



Brendan Paddy
Brendan.Paddy@ramblers.org.uk

06 May 2022

Ms Jenny Gilruth, MSP
MinisterFT@gov.scot

OPEN LETTER TO MS JENNY GILRUTH MSP, MINISTER FOR TRANSPORT, SCOTTISH GOVERNMENT

Dear Minister

Ben Alder Level Crossing, Dalwhinnie

We are writing with regard to a letter you sent to Ms Kate Forbes MSP, dated 21 March 2022, and which we have recently had sight of. We are a group comprising the Dalwhinnie community council, local estate, other local groups and businesses, and national outdoor recreation bodies. We came together in July 2021 after the level crossing was locked by Network Rail without any consultation with most of us and only minimal consultation with the landowner. **We are all calling for Network Rail to find a way of safely reopening the level crossing.** We believe that Network Rail's decision was unjustified and that it does not reflect the recommendations of its own risk assessment for this crossing.

Public use

In your letter, you repeat Network Rail's view that:

As there never was an authorised public route over Ben Alder Level Crossing, Network Rail has no obligation to provide a public means of safely crossing the railway at this location...

The Ben Alder level crossing is in fact part of a recorded public right of way and there is extensive historical evidence of the use of this route on maps, in guidebooks and in personal accounts dating back to the 19th century. Please see the attached appendix setting out some of these examples.

Ramblers Scotland

Caledonia House, 1 Redheughs Rigg, South Gyle, Edinburgh EH12 9DQ
0131 357 5850 | scotland@ramblers.org.uk | ramblers.org.uk

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The route running up to the level crossing on each side has also been designated as a core path by both the Cairngorms National Park and the Highland Council on their respective core path plans.

The extensive and longstanding public use of this right of way was recognised and indeed facilitated by Network Rail until July 2021, through the provision of an unlocked pedestrian gate alongside the locked vehicular gate.

The presence of a publicly accessible level crossing at this location has led to development of a highly valued local network of paths and the construction of an adjacent walker's car park. The long diversions now required to cross the tracks means that many community members have effectively lost their daily access to the outdoors and visitors have started to bypass the community. This closure is therefore having an extremely negative impact on the community in Dalwhinnie, those enjoying outdoor recreation, and the local businesses dependent on visitors using the Ben Alder crossing.

Safety

We agree about the importance of safety, which is why we are surprised that Network Rail have approached this situation in a way that has made the crossing less safe. In assessing the risk at this location, NR should have considered not only the risk of managing the continued public use of the crossing, but also the risks associated with taking unilateral action to attempt to physically block access without prior notice or consultation. By completely failing to engage with the community, the access authorities, and recreational interests before locking the gate at Ben Alder crossing, Network Rail have badly damaged the trust and goodwill required to manage this situation safely. The necessity and legitimacy of the locking of the gate has therefore not been accepted by key stakeholders, and in addition the signage seeking to divert users has been wholly inadequate. As a result, the crossing remains in frequent use but in a less safe manner than before with people, some with dogs or bicycles, regularly climbing the locked gates and adjacent fencing to cross the tracks. This is an issue that cannot be resolved by the creation of physical barriers but only through community engagement and acceptance.

You note that Network Rail have produced a study which identified several options that could provide public access across the railway at Dalwhinnie. However, Network Rail do not seem to have informed Transport Scotland that this study was rejected as incomplete and therefore



fundamentally flawed by all the stakeholders who attended the meeting at which it was presented in January, including the access teams of The Highland Council and Cairngorm National Park Authority. In particular, the report did not consider the provision of a multi-use (non-vehicular) bridge at the level crossing, as has occurred elsewhere when NR has assessed that the risk is too high for continued non-vehicular use of a level crossing. Neither was there consideration of adapting the existing telephone system to remotely unlock the gate for a short period, enabling the public to cross safely after a call to the signalman. Network Rail therefore currently have no way forward in their attempts to engage the community and other stakeholders to ensure a safe resolution of the situation at Dalwhinnie.

A way forward?

It is clear from your letter that it is now considered that Transport Scotland and the Scottish Government have no further influence in relation to this matter. We would however disagree. Firstly, despite Network Rail's opinion on the matter, this closure does affect a public route as explained above. Secondly, the undesirable and frankly dangerous situation created by the unilateral locking of the gate at Dalwhinnie is part of an organised programme of level crossing closures by Network Rail. Scottish Government will have to take a view on this because it will disproportionately affect many already fragile rural communities. This once again highlights the need for the Scottish Government to work with the UK authorities to implement the recommendations of the [Joint Law Commissions' 2013 report](#) on Level Crossings. These recommendations had the clear intent of facilitating public access across the railways and recognised that attempts to restrict public access in rural areas in the name of safety were likely to be counter-productive (see section 5.66).

We strongly urge the Minister to meet with our representatives to fully understand the impact of this level crossing closure, to ask Network Rail to revisit its decision and the range of options it is prepared to consider, and to discuss what further steps can be taken to ensure such a situation does not arise again.



Yours sincerely

B J Paddy

Brendan Paddy, Director - Ramblers Scotland and pp
Jen Dickinson, Chair - Dalwhinnie Community Council
Dr Lee Cleghorn, Dalwhinnie Old School Hostel
Jamie Eastaugh, Factor - Ben Alder Estate
Richard Barron, Chief Operating Officer - ScotWays
Stuart Younie, CEO - Mountaineering Scotland
Paul Webster, Co-founder – Walk Highlands

Guide books specifically referencing the railway crossing(s):

1985

The Munros, Scottish Mountaineering Club Hillwalkers' Guide Volume One (first edition, wording same in **1991** and **1999** editions):

- Ben Alder (1148m) and Beinn Bheoil (1019m); "*The Dalwhinnie approach starts just south of the station. Cross the railway and follow the estate road along the north-west shore of Loch Ericht.*"
- The Dalwhinnie approach is also one of those suggested for Geal-Charn (1132m) and Carn Dearg (1034m), and for Beinn a' Chlachair (1087m) and Geal Charn (1049m), but the text for these is less detailed and neither mentions the railway.

