

CONISTON WATER BYELAWS AMENDMENTS TO ALLOW DONALD CAMPBELL'S BLUEBIRD – K7 PROVING TRIALS

1 SUMMARY

- 1.1 In 2008 the team rebuilding Bluebird K7 asked us to consider changes to the Coniston Water Byelaws, to allow proving trials in excess of 10mph. Following Authority approval in May 2009, of a one-off proving trial, subject to specific conditions, we consulted on revised Coniston Water Byelaws that would allow trials to take place. The findings of the public consultation support byelaw amendments to allow the trials.

Recommendation that: a Authority resolve to make the byelaws in the form of the draft byelaws at Annex 2

2 BACKGROUND

- 2.1 The Bluebird team has asked for permission to undertake proving trials of the boat in excess of 10mph on Coniston Water. Bluebird K7 retains the British outright water speed record of 276.3 mph. The team acknowledge it can no longer mount a serious challenge to a world record, but asked for permission to undertake proving trials.
- 2.2 The current Coniston Water Byelaws (Annex 1) cannot allow speeds in excess of 10mph, except in legitimate bids for a world record, approved by and held under the rules of the Royal Yachting Association (RYA) and the Union Internationale Motonautique (UIM).
- 2.3 In May 2009 Authority approved amending the Coniston Water Byelaws to enable a one-off event for a proving trial of the re-built Bluebird, subject to specific conditions related to:
- timing of the event
 - health and safety
 - environmental considerations, including risks of water and noise pollution
- 2.4 Following this, we redrafted the Coniston Water Byelaws to allow the event to take place. The proposed changes define:
- 'Bluebird K7'
 - 'proving trial'
 - 'development runs'
 - 'proving runs', and
 - the 'course'
- 2.5 The changes also include an exemption to allow the proving trials to take place. If approved, the definitions would be inserted into section 3 of the amended byelaws.

3 CONSULTATION FINDINGS

- 3.1 During February and March 2010 an eight week consultation took place on draft amended Byelaws. Letters and consultation forms were sent to 48 organisations, and an on-line form was available on our website. We received responses from 24 organisations and 241 members of the public.
- 3.2 In summary, the consultations main findings, which are fully set out in annex 3, are:

- a. A significant majority of those responding to the consultation were supportive of the proving trials taking place. 23 out of 24 organisations and 230 out of 241 members of the public were supportive.
- b. A significant majority of consultees supported the definition of 'Bluebird K7'; 'proving trial'; 'development runs'; 'proving runs' and the 'course'.
- c. 16 out of 28 people who commented on the definition of 'development runs' stated that the 80 mph speed restriction was too restrictive, and suggestions of 100 mph were made.
- d. 12 out of 20 people who commented on the definition of 'proving runs' felt the number of runs was too restrictive.
- e. 11 out of 15 people who made additional comments on the definition of the 'course' felt the course length was too short.

3.3 Following the consultation we have amended the draft byelaws to take into account comments from the public consultation:

- f. We have changed the wording of the definition of 'Bluebird K7' to acknowledge it is no longer the world water speed record holding boat.
- g. We have increased the speed restriction on development runs from 80 mph to 100 mph.
- h. We have increased the length of the course from two miles to three miles.

3.4 The Authority has also consulted informally with Defra and received a number of comments. The points raised by Defra are addressed in Paragraph 10.

4 POLICY CONTEXT

4.1 Our vision states, 'The Lake District National Park will be an inspirational example of sustainable development in action. A place where its prosperous economy, world class visitor experiences and vibrant communities come together to sustain the spectacular landscape, its wildlife and cultural heritage.'

4.2 The Countryside Service Action Plan for 2010-2011 states we will provide appropriate lake patrol and management services in relation to safety and byelaws with other partners for the four navigable lakes of Windermere, Ullswater, Coniston Water and Derwent Water, and also Bassenthwaite Lake.

5 OPTIONS

5.1 I suggest the options are to:

- a. resolve to make the byelaws in the form of the draft byelaws at Annex 2;
- b. request further amendments to the draft byelaws; or
- c. resolve not to make changes to the current byelaws.

6 PROPOSALS

6.1 I propose Option 5.1 a. above. The findings of the consultation show there is significant support for the draft amendments to the byelaws as proposed.

