

Citizen Participation and Public Petitions Committee

11th Meeting, 2023 (Session 6), Wednesday
28 June 2023

PE1812: Protect Scotland's remaining ancient, native and semi-native woodlands and woodland floors

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| Lodged on | 4 August 2020 |
| Petitioner | Audrey Baird and Fiona Baker on behalf of Help Trees Help Us |
| Petition summary | Calling on the Scottish Parliament to urge the Scottish Government to deliver world-leading legislation giving Scotland's remaining fragments of ancient, native and semi-native woodlands and woodland floors full legal protection before COP 26 (UN Climate Change Conference of the Parties) in Glasgow in November 2021. |
| Webpage | https://petitions.parliament.scot/petitions/PE1812 |

Introduction

1. The Committee last considered this petition at its meeting on [9 November 2022](#). At that meeting, the Committee agreed to write to the Scottish Government, the Net Zero, Energy and Transport Committee, and the Rural Affairs, Islands and Natural Environment Committee (now the Rural Affairs and Islands Committee).
2. The Committee agreed a draft letter to the then Minister for Environment and Land Reform at its meeting on 7 December 2022, and also agreed to write to the two relevant subject committees once a response from the Scottish Government had been received. A copy of the letter issued on behalf of the Committee is available [here](#).
3. The petition summary is included in **Annexe A** and the Official Report of the Committee's last consideration of this petition is at **Annexe B**.
4. The Committee has received new responses from the Cabinet Secretary for Rural Affairs, Land Reform and Islands, and the Petitioners, which are set out in **Annexe C**.

5. Written submissions received prior to the Committee's last consideration can be found on the [petition's webpage](#). All written submissions received on the petition before May 2021 can be viewed on the petition on the [archive webpage](#).
6. Further background information about this petition can be found in the [SPICe briefing](#) for this petition.
7. The Scottish Government's initial position on this petition can be found on the [petition's webpage](#).
8. Every petition collects signatures while it remains under consideration. At the time of writing, 3,614 signatures have been received on this petition.

Action

The Committee is invited to consider what action it wishes to take.

Clerk to the Committee

Annexe A

PE1812: Protect Scotland's remaining ancient, native and semi-native woodlands and woodland floors

Petitioner

Audrey Baird and Fiona Baker on behalf of Help Trees Help Us

Date lodged

4 August 2020

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to deliver world-leading legislation giving Scotland's remaining fragments of ancient, native and semi-native woodlands and woodland floors full legal protection before COP 26 (UN Climate Change Conference of the Parties) in Glasgow in November 2021.

Previous action

We have sought guidance from the Planning Department and Access Officer, as well as advice from the Woodland Trust Scotland (WTS), RSPB and MSP Jackie Ballie. WTS contacted Scottish Natural Heritage (SNH) and Scottish Forestry on our behalf.

Background information

According to 2018 report by the United Nations' Intergovernmental Panel on Climate Change, protecting and restoring the world's forests could reduce global emissions by 18 percent by 2030.

Year after year we watch in horror as vast forests in the Amazon, USA, Australia and elsewhere go up in flames. Meanwhile, governments around the world are failing to live up to promises to plant trillions of saplings that will not mature enough to capture meaningful amounts of carbon for decades. It is therefore unacceptable that Scotland's remaining ancient, native and semi-native woodlands and woodland floors have next to no effective legal protection and can be destroyed on a whim.**

According to the Woodland Trust, ancient woodland covers only around 1% of Scotland's land area.

Sir David Attenborough has said: "The future of humanity and indeed all life on Earth depends on us." A local 'lockdown' event has exposed a national tragedy around just how vulnerable Scotland's remaining pockets of ancient woodlands really are. During lockdown a mountain bike trail was constructed, with the landowner's permission, through a small, beautiful, very mature and intensively grazed, ancient woodland that previously had an almost pristine, densely packed native bluebell carpet. Thousands of bluebells (and other native wildflowers) were destroyed, decaying timbers were sawn up and used to create jumps and berms, and small branches were cut to clear part of the trail. The trail was built during the nesting season, disturbing at least one buzzard pair who had a nest directly above the trail and another nest nearby in the wood. Informal wildlife surveys have revealed the wood also supports other protected raptors including owls and sparrowhawks, plus European protected species such as otters and bats. Woodpeckers, hedgehogs, mice voles and other animals are also resident in the wood. The ecosystem pyramid that supports life in this ancient woodland was being destroyed.

