

Citizen Participation and Public Petitions Committee

4th Meeting, 2021 (Session 6), Wednesday
22 September 2021

PE1874: Introduce legislation to create
artillery and firearms exclusion zones around
places of spiritual importance and religious
worship

Note by the Clerk

Petitioner Dr Conrad Harvey

**Petition
summary** Calling on the Scottish Parliament to urge the Scottish Government
to introduce legislation to create artillery and firearms exclusion
zones around places of spiritual importance and religious worship
within Scotland.

Full petition <https://petitions.parliament.scot/petitions/PE1874>

Introduction

1. This is a new petition that has been under consideration since 26 May 2021.
2. A SPICe briefing has been prepared to inform the Committee's consideration of the petition and can be found at **Annexe A**.
3. While not a formal requirement, petitioners have the option to collect signatures and comments on their petition. On this occasion, the petitioner elected to collect this information. 10,290 signatures have been received.
4. The Committee seeks views from the Scottish Government on all new petitions before they are formally considered. This response is included at **Annexe B** of this paper.

5. The petitioner has provided two submissions. These are included at **Annexe C** of this paper.
6. The Committee has received several additional submissions. Links to these submissions are provided in **Annexe D**.

Scottish Government submission

7. In its written submission, the Scottish Government explains that planning permission is required to carry out development in, on, over or under land, or when making any material change in the use of any buildings or other land.
8. The submissions goes on to state that where there is a requirement to seek planning permission, applications are – by law – determined in accordance with the development plan for the area, unless material considerations indicate otherwise.
9. When determining a planning application, the decision-maker must have regard to all relevant considerations including the noise that would be associated with a proposed development.
10. The submission explains that noise and its effect on sensitive land uses such as residential buildings, schools, natural habitats or places of worship, is capable of being a material consideration. It is a matter of judgement for the decision-taker, however, as to the weight given to any particular consideration.
11. In its submission, the Scottish Government explains that, should a development raise significant noise issues, planning authorities can require a noise impact assessment (NIA) to be submitted alongside a planning application.
12. An NIA can inform the planning authority whether any significant adverse noise impacts are likely to occur.
13. The Scottish Government assures that where noise associated with a proposed development is considered likely to cause unacceptable disturbance to existing land uses and/or receptors a planning application can—
 - Be refused; or
 - have conditions or obligations attached to the permission, so mitigate the impact of the noise.
14. The submission highlights that development plans can also play a role, by indicating the range of uses which are likely to be permitted in an area affected by existing or potentially high levels of noise.
15. It can also outline the noise mitigation measures that the planning authority will expect to be applied to new development.

16. In its submission, the Scottish Government states that planning decision-takers already have the ability to consider and control noise in a way that reflects the particular circumstances and sensitivity of specific locations, and the actual impacts of individual developments.
17. Furthermore, it believes that a 5-mile exclusion around existing places of worship (or other land uses that are sensitive to noise disturbance) would be a comparatively blunt approach to controlling noise-generating developments, as it would be unable to take cognisance of local circumstances.
18. In respect of firearms legislation, the Scottish Government explains that, with the exception of air weapons, this is reserved to the UK Government.
19. Under UK law, Police Scotland must be satisfied that any shooting in Scotland takes place on land that is safe, and that shooting presents no danger to public safety. Police are not, however, expected to act as experts on range construction, or to provide a range inspection service.
20. In addition to planning permission, shooting ranges should normally be inspected and approved by an independent expert such as the National Rifle Association or National Smallbore Rifle Association. The range operator must also have adequate insurance in place.
21. The Scottish Government highlights that shooting may also take place over private land that is not a designated as a 'shooting range', with the land owner's permission and provided it can be done safely and on a non-commercial basis.
22. In its conclusion, the Scottish Government states that the legal and policy frameworks governing the development and operation of potentially noisy developments, including firing ranges, are proportionate, robust and effective. It therefore has no current plans to review or amend them.

Petitioner submissions

23. In his written submissions, the petitioner reiterates his belief that it is inappropriate to have a shooting range within 5 miles of an established cathedral, temple, synagogue, mosque, or monastery.
24. The petitioner explains that the nature of gunfire means that it should not be considered equivalent to traffic noise nor nightclub music and therefore requires specific legislation.
25. He argues that by citing standard noise and planning regulations, the Scottish Government currently seems to infer that there is nothing special to protect about Scotland's places of spiritual importance and religious worship.

