to do this. One is to reduce grazing – in the upper Dee catchment largely by culling red deer – and the other is to erect deer fencing over long stretches of the river bank. Attempts to reduce red deer populations have a long sad history in Scotland. As the Land Reform Group states in its final report, "*For over 50 years since the 1959 Act, the RDC, DCS and now SNH have each consistently called for reductions in deer numbers to reduce their impacts on an expanding number of public interests. However, during that period, the overall numbers of wild deer in Scotland have continued to increase and their range has continued to expand.*" Well well! It states also, "*The Review Group has been struck during its own investigations by the limited progress in addressing some of the issues over the management of wild deer in Scotland, particularly red deer, despite many years of debate over these issues.*" This is what the Americans call "*British understatement.*"

The landowners in the area concerned haven't reduced deer numbers, so it has to be achieved by deer fencing. Deer fencing costs the public huge sums in Scotland and it is largely an exported cost of deer forests. From 2003 and 2012, over £23 million was spent by government agencies in Scotland on deer fencing. Scottish Natural Heritage alone spent nearly £7 million! Much of Pearls in the Landscape's £2.4 million would go on this. Except that it can't, because the landowners prevented extensive deerfencing along river and burn sides. It would prevent passage of red deer. Outside of very limited areas, only small enclosures with trees planted within them, often set back from the banks have been permitted and these will not fulfil the functions of riparian woodlands. Stymied by deer numbers again!



A thin riverine woodland grows along the Ey Burn where it cuts a small ravine. The area is heavily grazed by sheep and deer.

Currently, the management of deer numbers is done through culling. The effective control of red deer numbers has not been achieved. As said in his book on rewilding, Feral, "*Most human endeavours*

Talking Point

Landscape

mussel. It is a fascinating species. In season, mature adults release up to four million tiny mussel-like larvae into the flow. Nearly the river bed. There they anchor and grow for perhaps over 100 years! In Scotland it is often known as the pearl mussel due to the mussels for this. Historically, like the salmon, it was more basically a significant food source. After a bad harvest and the fall over Europe and all over Europe it is in decline and under threat. In Scotland, for example, populations have fallen by 50%

that we seem unable to resolve. As often, the Cairngorms provides the scene. Pearls in the Landscape involves 21 rivers in the region. It aims to restore the habitat of freshwater pearl mussel and salmonids (Atlantic salmon and brown trout), on which the project states to *“Restore and improve riparian habitat by planting native trees and fencing riverbanks.”* The project states *“The Upper Deeside river bank in the upper catchment.”* £2.4 million of EU funding will be used, largely for riverside forest restoration of the upper

Is it illegal “poaching” of the now protected mussels for pearls, since many may be taken and killed to find just one that produces a pearl? The development of young salmonids, which stop feeding at higher water temperatures? Perhaps! Nonetheless, for a variety of reasons, under the influence of climate change, *“an approximate 4°C increase in mean summer temperatures by 2080 for the Deeside catchment.”* by riparian woodlands would reduce summer water temperatures in crucial spawning and nursery areas. Riparian woodlands are dependent on soils as foliage dies and falls on the land, sustaining the fertility of the catchment soils. Foliage and insects falling into the stream, building up that critical element largely missing now from Scottish rivers like the Dee – Large Woody Debris! LWD, as it is called, is protected. Much American work has shown the key role of LWD in sustaining fish populations like salmon and trout. The River Deeside is *“one of a large natural highland river in Scotland.”* But the Dee is far from natural. Describing river basins like the Dee and Spey as suffering from *“Large Woody Debris Syndrome”* in which the condition of an ecosystem inherited by the observers is considered the norm or natural when in



... where trees are protected from grazing



Small enclosed plantings of trees such as in Glen Ey may one day be a seed source but contribute no shade and little large woody debris or nutrients to the Ey, an important salmon spawning area.