The trail did not conform to guidance around the safe construction of mountain bike trails and, although we understand no official has visited the site, we have been informed the bike trail would not need planning permission as it is of mud and timber construction. Additional threats to this wood are that the old stone boundary wall, probably built to stop livestock straying into the gorge and to manage the woodland as a resource, is now in ruins and cattle and deer intensively graze the woodland floor every year. The existing trees are mature and no saplings are able to survive. Thus, without help, much of this wood (in common with many other ancient and native woods) is unlikely to survive beyond this century. Lastly, a gorge cuts through the wood and on the southern boundary a large estate is being demolished. Windblown polystyrene and other debris has littered the south side of the wood and burn at the bottom of the gorge. We, and others, have complained to SEPA and tried to remove the debris ourselves.

It therefore appears no effective legislation exists to protect Scotland's ancient and native woodlands, rare habitats, woodland floors, native bluebells and other wild plants, nesting birds or other wildlife when landowner permission is granted for developments such as mountain bike trails.

The desecration of a small, ancient, irreplaceable habitat is unacceptable and we understand many new trails have been created in woodlands and other green spaces across Scotland during lockdown. Knowledge of the Scottish Outdoor Access Code is limited and, in addition to new legislation, there is clearly an urgent need for greater respect and more effective education around protecting our environment.

According to the Native Woodland Survey of Scotland (NWSS) only 4-5% of native and semi-native woodland (including 'ancient') cover remains in Scotland (down from a high of 80% woodland cover 5,000 years ago). The Survey concludes that **'...the current amount and distribution of regeneration [of Scotland's native and semi-native woodlands] is not yet enough to sustain all of our current native woodland resource in the long term'**.

Therefore we urge:

1. this Scottish Government to use the NWSS to inform a process to grant full legal protection for all ancient and semi-native woodlands greater than 0.5 hectares;
2. a new classification of ancient and semi-natural native bluebell woods to be included in future surveys;
3. new, simple and unequivocal regulation on how our ancient and native woodlands must be managed respectfully from now onwards;
4. the Government to provide incentives to landowners to protect these woodlands from inappropriate development, over grazing by livestock, neglect, misuse, pollution, fly-tipping and other damaging activities;
5. the Government and partner organisations to ensure local communities know where their ancient and native woodlands are, why they are priceless and irreplaceable, and why they must be protected; and
6. that woodland floors of ancient, native and semi-natural woodlands are recognised as irreplaceable and finite assets and that they are properly assessed and classified in EIAs and are afforded the classification of 'sensitive'. No mitigation for disturbance or destruction of woodland floors is currently required by any Environmental Impact good practice guidelines or protocols. Developments such as mountain bike tracks and paths with the landowner's permission appear not to require planning consent and as they are not classed as Schedule 1 or Schedule 2 developments The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 do not appear to apply. Again The Environmental Impact Assessment (Agriculture) (Scotland) Regulations 2006 applies only to agricultural development and do not adequately provide for assessment or protection to our native woodland

floors. We urge the Scottish Government to address the current shortcomings in existing legislation to ensure Scotland's diminishing, rich, biodiverse woodland floors, formed over hundreds of years, are protected from damage and destruction. Planning permission for any development, including paths and trails, (i.e. altering the status quo) should be required by statute. Where disturbance for emergencies cannot be avoided, appropriate mitigation measures to minimise the impact, including establishing new areas of native planting to compensate the loss, should be required.

The National Planning Framework 4 includes six high level outcomes, including:

- improving the health & wellbeing of people living in Scotland;
- meeting any targets relating to the reduction of emissions of greenhouse gases; and
- securing positive effects for biodiversity.

We strongly argue that giving full legal protection to Scotland's remaining ancient and native woodlands meets all three and we aspire to a future Scotland that respects and protects our precious trees.