6.2 The Park Strategy and Vision Committee has considered the byelaws and options and they support the proposal.

7 BEST VALUE IMPLICATIONS

7.1 The Best Value implications are:

- a) Challenge:** We are responsible for enforcing or promoting amendments to the Coniston Water byelaws. We are challenging, by public consultation, the draft byelaw amendments.
- b) Compare:** This is a unique case, but we are applying similar processes to those undertaken on other lakes including Windermere when reviewing byelaws.
- c) Consult:** A two month public consultation has taken place. If we approve draft Byelaws a formal consultation period, following standard protocols from DEFRA, will occur.
- d) Compete:** We are the only organisation that can bring about changes to the byelaws.

8 FINANCE CONSIDERATIONS

8.1 A contested change to the byelaws might prompt a public inquiry. At this stage, this is not anticipated. If it were to occur, it may have implications in terms of staff time, legal support and costs of room hire and advertisement. We will seek financial support from the Bluebird Project towards any costs the Authority is likely to incur. In the absence of such support the Authority may decide not to ask the Secretary of State to confirm the byelaws and therefore avoid the costs of an inquiry.

8.2 The event will require staff time and resources to monitor the specific conditions set down by the Authority for the activity. The Bluebird Project acknowledges the requirement to monitor the specific conditions related to the event. Monitoring the event may incur some additional costs for which we will seek funding from the Bluebird Project. It is anticipated that any event would be cost neutral for the Coniston Boating Centre if held outside the tourist season.

9 RISK

9.1 Environmental risks include excessive noise, disturbance to char spawning grounds, wave disturbance and oil spills. Safety risks include the risk to the driver, and to members of the public. Risks will be addressed by the Bluebird Project through their operational document. The Authority will assess the operational document, and take advice from experts including the Royal Yachting Association prior to granting permission for the event to take place.

9.2

Id	Risk	Consequence	Controls required	Risk level
R1	Environmental damage to Coniston Water.	Adverse effect on water quality, tranquillity and local businesses. Reputational damage from failing to protect special qualities of the lake and surroundings.	The proposal is only considered on the basis environmental safeguards will accompany any permission to conduct a trial in excess of 10 mph.	Low (following risk assessment and mitigation measures).
R2	Conflict with other legitimate lake users.	Adverse effect on water quality, tranquillity and	The proposal is only considered on the basis lake user	Low (following risk assessment)

		local businesses. Reputational damage from failing to protect special qualities of the lake and surroundings.	safeguards will accompany any permission to conduct a trial in excess of 10 mph.	and mitigation measures).
R3	Health and safety risk to the public.	Risks to the public. The Authority may be liable for failing to protect the public from risk.	The proposal is only considered on the basis that a full Risk Assessment will be undertaken, and full mitigation of any risks posed undertaken.	Low (following risk assessment and mitigation measures).
R4	Health and safety risk to the driver of the boat.	Risks to the driver of the boat.	The proposal is only considered on the basis that a full Risk Assessment will be undertaken and full mitigation of any risks posed undertaken.	Low (following risk assessment and mitigation measures)
R5	The proposal is contested, leading to a public inquiry.	Additional cost to the Authority.	No action at this stage. If required we will seek financial support from the Bluebird Project, and will re-assess options available in the absence of such support.	Medium.
R6	The event requires Authority staff input to monitor the event	Additional cost to the Authority	No action at this stage. We will seek financial support from the Bluebird Project, and will re-assess options available in the absence of such support.	Medium.

10 LEGAL CONSIDERATIONS

- 10.1 The Authority has received a number of comments from Defra, which were considered by Park Strategy and Vision Committee. Defra reminded the Authority of its obligation to consult formally with Natural England before making the byelaw. Natural England has been consulted informally but formal consultation could not take place until the text of the byelaw had been finalised, in the light of the consultation exercise. Natural England has now been consulted formally on the text of the draft byelaw in Annex 2. Any comments received will be reported orally at the meeting.
- 10.2 Defra also raised a query as to whether the proposed new byelaws omitted any part of the current byelaws. The draft byelaws do not in fact omit anything that is in the current byelaws but simply add further provisions in relation to Bluebird K7.
- 10.3 Defra have raised some concern that the byelaws make no provision for an exclusion zone around the part of the lake in which the proving trials will be carried out. The

byelaws do, however, provide for the making of conditions by the Authority which will provide for the detail of the way in which the trials will be carried out. These conditions will ensure that proper safety arrangements are in place. Unless the conditions are complied with the Authority will not give permission for the trials to take place.