... through a voluntary scheme under Deer Management Groups which runs until the end of 2016. If, by then, says government, no action is taken, then stronger powers will be legislated for. Will all this change the situation much? Watch this space – perhaps. As Monbiot writes, *“Deer forests seem a good example. Unless checked by public dissent, evolve into monocultures.”*

Perils in the Landscape continued

The situation has serious implications for landuses other than maintenance of biodiversity. Salmon fishing is an important downstream economic activity on the Dee. Salmon numbers are now at their lowest since records began. The government now proposes measures like having all rod caught fish returned to the water and only killed under licence. This, of a resource which, historically, was a significant food source. The Dee has seen crisis in its salmon population before. In late 19th century, the Dee salmon population seemed heading for extinction due to sewage pollution from Aberdeen and netting in the lower reaches. Between 1874 and 1878 for example, Aberdeen Harbour Commission netted 6132 salmon and 6234 grilse and they were only one of a series of netters. Urgent measures to save the day included a hatchery. Later research showed restoring fish populations by restocking was ineffective or worse. However laying a large sewer underneath the river to cross it and deliver the outlet into Nigg Bay to the south and fisheries owners buying up the netting rights worked. It is difficult to realise how prolific salmon stocks once were. In one fishing beat alone, Glen Tanar, up to 25 fish were caught in one day and in the 1907 season 1097 salmon were caught.

Much of the cause of present problems seems to lie out at sea with the percentage of salmon returning from their migratory stage at sea declining by perhaps 80% and most likely cause being climate change raising sea temperatures. In this situation, major improvements in the river habitat to raise their carrying capacity for Salmonids become even more important. Restoration of LWD in the upper catchment especially would very significantly enhance the catchment's carrying capacity for salmon and trout.

Even downstream, use of the river for salmon fishing requires tree-free banks to avoid hooks tangling in branches during the back thrust of the cast, so further reducing aquatic wood debris and other inputs from riparian forests that would benefit fish. There is an irony that the famous Spey cast that simply rolls the line and lure along the water without a backcast, which gillies proudly display, appears to have evolved so that there could be trees on the bank.

The implications for other important landuses go further. Rising water temperatures are not the only predicted impact of climate change. August 2014 saw massive highly damaging floods coming off the Cairngorms. The cost of repairs to the National Trust on Mar Lodge estate alone is over £230,001. This was not just a one-off event. It was a portent of things to come. Extreme climatic events are predicted to become more frequent and more extreme

under climate change and there are plenty of indications this is already happening globally. The implications for farmers, householders and others downstream are very serious. LWD along with other influences of riparian woodlands have a major impact in limiting flooding peaks by constraining flows.

Can current legislation resolve this logjam of conflicting landuses? *"Land must be used to benefit the wellbeing of the people of Scotland; not just in terms of economic benefit, but in improved environmental and social outcomes for all."* said the Paul Wheelhouse, minister for environment and climate, in his foreword to the Land Reform Group's report. Yes minister. The EU Water Framework Directive requires the preparation of River Basin Management Plans which will, among other things, *"prevent deterioration and enhance status of aquatic ecosystems"*. The plan for the Dee identifies restoration of riparian woodlands as an important aim. The Dee is designated a Special Area of Conservation under the EU Habitats Directive specifically requiring the protection of the Atlantic salmon, freshwater mussel and otter. The mid and upper catchments are within the Cairngorms National Park of which the remit focuses on conservation and the integration of landuses. The Local Biodiversity Action Plan for Northeast Scotland has developed a Wetland and Riparian Woodlands Action Plan.

The Flood Risk Management (Scotland) Act (FRM) Act, came into force on 16 June 2009, and is meant to lay the foundations for a plan-led approach to flood management to protect all from the damaging effects of flooding. It brought into Scots law the European Directive on the Assessment and Management of Flood Risk Directive (2007/60/ EC), known as the Floods Directive. The essence of the approach, according to SNH, is *"Working with nature to manage flood risk"* by restoring a catchment's natural capacity including through, among other measures, woodlands. Despite a welter of legislation minister, we still can't get restoration of riparian woodlands.

To do so would take us back to red deer management. If red deer were heavily culled however, the forest would re-establish itself broadly over the landscape, as is happening now in Glen Feshie, leading to a different Cairngorms below the treeline. It would be a different Cairngorms. Is that what we should aim for? Is this the rewilded Cairngorms as advocated in Monbiot's *Feral*? This whole story seems a classic example of our inability to resolve land use conflicts