EXISTING LEGISLATION THAT IS NO LONGER FIT FOR PURPOSE

(Note: Scotland's ancient and native woodlands are mentioned in rafts of guidance and policy documents relating to forestry and environmental management, usually linked with economic development and planning. Nowhere in these documents was an unequivocal message around legislation protecting our ancient and native woodlands to be found.)

- Section 8 of the Wildlife & Countryside Act, section 13(2), which prohibits the sale or advertising for sale of native bluebells. We believe this act no longer protects our native bluebells from current real threats.
- Forestry & Land Management Scotland Act 2018. Landowners can legally fell up to 20 cubic metres of trees (or four mature oak trees) in any small ancient or semi-natural woodland larger than 0.5 hectares each year. This is regardless of whether the trees present a danger to life or property. We believe the felling of up to four mature oak trees each year is too large a burden for a small wood to be sustainable and represents an unacceptable disturbance to the ecosystem.
- The Scottish Forestry Commission's 2009 Control of Woodland Removal 2009 states woodland removal with compensatory planting is most likely to be appropriate where it would contribute significantly to encouraging recreational activities and public enjoyment....There will be a 'strong presumption' against removing certain types of woodland, including ancient and semi-natural woodland. We believe this guidance with no teeth and the focus on recreational activities and public enjoyment is no

longer acceptable and ancient woodlands must be valued in their own right for their unique biodiversity and carbon capture.

In an increasingly complex world where people are confused and overwhelmed with information, our priceless remaining ancient, native and semi-native woodland cover must now have full legal protection that is simple to understand, clearly communicated and unequivocal. It is not acceptable that it is legal to continue to exploit, vandalise and disrespect our remaining outstanding natural assets and pass on a further degraded Scotland and home to future generations.

Annexe B

Extract from Official Report of last consideration of PE1812 on 9 November 2022

The Convener: PE1812, on protecting Scotland’s remaining ancient, native and semi-native woodlands and woodland floors, was lodged by Audrey Baird and Fiona Baker, from whom we have previously heard, on behalf of the help trees help us campaign.

The petition called on the Scottish Parliament to urge the Scottish Government to deliver world-leading legislation giving Scotland’s remaining fragments of ancient, native and semi-native woodlands and woodland floors full legal protection before the 26th United Nations climate change conference of the parties—or COP26—in Glasgow in November 2021. Of course, that was the petition’s original aim but, even though we are now in the middle of COP27, the issue remains one of concern.

We last considered the petition on 4 May, when the committee indicated that it would like to visit some of the areas to explore the issues. As a result, on 21 September, we visited Pressmennan Wood in East Lothian, and I want to put on record our thanks to the Woodland Trust for hosting and looking after us that day.

At our last consideration of the petition, we also agreed to write to Scottish Forestry and all local authorities, seeking information on the operation and enforcement of tree preservation orders. We have now received responses from Scottish Forestry, 22 local authorities and the petitioners.

Throughout our consideration of the petition, we have heard that a number of issues are impacting on the effectiveness of current woodland strategies and policies and the protection of our ancient, native and semi-native woodlands and woodland floors. We also heard evidence on possible areas for improvement, including prioritising the development of the inventory of ancient woodlands; strengthening the legislative framework and language in existing policies such as national planning framework 4; and taking steps to improve compliance and enforcement. We have also heard from the relevant minister in our consideration of those matters.

Having had a visit, and having heard from the petitioners, various representative organisations and the minister, I just wonder where, on the balance of all the evidence that we have received, members would be most comfortable going with regard to the petition.

Alexander Stewart: As you have said, it has been quite a journey, but a very informative one. It is good that a reasonably large number of local authorities have come back to us to indicate where they stand and what the situation is.

It is appropriate that we now write to the Scottish Government to highlight the evidence that we have received and to set out recommendations for addressing the issues raised in the petition. I suggest that we also write to the Net Zero, Energy and Transport Committee and the Rural Affairs, Islands and Natural Environment Committee to share the evidence and our recommendations.

Members can clarify that with the committee clerks, who can put the information together. As I said, we have all been involved in what has been a very in-depth process, and it has been really quite successful. As a committee member, I have certainly learned a lot more about the whole issue, and it is vitally important that we can now give the evidence to the Scottish Government to highlight the issues that we have found.