- 10.4 Finally, Defra have advised that they will expect the Authority, when seeking confirmation of the byelaws, to make its case to show that it has had regard to the national park purposes as set out in Section 5 of the National Parks and Access to the Countryside Act 1949 when considering making the byelaw. This last point is the most significant of Defra's comments and puts us on notice that the Authority will need to put forward a convincing case to Defra when seeking confirmation of the byelaws.
- 10.5 The history of speed boating on Coniston, and in particular the history of Bluebird K7 is clearly part of the cultural heritage of Coniston Water and, as such, within the first of the national park purposes. We will, however, need to show that appropriate steps are being taken to minimise any environmental damage (including excessive noise) in order to demonstrate compliance with Section 13 of the Countryside Act 1968. Members are reminded of the advice given to the Authority at its meeting on 20 May 2009 which is reproduced below.

10.6

The powers given to the Authority to make byelaws relating to the regulation of boats on lakes within the National Park by Section 13 of the Countryside Act 1968 must be exercised for the purpose of:

- a) ensuring the safety of persons resorting to any such Lake
- b) regulating all forms of sport or recreation involving the use of boats or vessels
- c) conserving the amenity and natural beauty of any such lake and the surrounding area, and
- d) preventing nuisance or damage, and in particular nuisance from excessive noise."

Section 13(3)(e) of the Act provides that the Authority may "make different provision for different circumstances".

Section 13(4) provides that the Authority when exercising its byelaw making powers "shall have regard to the fulfilment of the objects set out as respect National Parks in section 5 of the Act of 1949" (i.e. the National Park purposes).

- 10.7 If the Authority is to amend the existing byelaws to permit the exceeding of the 10 mph speed limit by Bluebird it must be satisfied that the safety of lake users is ensured, that the use of the lake by Bluebird will not damage the amenity and natural beauty of the lake and surrounding area and that it will not cause nuisance (particularly noise related nuisance) or damage.
- 10.8 Once the byelaws have been made by the Authority they will be placed on deposit for formal consultation. The Authority must then apply to Defra for confirmation of the byelaws. In the event that objections are received the Secretary of State may decide that a public inquiry should be held.

11 HUMAN RESOURCES

- 11.1 There are staffing implications in amending the byelaws and in liaising with the Bluebird Project over event management. These can be met by redeploying existing

staff resources. Monitoring the event may incur some additional costs for which we will seek funding from the Bluebird Project.

12 DIVERSITY IMPLICATIONS

12.1 This report has no diversity implications.

13 SUSTAINABILITY

13.1 There are potentially significant health and safety, environmental and economic considerations, which will be assessed and mitigated against before any event.

Background Papers	20 May 2009 Authority Report: Coniston Water Byelaws and Donald Campbell's Bluebird – K7 Legal file LEG/2008/297
Author/Post	Suzy Hankin, Catchment Projects Coordinator James Sheerin, Head of Legal Services
Date Written	August 2010

ANNEX 1: CONISTON WATER BYELAWS

LAKE DISTRICT SPECIAL PLANNING BOARD

BYELAWS

FOR THE CONTROL OF POWER DRIVEN VESSELS

ON CONISTON WATER

LAKE DISTRICT SPECIAL PLANNING BOARD

BYELAWS

made under Section 13 of the Countryside Act

1968 by the Lake District Special Planning Board with respect to the control of power driven vessels on Coniston Water in the Lake District National Park.