1990

The Corbetts and Other Scottish Hills, Scottish Mountaineering Club Hillwalkers' Guide Volume Two (wording same when reprinted with amendments in **1996**):

- The Fara (911m); From Dalwhinnie station go S across the level crossing (where there is limited parking) and follow the private road along the NW side of Loch Ericht..." The associated map clearly depicts the LC route and does not show the underpass.

1991

Exploring Scottish Hill Tracks by Ralph Storer:

- 15 The Thieves' Road (1); "*The track along Loch Erict to Ben Alder Lodge begins at Dalwhinnie Station and crosses the line just south of the platform. It is a good track (a right of way) through pleasant lochside woods...*"
- Map 15.1 also indicates the route uses the level crossing (LC).

1994

The Glens of Rannoch, a Cicerone guide for walkers & mountainbikers by Peter D Koch-Osborne:

- Loch Ericht 1; this guide does not have route descriptions, instead the hand-drawn maps "*give sufficient detail for exploration*" (p7). The route depicted on the map is that over the LC, as although the underpass is marked it is labelled "*no route!*"

1998

The Central Highlands: Six Long Distance Walks, a Cicerone guide by Peter D Koch-Osborne:

- Map 21; the corresponding route description contains no detail about how the railway is crossed, but the hand-drawn map depicts the route over the LC. The underpass is also shown, but it links only with the south side of Loch Ericht, not with the LC accessed path on the northern side.

2010

Scotland, a Cicerone (World Mountain Ranges) guide by Chris Townsend:

- The Ben Alder and Laggan Hills, map (p210-211); the route descriptions do not provide detail of how the railway is crossed, but its map clearly shows a marked LC just south of Dalwhinnie station and do not depict the underpass.

2012

Walking The Corbetts, Vol 1, a Cicerone guide by Brian Johnson:

- Route 64 (The Fara); return route description includes "*Follow the track left along the shore of Loch Ericht and keep straight on by the dam to cross the railway at a level crossing. ... It is possible to park on the E side of the level crossing*". Route map marks both the LC and the underpass, but the route drawn clearly uses the LC.

2013

Walking Highland Perthshire, a Cicerone guide by Ronald Turnbull:

- Route 55 (Walk/ride in to Culra Bothy); “Start from Dalwhinnie, where the level crossing south of the station leads onto the long, smooth track along Loch Ericht’s western shore.”

2015

Cairngorms National Park’s *Dalwhinnie Trails* (leaflet), part of their Cairngorms Paths series: <https://cairngorms.co.uk/discover-explore/things-to-do/walking-trails/community-paths-and-trails/#Dalwhinnie>

- Loch Ericht Walk; “a straightforward walk around Dalwhinnie and Loch Ericht with fine views of the loch and the mountains. Take care when crossing the railway line”. The map shows this circular route using both the LC and the underpass, albeit neither are labelled.
- Access to 2 of the 3 other mapped and described walks is implicitly by the LC, being the most direct route.

2022

Walk Highlands website (20/01/2022):

- Routes described include Dalwhinnie to Culra, “There is a small parking area before the level crossing in Dalwhinnie, head towards the station and turn left in front of it to follow the road to the crossing (do not park at the railway station itself). The level crossing has recently been locked by Network Rail, although it is on registers of Public Rights of Way; they are requesting people detour around 1.5km but their right to do this is disputed. The walk continues along the road on the far side of the railway” The online map for this route also clearly shows it using the level crossing not the underpass. [<https://www.walkhighlands.co.uk/cairngorms/culra.shtml>]

We’re also informed that there are many mapping apps that show pedestrian/cycle access across the level crossing to the car park at the end of Ben Alder road on the Dalwhinnie side, e.g. Google maps, MapsMe, Trailforks (mountain-biking app) and so on, but have not researched and included these here as they are harder to date.

Other sources

All the below sources describe using the route along the north side of Loch Ericht to Dalwhinnie, so appear to implicitly indicate use of the level crossing:

- **1892** William Naismith and Gilbert Thomson, reportedly travelled from Dalwhinnie (station) via Ben Alder to the Scottish Mountaineering Club’s Easter meet at Inveroran [ref. Preface to SMC’s *The Central Highlands* (Fourth Edition, 1984)]
- *Hill Paths in Scotland* by Walter A Smith (**1924** and 1932), route 87.
- *Scottish Hill Tracks* (**1947**, 1975, 1995, 1999, 2004 and 2011).
- *The Central Highlands*, Scottish Mountaineering Club District Guide (**1968**, 1984 and 1994, chapter 11.
- *Hamish’s Mountain Walk* by Hamish Brown (1978, but walked in **1974**)

- *The Big Walks: challenging mountain walks and scrambles in the British Isles* by Ken Wilson & Richard Gilbert (1980), p90-92 recommends a trek from Corrour Station to Dalwhinnie over the Geal Charn ridges. *The High Mountains of Britain and Ireland* (1986) by Irvine Butterfield, mentions Dalwhinnie as a starting point especially for the Geal Charn ridge on the north-west of Ben Alder, and suggests you may be able to take a car as far as Loch Pattack.
- *Scotland's Mountains* (1987) by W H Murray, p145.
- *Highland Walks: Four - Cairngorms & Royal Deeside* (1988) by Hamish MacInnes. Despite its title includes a couple of walks south-west of the A9 with Dalwhinnie as start point or terminus