The Convener: Are colleagues content for the clerks to summarise the evidence that we have heard from the various parties and bring forward some recommendations that have arisen from the conversations that we have had? We can have a look at that summary at a future meeting, ahead of submitting it by way of a formal representation to the Scottish Government and to the Net Zero, Energy and Transport Committee. Does that meet with the committee's approval?

Members *indicated agreement.*

Annexe C

Cabinet Secretary for Rural Affairs, Land Reform and Islands submission of 1 June 2023

PE1812/CCC: Protect Scotland's remaining ancient, native and semi-native woodlands and woodland floors

Thank you for your letter of 8 December 2022 to the then Minister for Environment and Land Reform, Máiri McAllan MSP, regarding petition PE1812. Please accept my apologies that you did not receive a reply at the time. It appears that, due to an administrative error, your original letter was not passed on to the appropriate team in the Scottish Government for consideration. As Ms McAllan has now moved to a different Ministerial portfolio, your letter has been passed to me to respond.

Ancient woodlands are hugely valuable to Scotland due to their rich biodiversity and cultural significance, and as they cannot be replaced, any loss should always be avoided wherever possible.

There are already a number of measures in place to protect ancient woodland, including through the recently approved fourth National Planning Framework (NPF4). NPF4 Policy 6 which strengthens protections for ancient woodlands and ancient and veteran trees. The Policy states that development proposals will not be supported where they will result in any loss of ancient woodlands, ancient and veteran trees, or adverse impact on their ecological condition. This reflects and builds on the Scottish Government's overarching policy on woodland removal, currently known as the Control of Woodland Removal Policy (CWRP), which already sets out a strong presumption against any removal of priority woodland types, including ancient, semi-natural woodland and woodlands with a significant biodiversity interest.

Protection for all woodland is in place via felling regulations under the Forestry and Land Management (Scotland) Act 2018. This will only be granted if it complies with the principles of sustainable forest

management, as set out in the UK Forestry Standard (UKFS). The standard expects any management activity to protect semi-natural features, with particular attention given to ancient semi-natural woodlands.

Scottish Forestry has already removed native woodland (which would include ancient woodland in this case) from the personal use exemption (5m³/quarter, where no permission is needed), in order to prevent gradual erosion of small native woodlands. Where permission is required, it is only in exceptional circumstances that a felling permission would be granted for an ancient woodland of any size. Where deforestation is proposed (e.g. for development), the Control of Woodland Removal Policy (CWRP) only permits removal of existing woodland where it would achieve significant and clearly defined additional public benefits.

Scottish Forestry Conservancies have worked with local planning authorities since the implementation of the Control of Woodland Removal Policy to help LPAs understand the value of our native and ancient woodlands and ensure minimal loss of such habitat.

When Scottish Forestry receive a report of suspected unauthorised felling, investigations, including site visits and evidence gathering is then carried out. In the last three years, since the Forestry (Exemption)(Scotland) Regulations 2019 came into force, 75% of cases reported were found upon investigation to be exempt from the requirement for felling permission.

When investigations conclude that it is likely that unauthorised felling has occurred, Scottish Ministers have a range of powers available to achieve a positive outcome. The priority is normally to secure the replanting of the site and protection of the woodland. The most appropriate action is often to issue a restocking notice to secure the replanting of the site.

Prosecution is considered in each case where unauthorised felling has taken place. Where replanting has been secured and the woodland has been protected it is often not in the public interest to pursue a prosecution. A range of factors, such as the seriousness of the impact, and whether there are any aggravating or mitigating circumstances, are taken into account when considering whether to pursue a prosecution.

The final decision on whether to pursue a case to prosecution lies with the Procurator Fiscal rather than Scottish Ministers.

Prior to April 2019, when the Forest and Land Management Scotland Act 2018 was enacted, prosecutions were required in order to secure a restocking notice. Since April 2019 Scottish Forestry have greater powers and are able to secure the restocking of a site by issuing Restocking Directions without the need for a successful prosecution, similar to SEPA's powers on Controlled Activity Regulations (CAR) violations.

Scottish Forestry have issued 36 Restocking Directions for unauthorised felling from April 2019 to the year end 2020-21.