Other submissions

26. The Committee has received five additional submissions. Of these, three are in support of the petition, highlighting the specific example of the Samye Ling Buddhist Monastery in Dumfriesshire.
27. The remaining two submissions are against. One has been provided by the club operating the rifle range referenced in the petition, stating that there are inaccuracies in the petition.
28. The other is from the Humanist Society Scotland. This states that the organisation supports the protection of peaceful environments from noise pollution through the planning system.
29. The Society does not, however, understand why only places of worship should be protected by the proposed exclusion zone, when other environments such as schools, sensory centres, hospices, crematoria/cemeteries and wildlife reserves could benefit from similar protection.

Action

30. The Committee is invited to consider what action it wishes to take on this petition.

Clerk to the Committee

PE1874: INTRODUCE LEGISLATION TO CREATE ARTILLERY AND FIREARMS EXCLUSION ZONES AROUND PLACES OF SPIRITUAL IMPORTANCE AND RELIGIOUS WORSHIP

Petitioner

Dr Conrad Harvey

Date Lodged

23 June 2021

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to introduce legislation to create artillery and firearms exclusion zones around places of spiritual importance and religious worship within Scotland.

Previous action

Contact has been made with MSPs, MPs, Councillors, and the Dumfries & Galloway Local Authority Planning Department. All parliamentary politicians have been openly supportive in their correspondence, however none are in a practical position to submit a Member's Bill to the Scottish Parliament, to likely effect the change in Scottish Law that we seek.

Background information

There is currently nothing in law to prohibit the development of firearms ranges in close proximity to places of spiritual importance and religious worship. Applications for two new private firearms ranges have recently been made for development beside Samye Ling Buddhist Monastery in Dumfriesshire. This is a site of national spiritual importance, being the oldest Tibetan Buddhist monastery in the western world, drawing international visitors to Scotland seeking peace of mind, for over 50 years. The operators have marketed their sites to the US military, who have already held exercises on the land. The sound of regular gunfire

would be intrusively detrimental to Samye Ling's peaceful environment. We believe that no new firearms range should ever be approved within 5 miles of an established cathedral, temple, synagogue, mosque, or monastery.

This would protect the peaceful environment sought by people visiting or staying at these places and mean they are not subject to the intrusive and violent noise of regular audible gunfire.

Briefing for the Citizen Participation and Public Petitions Committee

Petition Number: [PE1874](#)

Main Petitioner: Dr Conrad Harvey

Subject: Introduce legislation to create artillery and firearms exclusion zones around places of spiritual importance and religious worship

Background

Development in Scotland is regulated through the planning system, the major provisions of which are set out in the Town and Country Planning (Scotland) Act 1997, as amended.

Scottish planning legislation does not explicitly prohibit any type of development from specific locations. The Scottish planning system is described as 'plan-led, with development plans guiding the future use of land in our cities, towns and rural areas.

Planning authorities must have regard to national planning policies set out in the [Scottish Planning Policy](#) and the spatial strategy set out in the [National Planning Framework](#) when drafting development plans. The Scottish Government also provides advice to planning authorities on the role of the planning system in helping to prevent and limit the adverse effects of noise in [Planning Advice Note 1/2011: Planning and Noise](#).

Planning authorities are required to make decisions on applications for planning permission in accordance with the development plan, unless there are compelling reasons, known as material considerations, which indicate that the decision should be otherwise.

In practice, this means that any proposed development that meets the requirements of the development plan will normally be approved, unless there are material considerations which indicate that permission should be refused. Similarly, proposed developments that do not comply with the policies set out in the development plan will normally be refused, unless there are material considerations felt by the decision makers to outweigh those policies.

Scottish Government Action

The Scottish Government has not considered the creation of exclusion zones for military and firearms related development around places of spiritual importance and religious worship.

Scottish Parliament Action

The Scottish Parliament has not considered the creation of exclusion zones for military and firearms related development around places of spiritual importance and religious worship.

Key Organisations and relevant links

- **Scottish Government:** Responsible for Scottish planning legislation, policy and guidance.
- **Royal Town Planning Institute Scotland:** Professional body for planners and the planning profession in Scotland.
- **Scottish Land and Estates:** Representative organisation for rural landowners in Scotland.
- **Kagyu Samye Ling:** Tibetan Buddhist monastery located in Eskdalemuir, Dumfries and Galloway. Proposals for the creation of two firing ranges near to the grounds of the monastery are currently under development.

Alan Rehfisch
Senior Researcher
August 2021

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Scottish Government submission of 25 June 2021 PE1874/C

Thank you for the opportunity to contribute views to the Public Petitions Committee's consideration of this petition.