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In Brief

Death of Dick Balharry

Dick Balharry had one of those careers and indeed lives that it is increasingly unlikely today. Born near Dundee, he roamed over much of his native Angus countryside exploring its wildlife and natural diversity, learning to love the natural world and, also, poaching. Rejecting a career in engineering in his first day at work he launched on a life that saw him as trainee gamekeeper, deer stalker, and finally finding his true vocation as a warden for the Nature Conservancy. From this, after looking after a diversity of nature reserves including Bein Eighe National Nature Reserve, retirement in 1997 simply saw a change of focus with major involvement in the National Trust for Scotland (Interim Chairman), the Ramblers Association (President) and as a director of the Cairngorms Campaign. As much as anything it was his personal qualities that gave him influence. He was a Scottish patriot and loved his native land. He was an intensely practical man. Dick did not just know where a deer fence was needed – he knew how to put one in on the ground. He had candour and a temperament that avoided antagonism towards even those whose actions he fiercely opposed and hence could gain a hearing among them. His circle of friendship was wide and enduring and for that alone he will be missed. But in addition a voice that spoke long and passionately for the wildlife and beauty of Scotland is gone. In his last days he was awarded the Geddes Environmental Medal by the Royal Scottish Geographical Society. It is awarded for an outstanding practical, research or communications contribution to conservation and protection of the natural environment and the development of sustainability. Characteristically, he insisted on sharing the award with his wife Adeline. Although now nearing his death, he rose to the event. His son David read his address to the gathering in one more passionate plea for his cause. Four days later, at the age of 78, he died at his home. In honour of his services we enclose a copy of that address.

“Now there’s and end of an auld sang”

Fletcher of Saltoun

Impacts of Burning of Grouse Moors

Muirburn is an integral part of the management of grouse moors to provide a variety of heather growth stages, the young heather providing fresh growth as feed to the grouse and the older, taller heather for cover for young and nesting. The wider impacts of burning on river system has not really been investigated but this is changing. Recent research comparing burns in burned and unburned catchment showed increased sediment and deposited peat material in burned catchments. Mayflies, stoneflies and caddisflies all declined although non-biting midges and blackfly increased. On balance this is a decline in biodiversity and probably food sources for fish. Further research at the University of Leeds has initially found burning reduced percolation of rainwater into the top layers of peat, leading very probably to increased runoff during heavy rain and hence heights of river flows. Doubtless more research will follow but recent research by the RSPB monitoring frequency of burns demonstrates its relevance. Over the whole of the UK, including the Cairngorms, between 2001 and 2011, the frequency of burns increased 11% each year. Put alongside the trend towards creating large scale burns on grouse moors since the 1990s, as discussed in our Spring 2012 newsletter, the implications of all this could be significant. Such large areas of burned hillside almost certainly lead to much more rapid runoff with greater impacts on stream biodiversity and sediment than that measured in normal smaller burns.

Restoring peatlands in the Park

Peatland restoration has started on Mar Estate and in Inshriach Forest with 8-ton excavators working on both sites. Supported by funding from Scottish Natural Heritage's Peatland Action fund, these projects are restoring 229 hectares of degraded peatland.

Mar Lodge Restoration Appeal by the National Trust for Scotland

The floods on August 2014 after very heavy rain did widespread damage in the area. On the National Trust's estate at Mar Lodge, footpaths were heavily eroded, entire lengths washed out and bridges washed away. The bill the Trust is now facing for restoration amounts to about £230,000. The Trust has launched an appeal which is going well. However, it is still some £40,000 short. The appeal remains open and there is still much work to be done. If you would like to donate to help fund restoration in this important part of the Cairngorms then this can be done through the Trust's website www.nts.org.uk/give or by phoning 0131 458 0200.

Book Reviews

Cairngorm John by John Allen and Robert Davidson Pub Sandstone Press Pub in paperback 2010 and 2011

It is five years since this book was first published and four since it was published in paperback and good range of reviews of it have already been published. Yet it is so remarkable a book that it merits a review here. At face value, it is the story of mountaineer John Allen's growing involvement with the Cairngorms Mountain Rescue Team and his long period as its leader but, like many really good stories, it is several stories intertwined. It is the story of the development of mountain rescue in the northern Cairngorms into an amateur activity with professional standards, commitment and often hardship - physical and, at times, emotional. It is the story of the triumphs and tragedies of those lost and injured there told with sympathetic insight into the mistakes and ill luck that brought about their plight. The stories are told, chapter by chapter, with detail often of near heroic rescue efforts in places Cairngorm enthusiasts will recognise from their own visits to them. Two authors jointly may have crafted these tales, but the interface is seamless and there is wit and humour and shared companionship within it. How else would you have known that TLC, applied in situations where the casualty absolutely must be evacuated even at the cost of considerable suffering, stands not for Tender Loving Care, but Total Lack of Compassion? What makes it particularly absorbing tale, it is the story of one man, John Allen, as he deals with these often traumatic situations while advancing through his own life from a beginner in mountaineering to an experienced mountaineer and mountain rescue leader, through to the years when injury and age force his graceful retirement to pursue a sailing career less demanding on weakening knees. At the end, he asks current mountain rescuers in the team what their experience had taught them and what they had found. Above all, they valued the comradeship. They had learned not to be critical, aware how large a part chance played in accidents. It had made them more forgiving, more accepting. The final paragraph of the book sums up what comes to be John Allen's philosophy in life in the light of all he has lived through and it merits quotation. *"Beyond our skills and strength, expertise and experience, we must accept the world as it is, including change however tragic. All we can do is mind how we go on the earth and look after each other and, if we cannot turn sadness into joy, or death back into life, friendship and remembering will have to do."*