The Community Empowerment (Scotland) Act 2015, provides a legal framework for empowering communities, including by strengthening their voices in decisions about land that affect them; and [guidance has been published on how to do this](#). We are committed to the principles of our Land Rights and Responsibilities Statement (LRRS), which was updated last year, ensuring communities are meaningfully engaged in the development of forestry plan and proposals. Current action includes delivering on our Programme for Government commitment to enhance the existing Forestry Grant Scheme to deliver better community engagement.

Scottish Forestry recently ran a public consultation on [Future Grant Support for Forestry](#), which closed on 17 May 2023, and amongst other things sought views on how community engagement could be further improved.

We have committed to the restoration of Scotland's Atlantic Rainforest, on the west coast of Scotland, many of which are also ancient woodlands. Scottish Forestry have recently appointed a Rainforest Action Co-ordinator to lead on regeneration of these woodlands.

The current Ancient Woodland Inventory provides an excellent starting point for a National Register of Ancient Woodlands. We are working closely with NatureScot and Scottish Forestry to determine the best approach to establishing a new National Register of Ancient Woodlands.

Turning to the committee's point on the designation of ancient woodlands as Sites of Special Scientific Interest (SSSIs) or similar

protected area designations, we will be giving full consideration to the sufficiency of protection for these and other habitat types, as part of our commitment to protect and ensure appropriate management for 30 per cent of Scotland’s land for nature by 2030. If additional legislative provisions appear to be required, the Natural Environment Bill will be the mechanism to improve the safeguard and management of ancient woodlands within protected areas.

I recognise that inclusive engagement with stakeholders, including with the committee and petitioners, is essential to our ongoing efforts to protect Scotland’s biodiversity, and I look forward to continuing dialogue as we progress with our plans to tackle the twin crises of biodiversity loss and climate change.

I hope this response has been helpful.

Yours sincerely,

MAIRI GOUGEON

Petitioner submission of 14 June 2023

PE1812/DDD: Protect Scotland’s remaining ancient, native and semi-native woodlands and woodland floors

NOTE 1: This is a report on our meeting on 03/04/23 with three Scottish Forestry (SF) officers which former Minister, Mairi McAllan, offered when she gave [evidence to the Committee on 09/03/22](#).

NOTE 2: SF were provided with a draft of this submission, which we have amended to take account of most of their comments.

NOTE 3: We encourage MSPs to consider joining us on a site visit to the ‘spectacular oak woods and waterfall walk’ described below.

Self-seeding/wilding invasive non-native (INNS) plantation conifers are “pollution” and “a menace” according to a SF officer. Rural communities face generations of begging for grants to ‘bash’ rhododendrons, wilding conifers and other INNS infesting their environment (including temperate rainforest and [remnants of Ice Age Caledonian pine woods](#). According to

SF, financial constraints are acting against restoration of Scotland's ancient woodland and we have now reached a situation where "we will have to focus on what we want to save".

Local communities object to the dark monoculture of intrusive new plantations, associated infrastructure and loss of wild and agricultural land. We were told that SF and the logging industry are straining to meet huge new Scottish Government targets to plant more and more conifers. SF officers face protracted negotiations with landowners and forestry agents to secure incremental environmental improvements to new commercial plantation plans that are focused on exploitation and extraction. High staff turnover and loss of experienced employees is condemning Scotland's historic natural identity and biodiversity while putting remaining SF staff under huge pressure to meet the increased targets.

SF has been warning for years that industry favourite conifers like [sitka spruce, lodgepole pine and western hemlock are highly invasive](#). Invasive species is one of the top five threats to the natural world according to the [United Nations](#)¹, and yet INNS commercial conifers have a Ministerial Exemption - a 'free pass', it appears, to self-seed and infest Scotland's ancient woodland and wild land. We understand woodland creation is regulated through Environmental Impact Legislation and associated infrastructure through 'Permitted Development'. The UK House of Commons' Environment, Food & Rural Affairs Committee met last year to understand why so much more commercial forestry is being planted in Scotland than England. [Their report](#) states (pg.33-35) one of the main reasons is that a risk based approach prevails in Scotland now, and following the Mackinnon Review, only 2% of afforestation proposals have been subject to "full blown" Environmental Impact Assessments in our country.