1. These Byelaws may be cited as “The Lake District Coniston Water Byelaws, 1975”
2. The Byelaws shall be applicable to the Lake known or commonly known by the name of Coniston Water.
3. In these Byelaws the following words and expressions have the meanings hereby assigned to them respectively:-
 - (a) the word “lake” means the lake specified in Byelaw 2 above and all waters other than rivers connected therewith, navigable by vessels;
 - (b) the word “vessel” includes every description of water craft, used or capable of being used as a means of transportation on water and includes a flying boat and any other aircraft designed to manoeuvre on water;
 - (c) the term “power driven vessel” means any vessel propelled by machinery;
 - (d) every power driven vessel which is under sail and not under power is considered a sailing vessel, and every vessel under power, whether under sail or not, is to be considered a power driven vessel;
 - (e) except as hereinbefore otherwise provided words and expressions to which a special meaning is assigned by the National Parks and Access to the Countryside Act 1949 and the Countryside Act 1968, have respectively the same meaning in these Byelaws as they have in the said Acts.
4. Save as hereinafter provided no person shall use any power driven vessel on the lake at a speed exceeding ten miles per hour.

5. The use of a power driven vessel in circumstances necessary to the proper execution of his duty by the following persons, that is to say:-
- (a) a police officer;
 - (b) an officer of a water authority;
 - (c) any person or servant of any person employed by or acting with the authority of the Lake District Special Planning Board, or
 - (d) any person taking part in rescue operations or in securing the safety of persons engaged in lawful activities on the Lake

shall not be deemed an offence against these Byelaws.

6. Byelaw No. 4 shall not apply to any person undertaking an attempt on a British National and/or World Water Speed Record, officially approved by the Lake District Special Planning Board and by and held under the rules and supervision of the Royal Yachting Association and the Union Internationale Motonautique.
7. Nothing contained in these Byelaws shall be deemed to extinguish any public right of way over the lake.
8. Every person who shall offend against the foregoing Byelaws shall be liable on summary conviction to a penalty not exceeding £20.

Given under the Common Seal of the Lake District Special Planning Board this twenty-third day of January, 1975.

THE COMMON SEAL OF THE LAKE
DISTRICT SPECIAL PLANNING BOARD
was hereunto affixed in the presence of:

(Signed) K. S. HIMSWORTH
National Park Officer.

The foregoing byelaws are hereby confirmed by the Secretary of State
and shall come into operation on the first day of April, 1978.

Signed by the authority of the
Secretary of State

Home Office
LONDON SW1
March, 1978

(Signed) R.F.D. SHUFFREY
An Assistant Under Secretary of State.

ANNEX 2 DRAFT BYELAW



BYELAWS

**made under Section 13 of the Countryside Act 1968
by the Lake District National Park Authority
with respect to the control of power
driven vessels on Coniston Water in the Lake
District National Park.**

Minute reference:

**James Sheerin
Head of Legal Services
Lake District National Park Authority
Murley Moss
Oxenholme Road
Kendal
Cumbria LA9 7RL**

1. These Byelaws may be cited as “The Lake District Coniston Water Byelaws, 2010”
2. The Byelaws shall be applicable to the Lake known or commonly known by the name of Coniston Water.
3. In these Byelaws the following words and expressions have the meanings hereby assigned to them respectively:-
 - (f) the word “lake” means the lake specified in Byelaw 2 above and all waters other than rivers connected therewith, navigable by vessels;
 - (g) the word “vessel” includes every description of water craft, used or capable of being used as a means of transportation on water and includes a flying boat and any other aircraft designed to manoeuvre on water;
 - (h) the term “power driven vessel” means any vessel propelled by machinery;
 - (i) every power driven vessel which is under sail and not under power is considered a sailing vessel, and every vessel under power, whether under sail or not, is to be considered a power driven vessel;
 - (j) ‘Bluebird K7’ means the recovered and rebuilt World and British water speed record breaking jet powered hydroplane of Donald Campbell;
 - (k) ‘Proving Trial’ means the testing and running of Bluebird K7 and comprises Development Runs as defined in Byelaw 3(l) and Proving Runs as described in Byelaw 3(m).
 - (l) ‘Development Runs’ means untethered operation of Bluebird K7 in excess of 10 mph under her own power to harmonise systems through a profile comprising acceleration up to planing speed and never in excess of 100mph, progression along a pre-determined and marshalled ‘Course’ followed by deceleration to a standstill. Once initiated a ‘Development Run’ shall only be aborted for technical or safety reasons and shall not count as one of the twelve ‘Proving Runs’ as set out in Byelaw 3(m).
 - (m) ‘Proving Runs’ means runs that gradually increment Bluebird K7’s speed and workload until the craft can be accelerated to a planing position along a pre-determined and marshalled ‘Course’ and brought back to a standstill in a safe and controlled fashion. These will comprise a total of up to twelve runs conducted either from north to south or from south to north.
 - (n) ‘Course’ means a stretch of uninterrupted lake surface between two points not more than three miles apart and not less than 150 yards from the shore.