This reply covers Scottish Government's interests insofar as the Planning System and to the operations of Police Scotland.

The Planning System in Scotland

Scottish planning legislation provides that planning permission is required to carry out development. For the purposes of planning, "development" is broadly defined as meaning the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

Where there is a requirement to seek planning permission, applications are – by law – determined in accordance with the development plan for the area unless material considerations indicate otherwise. This is the case whether an application is decided by the local authority or, where an application is called-in or in the event of an appeal, by the Scottish Ministers.

In determining a planning application, the decision-maker must have regard to all relevant considerations. Noise associated with a proposed development, and its effect on sensitive land uses such as residential buildings, schools, natural habitats or places of worship, is capable of being a material consideration. The weight given to any particular consideration is a matter of judgement for the decision-taker, however.

Where noise associated with a proposed development is considered likely to cause unacceptable disturbance to existing land uses and/or receptors, planning authorities can refuse planning permission on this basis. Alternatively, planning conditions or planning obligations can be used to secure mitigation that is considered necessary to make a proposed development acceptable in planning terms.

The preparation and consideration of planning applications that raise

significant noise issues can be assisted by a noise impact assessment (NIA). Planning authorities can require that an application is to be accompanied by an NIA, the purpose of which is to demonstrate whether any significant adverse noise impacts are likely to occur. The design of a development and the conditions which may be attached to a planning permission can all help to prevent, control and mitigate the effects of noise.

Development plans also have an important role to play in helping to limit the overall number of people exposed to the potential adverse effects of noise. Development plans can, where relevant, indicate the range of uses which are likely to be permitted in an area affected by existing or potentially high levels of noise, as well as the noise mitigation measures the planning authority will expect to be applied to new development.

The current legal and policy framework therefore provides planning decision-takers with the ability to consider and control noise in a way that reflects the particular circumstances and sensitivity of specific locations, and the actual impacts of individual developments. The suggestion of a 5-mile exclusion around existing places of worship (or other land uses that are sensitive to noise disturbance) would be a comparatively blunt approach to controlling noise-generating developments. It would not take account of local differences or site-specific circumstances: this is important because what may be an acceptable form of development in an urban environment may be entirely inappropriate in rural or remote setting, for example. Indeed, it may be that in certain locations the degree of sensitivity is such that developments generating significant levels of noise would be unacceptable *beyond* a 5-mile radius. We are not minded to legislate for exclusion zones around places of worship at this time.

As you will appreciate, the Scottish Government cannot comment on the merits of individual planning proposals so as not to prejudice the outcome of the statutory decision-making process.

Police Scotland

Firearms legislation, with the exception of air weapons, is reserved to the UK Government. Under UK law Police Scotland must be satisfied that any shooting in Scotland takes place on land that is safe, and that shooting presents no danger to public safety. Anyone entrusted to possess a firearm will have been subject to robust checks under the licensing regime operated by the Chief Constable. Any concerns about

shooting anywhere in Scotland should be reported to Police Scotland in the first instance.

In line with the UK [Guidance on Firearms Law](#) published by the Home Office, police are not expected to act as experts on range construction, or to provide a range inspection service. In addition to planning permission, shooting ranges should normally be inspected and approved by an independent expert such as the National Rifle Association or National Smallbore Rifle Association, and the range operator must also have adequate insurance in place. Shooting may also take place over private land that is not a designated 'shooting range', with the land owner's permission and provided it can be done safely and on a non-commercial basis.

Conclusion

Scottish Government's view is that the legal and policy frameworks governing the development and operation of potentially noisy developments, including firing ranges, are proportionate, robust and effective. There are no current plans to review or amend them.

Petitioner submission of 23 June 2021

PE1874/F

25 years after the Dunblane Massacre which prompted current community firearms legislation, and which still informs many Scots' opinions regarding access to guns, it seems that firearms legislation hasn't kept pace with the technical range of 50 calibre rifles.

Although Petition PE1874 has been inspired by the recent firearms range applications beside Eskdalemuir's [Samye Ling Monastery](#), updated legislation would equally protect the peace for Scotland's other rural places of international spiritual importance:

- [Dunblane Cathedral](#)
- [Cathedral of the Isles \(Cumbrae\)](#)
- [Pluscarden Abbey, Elgin](#)
- [St Magnus Cathedral, Orkney](#)
- [Ring of Brodgar, Orkney](#)
- [Iona Abbey, Iona](#)
- [Rosslyn Chapel, Midlothian](#)
- [Callanish, Lewis \(Calanais\)](#)
- [Holy Isle Project, Arran](#)

It doesn't seem reasonable that any new firearms range should ever be approved within 5 miles of an established cathedral, temple, synagogue, mosque, or monastery?