Amen to that, and not just for mountain rescue. There is strength in humility. Cairngorm enthusiasts might not always find this an easy read – but always a worthwhile one.

Place Name Discoveries of Upper Deeside and the far Highlands Adam Watson and Ian Murray Pub Paragon Publishing 2015 £19.00

Ordnance Survey maps probably pack more information into a confined space of paper than any other device, replete with contours, water features, buildings and other information all interpretable through keys at the side. But one feature that is loaded with information but not on the explanatory key is place names. Over the long reach of history, successive peoples come, live and disappear, but not without leaving some of the history of their times and cultures in the place names that survive them. As pointed out in a book review in our previous newsletter, they form a kind of archaeology of words and, if you understand them, you can dig down through layers of history that tell a story. Place names have held the interest of successive authors. John Milne for example published Celtic Place Names of Aberdeenshire in 1912. Adam Watson had long been scholar of place names and the Cairngorms provide rich pickings for place name enthusiasts due to their cultural history. The long-gone Picts provided probably the oldest place names – those of the main rivers Dee and Don, named after river goddesses. Gaelic succeeded their culture and provides still the bulk. On the north side this was succeeded by English but in the catchments of the Dee and Don, by Aberdeenshire Broad Scots. Each provided a further cultural layer of the place names. The authors not only studied gaelic to deepen their insights but also interviewed many local indigenous people including, sadly, both the last native gaelic speakers in Deeside and Donside. One wonders who will one day interview the last native Broad Scots speakers on Deeside and Donside where that culture is now under similar pressure. This text continues that practice of drawing on the knowledge of local people and they inhabit the book through the pictures of them in the text among panoramic photos of places discussed.

Many place names come through local residents simply naming their intimate surroundings that formed the backdrop to their daily lives. Hence "Crocán", from the gaelic, simply means "the hillock" that was at somebody's back door, and "*the timmer brig*" from Scots, in Glen Callater simply "the wooden bridge." But what are we to make of "*Claybokie*" near Mar Lodge, which means "mound of the spectre", or what happened at "*Creag Mollachdaidh*" in Glen Muik "the rock of the cursing?" It is well to remember that place naming still goes on. Climbers for example give names to individual routes up much favoured climbing areas like the corries of Lochnagar and, in a real sense, this is perhaps the most detailed place-naming ever in the Cairngorms.

Few people would read texts of this kind as in a book although chapter 5 in Watson and Murray's text provides an interesting general account of the origins of place names in Upper Deeside. It provides an extra layer of interest and insight to a day in the hills however, if they are consulted as to the meaning of the names of the places where you walk or climb that day, bringing those from the past out of the dead names on the page.

Book Reviews

Feral by George Monbiot Published by Penguin Books 2014

This book mentions the Cairngorms only once where, on page 120, it cites the Cairngorms as the most suitable place in the UK for the reintroduction of the lynx but it is definitely a highly readable text that can be recommended to anyone interested in the Cairngorms or indeed wildlife and biodiversity in general. Monbiot is clearly aware of the assembly of designations, Natura 200 sites, SACs, SPAs etc that define the framework of protected areas in Scotland and indeed the EU and the baselines of “natural” biodiversity on which they are based, But Monbiot will have none of it. Delving back into history, he describes and infinitely richer biodiversity at sea and on land that once existed. The loss of this has, he maintains, been almost entirely due to human action and has robbed us of a richness in our lives. The current “baselines” of biodiversity on which we base the concept of “in favourable condition” of many of our protected areas is a mistake he maintains, a result of what is now termed a “Shifting Baseline Syndrome” where the wrong starting point has been chosen. You don’t have to agree with all that Monbiot says to find this a very worthwhile text to read and feel that his revolutionary intervention is one of a kind that is periodically needed.