- (o) except as hereinbefore otherwise provided words and expressions to which a special meaning is assigned by the National Parks and Access to the Countryside Act 1949 and the Countryside Act 1968, have respectively the same meaning in these Byelaws as they have in the said Acts.
4. Save as hereinafter provided no person shall use any power driven vessel on the lake at a speed exceeding ten miles per hour.
 5. The use of a power driven vessel in circumstances necessary to the proper execution of his duty by the following persons, that is to say:-
 - (e) a police officer;
 - (f) an officer of a water authority;
 - (g) any person or servant of any person employed by or acting with the authority of the Lake District National Park Authority, or
 - (h) any person taking part in rescue operations or in securing the safety of persons engaged in lawful activities on the Lake

shall not be deemed an offence against these Byelaws.

6. Byelaw No. 4 shall not apply to any person undertaking an attempt on a British National and/or World Water Speed Record, officially approved by the Lake District Special Planning Board and by and held under the rules and supervision of the Royal Yachting Association and the Union Internationale Motonautique.
7. The Lake District National Park Authority may give permission to any person or persons undertaking the Proving Trial of Bluebird K7, to navigate that power driven vessel in specified parts of the Lake in excess of the speed limits specified in Byelaw No. 4 and may impose conditions subject to which any such permission is granted having regard, inter alia, to public health and safety requirements, the timing of the event and environmental considerations.
8. Nothing contained in these Byelaws shall be deemed to extinguish any public right of way over the lake.
9. Any person offending against any of the foregoing byelaws shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.
10. The Lake District Coniston Water Byelaws, 1975 shall be repealed from the date on which these byelaws come into effect.

GIVEN under the common seal of the Lake District National Park Authority this day of
2010

Executed as a deed by affixing
the Common Seal of the
LAKE DISTRICT NATIONAL PARK AUTHORITY
in the presence of:

Richard Leafe
Chief Executive

ANNEX 3 RESULTS OF PUBLIC CONSULTATION ON DRAFT AMENDED BYELAWS

1. PUBLIC CONSULTATION ON DRAFT BYELAW CHANGES

- 1.1 During February and March 2010 an eight week consultation took place on draft amended Coniston Water Byelaws. Letters and consultation forms were sent to 48 organisations, and an on-line form was available on our website.
- 1.2 We received responses from 24 organisations (listed in Section 8) and 241 members of the public.
- 1.3 We initially asked people whether they were supportive of the proving trial or not prior to detailing the proposed draft amendments. The majority of organisations and individuals were supportive of the proving trials taking place. 23 out of the 24 organisations who responded were supportive, and 230 members of the public out of 241 were supportive.

2. PARAGRAPH 3E: DEFINITION OF 'BLUEBIRD K7'

- 2.1 **Proposed definition: 'Bluebird K7' means the recovered and rebuilt World and British water speed record holding jet powered hydroplane of Donald Campbell.**
- 2.2 The vast majority of consultees supported this definition with only four disagreeing. Additional comments stated that consultees want accuracy and clarity in the definition, although some stated that a wider definition would be desirable.
- 2.3 Of those who commented on the definition, one suggested replacing 'holding' with 'breaking' to recognise that Bluebird K7 no longer holds the world water speed record and another suggested it should include a date by which it must be rebuilt to avoid more re-builds and proving trials in the future.

3. PARAGRAPH 3F: DEFINITION OF 'PROVING TRIAL'

- 3.1 **Proposed definition: 'Proving Trial' means the testing and running of Bluebird K7 and comprises Development Runs as defined in paragraph 3g and Proving Runs as described in paragraph 3h.**
- 3.2 The vast majority of consultees supported the definition, with seven not agreeing. Comments varied: some felt it was too restrictive a definition, others felt it needed to be more restrictive.