Currently there is no law to prohibit firearms use beside Scotland's places of national spiritual, tourist & cultural importance. Scottish Parliament legislation would guarantee and protect the peaceful environment sought by people visiting and staying at these places by ensuring that they're not subject to the intrusive and violent noise of regular gunfire.

The oldest Tibetan Buddhist Monastery in the western world, Samye Ling has attracted international visitors globally to Scotland seeking peace of mind for over 50 years. The monastery offers retreats for groups of military Veterans. Exposing these individuals, some of whom are recovering from post-traumatic stress disorder (PTSD), to the sound

of regular gunfire, in the very place where they have come to find peace from past traumatic conflict experiences, isn't helpful.

There are currently two planning applications to develop shooting ranges beside Samye Ling, although neither site has ever received any previous planning consent. One, is only 1½ miles from the monastery. Both applications include the use of 50 calibre, high velocity rifle ranges, with **targets up to two miles away**. The peace of the monastery has already been disturbed by the exponential growth in commercial game shooting by one of the operators. Dumfries & Galloway Council; Eskdalemuir Community Council; Police Scotland and other organisations confirm that both firearms ranges have already been in commercial use, despite neither having planning permission.

Indeed, in March 2021 Capt. Kevyn Kaler of the US Air Force [formally admitted](#) that they had used a range, a mile from the 53-year-old Samye Ling Tibetan Buddhist monastery, for multiple events within the past seven months.

22,000 people have signed a Change.Org petition opposing both firearms ranges; as reported by: [ITV](#); BBC Radio Scotland; [The Guardian](#); The Sunday Times; The Herald & The Scotsman.

Such places are important to many more people (nationally & internationally) in addition to the local residents who have a voice in local planning applications. These special places *belong to everyone in Scotland* as part of our national heritage, benefitting mental health and well-being of the many who visit them to find peace of mind.

Previously, few might have thought that new legislation was *necessary*, as most would have assumed that no-one would actually develop private firing ranges in such inappropriate locations. Most might also have assumed that Scottish Law would already *prevent* incongruous firearms activity beside such places.

However, the real-world experience of Samye Ling has demonstrated that local planning oversight hasn't been sufficient to prevent, what many petition signatories believe is, the wholly inappropriate and insensitive use of firearms beside a place of national spiritual importance. Thereby giving an incontrovertible demonstration of how things can go wrong for our places of peace in Scotland under existing legislation, without the creation of firearms exclusion zones.

Responsibility for range safety was removed from the Ministry of Defence in a 2006 UK Government review. Self-regulation clearly *isn't enough*, regarding private ranges being developed for 50 calibre sniper rifles **with a range of up to 4 miles**. So should the only reasonable place for such shooting be on existing well-regulated Ministry of Defence Ranges? Local planners and police firearms licensing departments are not logistically able to provide equivalent oversight.

This is a matter for Scotland's Parliament to guarantee that our peaceful places of spiritual and tourist importance are protected for everyone in Scotland (as well as thousands of international visitors drawn to our country by them).

Hence why we are asking that 5-mile firearms exclusion zones be created around these special places.

Such legislation is worthy of cross-party support, as it would:

- 1. Benefit both the people of Scotland and visitors to our country, seeking spiritual peace of mind in these places;**
- 2. Enhance Scotland's reputation as a progressive country on the world stage as a welcoming and friendly nation;**
- 3. Ensure inclusive non-sectarian social justice being extended to religious minority communities within Scotland;**
- 4. Emphasize the importance of responsible and appropriate rural land ownership that benefits the people of Scotland, rather than solely large-scale landowners; and**
- 5. Demonstrate the value of Citizen Participation with over 10,000 signatures supporting such new legislation.**

Petitioner submission of 20 July 2021

PE1874/G

The reassurances of the Scottish Government's initial [submission](#) that:

“Legal and policy frameworks governing the development and operation of potentially noisy developments, including firing ranges, are proportionate, robust and effective”;

unfortunately hasn't been borne out by people's experiences of what has been demonstrably happening in Scotland.

This petition reflects the clear wish of thousands to the Scottish Government that we have specific places in Scotland that are *wholly free from gunfire*. Not generic “noisy developments” but, specifically, *gunfire*.