More Days from a Hill Diary – Scotland, Norway, Newfoundland 1951-1980 by Adam Watson Pub Paragon Publishing 2014

This is simply diary extracts from Adam Watson’s travels and adventures in the mountains and wilds of several countries. The entries give very detailed accounts of days in these often wild areas, often in the company of his father or people like Kenneth Grassick and Pat Baird whose names are familiar to those who know the history of the Cairngorms. It is a text for those who want to dip into those days and lives, rather than a cover to cover read, but it is an account of part of an adventurous life spent in mountains and the wild.

Cairngorm Stories

Freedom to Roam and the Cairngorms

Walk up the hill, follow the path through the glen. None will stop you or challenge your right to be there. But it was not always so. The battle for freedom of access to Scotland’s countryside, especially its mountains and hills, lasted over 100 years and events and people in the Cairngorms played a very significant part in it.

In a way, Sir Walter Scott started it. He published the *Lady of the Lake* in 1808, focused on Loch Katrine. It became an international best seller of 35,000 sold. This and his *Waverley Novels* transformed peoples’ perceptions of mountains and the Scottish highlands as the Romantic Movement unfolded and the consequent highland tourist industry developed. With that came the walking and mountaineering public moving freely over uncultivated ground of mountain and moor as they had done traditionally. But that was not to last.

In 1842, Victoria and Albert bought Balmoral Estate on Deeside, and loved their highland home. This accelerated the growing fashion for “Sporting Estates” among the landed aristocracy - and the nouveau-riche of the industrial revolution anxious to ape their “social betters” and gain prestige – still the major motive for buying such estates. Landowners grew increasingly intolerant of these Scots, wandering around as if it was their country, and opposed access for shepherds, (using ancient routes), and the broader public local people. Widespread public discontent made conflict inevitable. A public meeting in Edinburgh led to the formation of the Association for the Protection of Public Rights of Roadway in and around Edinburgh in 1845. This was well timed as the first of a series of celebrated cases now developed. The Duke of Atholl barred access through Glen Tilt in the Cairngorms. John Balfour, a professor of botany at Edinburgh University who organised field trips for his students, led a group from Braemar down

Glen Tilt to the forbidden land. There the Duke and his gillies barred the way. Hot words followed until professor and students climbed the barrier fence and ran off down the glen. In came the Association and a lengthy law suit confirmed the right of way.

That was just an “entre.” In the 1880s, a new, immensely wealthy, nouveau-riche landowner in Glen Doll, Duncan Macpherson, was determined to exclude anyone entering his new sporting estate. He intercepted a party from the Association (now reconstituted as the Scottish Rights of Way Society (SRWS), signposting a right of way called Jock’s Road, over the Mounth between Deeside and Angus. Macpherson fenced off his land. Eventually, in 1884 a totally frustrated shepherd, with three others, cut the fence and led their sheep through to Glen Clova. War! Macpherson used his wealth to fight every inch of the way. With the support of SRWS, fiftyseven shepherds successfully testified in court before Lord Kinnear on their traditional used route for moving sheep. The issue attracted wide publicity. “*Surely the Scottish people will not abandon the glens and mountains which are the greatest glory of their native land.*” declared the Scotsman newspaper in 1886. Macpherson battled on, finally losing an appeal in 1888 as four Lords, independently concluded of Jock’s Road, “*It was, and always had been, a right of way.*” Victory – but the legal costs bankrupted SRWS.

Rights of way were a lesser part of the debate. James Bryce MP, first president of the Cairngorm Club, was a mountaineer of wide experience who knew the open access of Alpine countries. He addressed the wide issue of access to land in general. That club was active in the issue. In the 1880s, members, Alexander Copland, Thomas Gillies and Alexander Inkson McConnochie, wrote in the local newspaper the *Aberdeen Journal*. Under names like Dryas

Cairngorm Stories continued

octopetala and Thomas Twayblade, reminiscent of mountain flowers, they described expeditions in the Cairngorms. Prominent therein were encounters with hostile gillies, stalkers and lairds, escapes from them and general harassment. Given the scale of sporting estates including deer forests, which at their peak covered almost a fifth of Scotland, plus grouse moors and the long established rights of passage and grazing within them, the arrogance of landowners involved is staggering. "*Kindly leave Scotland, we own it*" was the message. In the 1890s, Bryce made several unsuccessful attempts to have an Access to Mountains (Scotland) Bill passed by parliament, declaring, "*Eight years ago everybody could go freely wherever he desired over mountains and moors. Scotland is the only country in the world where an attempt is made to interfere with the right of people to walk freely over uncultivated ground.*"

Was there in fact any law of trespass in Scotland? Tom Johnston, Secretary of State for Scotland, stated in 1942, "*In Scotland the law is abundantly simple. There is no such offence as "trespass" which is a term borrowed from English jurisprudence. Any member of the public is accordingly at liberty to walk over any land in Scotland provided he does no damage to crops or fences and does not commit a breach of the various Poaching Acts. This applies to the whole country with the exception of private gardens or grounds which form the curtilages of a dwelling house or other private residence.*" Even up to 1961 the Scottish Landowners' Federation stated, "*There is no law of trespass in Scotland--*" All seemed settled!