Scotland's ancient woodland is still in overall decline, much of it has no special designation and there is no comprehensive and up-to-date inventory, register or catalogue. Despite all the official guidance, codes, laws, standards and other expensive *blah blah blah* that is meant to protect it, without real action, we fear much of our country faces a bleak

¹ *The five biggest threats to our natural world...and how we can stop them*, Patrick Greenfield and Phoebe Weston, The Guardian, 14 October 2021

future succumbing to invasive monoculture and the degradation and decline it brings with it.

Our meeting with SF officers was held at Glenbranter Forest in the Cowal Peninsula at the '*...dramatic route up the Allt Robuic gorge, where native oak woods cloak a series of spectacular waterfalls*'. The site is certainly marketed as a rare gem by [Forestry & Land Scotland](#), but in reality, the gorge and waterfalls are now barely visible and the ancient oaks are all close to death. This once quintessentially Scottish landscape of unimaginable value and wonder has been transformed into a sitka spruce, western hemlock and rhododendron INNS nightmare. Once a place where visitors marvelled at Scotland's natural beauty - now they walk round the carefully maintained bridges and pathways while the purpose for the expensive infrastructure is almost entirely obscured by invasive conifers and rhododendrons. What was once so precious (temperate rainforest and waterfalls) is now lost to us.

One SF officer admitted the situation at Glenbranter was "not desirable", but that he had actually "seen far worse". He said sometimes when the conifers are felled the rhododendron thrives in the new-found daylight and then it completely takes over the land. HTHU² believes this deliberate loss of Scotland's life-giving, colourful, historic natural identity to evergreen INNS monoculture is short-sighted, shameful and heart-breaking.

We were told that restoration costs at Glenbranter's waterfall walk would be around £10k per hectare. The site is steep, work is dangerous and funds are very limited, especially (we were told) as timber prices are currently low. Yet rich landowners and international investors continue their rush to buy up Scotland, out bidding locals, and secure Government grants for forestry infrastructure to facilitate what we now read are [greenwashing plantations](#) to meet annual Government planting targets of around 15,000 additional hectares of what many scientists describe as heat absorbing, peat and soil disturbing, water and habitat degrading INNS conifers on Scottish land. Local people want life-giving [native trees to be planted instead](#).

The SF officers admitted they do not know the scale of the INNS conifer wilding problem in Scotland and said they would be "quickly

² Help Trees Help Us – on whose behalf this petition has been lodged.

overwhelmed” if they encouraged members of the public to report sightings to them. In contrast, other Governments around the world woke up years ago and are leading the way, [spending millions to battle the conifers](#).

Academics in Norway at the [Department of Forest Genetics and Biodiversity, Norwegian Institute of Bioeconomy Research](#) state that *‘based on spread models and prevailing forestry practices we recommend the establishment of new sitka spruce plantations within 200m of protected areas should be avoided. The problems caused by introduced and invasive species from plantation forestry are suggested to increase over the next upcoming decades’*.

[University of Bergen research from 2012](#) states: *‘the main intruder, sitka spruce, is a typical autogenic ecosystem engineer that has the ability to alter the ecosystem by its own size and structure. Sitka spruce is more shade-tolerant and can potentially grow much larger (2-3 times) than the native trees. It has the ability to change the habitat, increasing suitability for its own persistence while, at the same time, reducing the resources available to other species in the community’* (i.e. reducing biodiversity). *We hypothesise that sitka spruce will be a high-risk alien species according to the criteria given in the Norwegian blacklist, by reducing biodiversity, degrading habitats and altering ecosystem function’*.

HTHU believes planting tens of thousands of hectares more of sitka spruce in Scotland may look good on paper for net zero targets, but, loss of biodiversity and Scotland’s natural identity will be the price we all pay.

We understand Scotland is already a net exporter of timber and one sixth of our country is already afforested. The logging industry has known for 30 years that sitka spruce is invasive and is therefore reducing and working against Scotland’s biodiversity. HTHU urges the Scottish Government to reverse the INNS conifer invasion of Scotland and urgently re-evaluate policy for commercial forestry species selection in our country. If we genuinely are working towards a just transition to net zero and a healthy environment, restoration of Scotland’s life-supporting ancient and native woodland must surely take priority.