The nature of gunfire isn't equivalent to audible traffic noise nor nightclub music; therefore analogies referencing current planning legislation, designed to address commonplace ambient noise, aren't equivalent nor pertinent. I doubt few MSPs would accept the introduction of regular sniper gunfire where they live?

The Government submission reflects a current confidence in procedures and legislation that submission [PE1874/B](#) shows has *already demonstrably failed* to reassure. It describes what should have ideally worked, rather than recognising what actually hasn't? Reassurances that there's currently no problem necessitating amended legislation are unconvincing, when PE1874/B points to an example that demonstrates the current problem.

It references existing legislation and tiers of UK/Scottish/Local Government, but doesn't address a test case where despite local

objections and the absence of local authority planning permission, commercial long-range sniper rifle activity occurred regardless and without consequence, beside Scotland's only Buddhist monastery.

Are local planning departments best placed to decide if *military grade firearms* can be used beside places of national importance? Following the expressed objections of 22000 people, and 10000 now petitioning the Scottish Parliament to definitively legislate to prevent this in future, it's not unreasonable for the Scottish Government to propose a helpful legislative solution to now *proactively address* the evident current loopholes in Scottish Law that have allowed this to happen?

If the petition's proposal of 5-mile firearms exclusion zones is considered "*too blunt*" an instrument, mindful of this test case, what would the Scottish Government's alternative proposed solution be?

Essentially by citing standard Noise and Planning regulations, The Scottish Government currently seems to infer that there is *nothing special* to protect about Scotland's places of international spiritual importance? While this is a characteristic view habitually expressed by the Humanist Society, the Scottish Government's national tourism body, Visit Scotland, simultaneously *specialy promotes* such places: highlighting their locations "*in a quiet rural setting*" and offering "[*meditation in a peaceful and tranquil setting*](#)"!

These places are important to [many more people](#) (nationally and internationally) than just local residents with a voice in local planning applications and local election suffrage. They belong to everyone in Scotland as part of our national heritage, benefitting the mental health and well-being of the many who visit them to find peace of mind. However, they are clearly not currently protected.

Up to this point, I suspect that no-one would have thought that such protections were necessary, as most would have assumed that no one would be so insensitive as to actually develop firearms ranges beside such inappropriate locations. Current arrangements rely upon courtesy and respect. If these are eclipsed by any potential developer's

determination to financially profit from shooting, then what? Shooting evidently continues regardless of the absence of planning permission.

[Trespass/Land Access laws differ between Scotland and England.](#)

Perhaps Firearms legislation, decided by a majority of English Westminster MPs, may not reflect the fact that hillwalkers in Scotland are free to walk where they choose in our hills, without the threat of stray sniper bullets from 2 miles away? Police Scotland aren't tasked to measure firing distances of individual sniper rifles. Should parts of rural Scotland now become curtailed by private sniper rifle use, or remain accessible for all people of our country?

Shooting enthusiasts have [the alternative option of numerous existing rifle ranges located away from places of national spiritual importance](#) It seems entirely appropriate that access to [military-grade long-range sniper rifles should only be on Ministry of Defence ranges?](#)

Essentially this all comes down to if the Scottish Government is [prepared to ignore the current problem](#) by effectively doing nothing, and allow effectively unregulated use of firearms to ruin the ambiance of some of our places of national spiritual importance; or whether it recognises the unique value of such locations, and the expressed wishes of tens of thousands of signatories to both recent petitions, who now wish it to protectively legislate to keep these places free from gunfire.

This is a Tourism issue; a National Cultural and Social Inclusion issue; a Justice issue; and a Rural Land Reform issue. These all clearly sit within the remit of devolved powers to the Scottish Government; which now has the opportunity to legislate and create firearms exclusion zones for these specific places; guaranteeing that the situation recently endured by the monks and nuns of Samye Ling is definitively addressed and never repeated elsewhere in Scotland.

What is the Scottish Government's alternative legislative solution otherwise?

Annexe D

The following further submissions are circulated in connection with consideration of the petition at this meeting —

- [PE1874/A: Fifty Calibre Shooters Association UK submission of 4 June 2021](#)
- [PE1874/B: Eskdalemuir Community Council submission of 11 June 2021](#)
- [PE1874/D: William Martin submission of 3 July 2021](#)
- [PE1874/E: Humanist Society Scotland submission of 5 July 2021](#)
- [PE1874/H: Kagyu Samye Ling Monastery submission of 4 August 2021](#)

All written submissions received on the petition can be viewed on the petition [webpage](#).