Then in the mid-1960s, government changed its mind along with official bodies like the Countryside Commission, accepting there was a law of trespass, apparently accepting the view of Lord Arbutnott of the Scottish Landowners Federation that "*access is a privilege to be obtained and not a prima facie right*" -an extraordinary volte face in favour of powerful landowners for **it had no basis in law!**

Access issues rolled on. The Cairngorms remained centre stage. In 1969 the family of one Clive Freshwater launched a business, the "*Cairngorm Canoeing and Sailing School Ltd.*" This involved canoeing on the Spey. A local estate promptly served a writ claiming canoeists would damage salmon fishing. They challenged the wrong man! Clive Freshwater was a determined individual, not against salmon fishing, who felt a basic principle challenged. He fought for four years, against his lawyers advice, finally obtaining a House of Lords ruling under a 1782 case which established a public Right of Navigation on the Spey where timber rafts had been steered by men with crude oars. The right to canoe has not been challenged since.

Issues and debates continued. 1980 saw the founding of the North East Mountain Trust (NEMT), an alliance of hillwalking and mountaineering clubs with a central focus on the Cairngorms. It surveyed rights of way. It became heavily involved in opposition to the expansion of downhill skiing in the northern Cairngorms into the Northern Corries and Lurchers Gully. Dr Adam Watson's evidence to the public inquiry showed the opening of the chairlift to near the

summit of Cairn Gorm had permitted easy access by walkers to the Cairn Gorm -Macdhuil plateau. Numbers there increased by a hundred times! Destruction of plant life by foot traffic and resulting soil erosion spread alarmingly and the once remote, wild area was becoming rather crowded. Thus, when the funicular railway that replaced it in 2002, a planning condition forbade access for walkers out of the facility at the top to walk onto the plateau. Why did NEMT and others promoting access support this? What matters to them is not just access for people, but also the quality of experience they have there. If too many people access a vulnerable wild area and damage the environment they value or prevent a more solitary experience a wild area should offer, that lowers the quality of the experience greatly. What is needed is a "**Balance of Access**" that permits access but safeguards the quality of the experience.

The access story rolled on. NEMT successfully opposed the construction of a bridge over the Fords of Avon on the route of the Lairig and Loagh, mainly on the grounds that this was a route where adventure was part of the quality of the experience and it should not be tamed.

Finally, after much campaigning by groups like the Ramblers Association, the Scottish parliament passed the 2003 Land Reform (Scotland) Act giving right of **responsible** access to one and all. Said Angus MacKay, the Deputy Minister for Justice, during the Land Reform Debate on 24 November 1991, "*The legislation is about a responsible right of access. It is about codifying what happens currently. It makes it clear to landowners and those who want to walk and have sensible recreation in the countryside what they are fairly allowed to do and what is expected of them.*"

Not that this has finally settled the access story. In 2009, dispute arose over mass sponsored events in the high Cairngorms and elsewhere. Cameron McNeish, vice-president of Ramblers Scotland, said such events were a growing problem on popular peaks such as Ben Nevis and the Cairngorm range. He called for a planned three-peaks challenge taking in the summits of MacDui, Braeriach and Cairn Toul in the Cairngorms to be scrapped because of the damage he feared it will cause. A survey showed 24 such events to raise funds for charities were planned in the Cairngorms in one year. Said Drennan Watson, from the Cairngorms Campaign, "We are not opposed to all mass outdoor events but there are some areas which are just too environmentally vulnerable to withstand mass events." The right of access is a right of **responsible access**.

The "long walk in" has historically preserved the "balance of access" to the more vulnerable areas of the central Cairngorms but bulldozed hilltracks and the development of mountain biking are rapidly eroding this protection. Will this be the next debate as technology creates easier access?

Meanwhile a London financier has purchased upper Glen Esk and had a deer fence constructed around his estate – but with no access even to the trig point at the summit. The nouveau-riche are still with us, and they don't seem to have changed much. The access story rolls on!