4. PARAGRAPH 3G: DEFINITION OF 'DEVELOPMENT RUNS'

- 4.1 **Proposed definition: 'Development Runs' means untethered operation of Bluebird K7 in excess of 10 mph under her own power to harmonise systems through a profile comprising acceleration up to planing speed and never in excess of 80 mph, progression along a pre-determined and marshalled 'Course' followed by deceleration to a standstill. Once initiated a 'Development Run' shall only be aborted for technical or safety reasons and shall not count as one of the twelve 'Proving Runs' as set out in section h.**

- 4.2 The vast majority of organisations and members of the public agreed with this definition. One organisation and 15 members of the public did not.
- 4.3 A significant number of comments on the definition (16 out of 28 comments) stated the 80 mph speed restriction on development runs was too restrictive. Many of these comments suggest Bluebird K7 may require more speed to reach its planing speed safely. Suggestions of 100 mph were given, although some suggested no restriction should be given.
- 4.4 Other comments suggest that the number of runs should not be restricted, or should be increased in number. Several comments suggested that a set number of days should be used instead, and 14 days was suggested as a reasonable period.
- 4.5 One organisation consulted stated that Paragraph 3g refers to a 'Development Run' not forming one of the 'Proving runs' if aborted. However, they state that by definition a 'Development Run' is not a 'Proving Run' and as such cannot form part of the allocated twelve 'Proving Runs'.

5. PARAGRAPH 3H: DEFINITION OF 'PROVING RUNS'

- 5.1 **Proposed definition: 'Proving Runs' means runs that gradually increment Bluebird K7's speed and workload until the craft can be accelerated to a planing position along a predetermined and marshalled 'Course' and brought back to a standstill in a safe and controlled fashion. These will comprise a total of up to twelve runs conducted either from north to south or from south to north.**
- 5.2 The majority of people agreed with this definition. Nine members of the public disagreed. Of 20 people who commented, 12 felt the number of runs was too restrictive.
- 5.3 One organisation consulted suggested an inconsistency between Paragraph 3g and Paragraph 3h. Paragraph 3g refers to acceleration, progression along the course and then deceleration after exiting the course. Paragraph 3h refers to acceleration and deceleration within the course distance. They also suggest the definition is altered to reflect the fact that accepted procedure for record attempts is a pair of runs (North South, then South North) rather than one run in either direction.

6. PARAGRAPH 3I: DEFINITION OF 'COURSE'

- 6.1 **Proposed definition: 'Course' means a stretch of uninterrupted lake surface between two points not more than two miles apart and not less than 150 yards from the shore.**
- 6.2 The majority of respondents agreed with the definition. Three organisations and 12 members of the public did not agree. Of 15 additional comments, 11 felt the course was too short. Several suggested increasing the course by one or two miles. Others suggested the historic course used by Bluebird would be appropriate.

7. SECTION 7: PERMISSION TO UNDERTAKE THE PROVING TRIAL

- 7.1 We propose an additional paragraph to enable the Lake District National Park Authority to give permission for the Proving Trial of Bluebird K7:

7.2 **‘The Lake District National Park Authority may give permission to any person undertaking the Proving Trial of Bluebird K7, to navigate that power driven vessel in specified parts of the Lake in excess of the speed limits specified in Byelaw No. 4 and may impose conditions subject to which any such permission is granted having regard, inter alia, to public health and safety requirements, the timing of the event and environmental considerations’.**

7.3 The majority of people agreed with this insertion. 11 did not agree. Of comments received, the majority stated general points regarding the proving trials. Specifically relating to Paragraph 7, some felt that imposing conditions was unnecessary, others felt this was essential.

8. ORGANISATIONS RESPONDING TO THE CONSULTATION

8.1 Brantwood Trust
British Sub Aqua Club
Canoe England
Colton Parish Council
Coniston and Torver District Angling Association
Coniston Ferry Services
Coniston Newsagency
Coniston Records Week Organisers
Cumbria Constabulary – Lakes
Cumbria Rural Enterprise Agency
Cumbria Tourism
Lancashire Power Boat Racing Club
Lanehead OEC, Coniston
Motorboat association of Great Britain
Rawdon Smith Trust
Royal Yachting Association
Summitreks
The Bluebird Project
The National Trust
The Raymond Priestley Centre, Coniston
The Speed Record Club
The Stirling Project
Water Park Adventure Centre, Coniston
Wings over Northumberland