



## *Delegated Report*

*Report of Handling*

<b>Application Number:</b>	2012/0145/DET
<b>Location:</b>	Drummond Fish Farm, Lochearnhead, FK19 8PZ
<b>Proposal:</b>	Change of use of land comprising an existing Caravan Club site (5no. stances) and adjacent land, to form a holiday touring caravan site comprising 9no. stances; and formation of internal access road and parking.
<b>Case Officer:</b>	Craig Jardine
<b>Target Decision Date:</b>	20 Aug 2012
<b>Decision Level:</b>	Delegated

<b>1.</b>	<b>Introduction:</b>
	<p>The application site is located at Ardveich Bay on the shore of Loch Earn, situated adjacent to the Drummond Fish Farm. The site is accessed from the A85 Trunk Road via an existing entrance which is positioned approx. 40 metres east of the Bridge of Beich. The site currently operates as a certified "Caravan Club" site with 5no. touring caravan stances (shown on the submitted site plan as 5no. stances and a vehicle turning head space). This use is exempt from the need for a caravan site licence and exempt from the need for planning permission. The site and its immediate surroundings are located within the 1 in 200 year (medium to high) flood risk zone, the character of which is low lying and level open ground. The site is screened to the west and south by an existing line of mature trees.</p> <p>Planning Permission is sought to change the use of land, which currently operates as a Caravan Club site (5no.) with an additional area of land located within the applicant's ownership, to enable it to operate as a caravan site.</p> <p>The original submitted proposal was for an additional 5no. stances situated alongside the existing Caravan Club stances at the edge of the Beich Burn. The application under consideration has now been revised. The current proposal is as follows:</p> <ul style="list-style-type: none"> <li>• Formation of 4no. stances located at the northern edge of the site, adjacent to the trunk road and to the east of the site entrance – bringing the total number of stances to 9 (all for touring caravan usage); and</li> <li>• an extension to the internal access road that would serve these new stances.</li> </ul>

**LOCH LOMOND & THE TROSSACHS NATIONAL PARK AUTHORITY**

National Park Headquarters, Carrochan, Carrochan Road, Balloch, G83 8EG Long: 4°34'24"W Lat: 56°00'12"N

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<p><b>2. Relevant Planning History</b></p> <p>2008/0237/DET - Proposed change of use of land to form caravan site. Refused on 9 November 2009 (due to lack of flood risk assessment).</p> <p>2005/0190/DET - Proposed boat hire reception/office and toilet block. Approved with conditions on 10<sup>th</sup> October 2005.</p> <p>02/00016/DET/S - Extension to existing fish farm. Approved with conditions on 21<sup>st</sup> February 2002.</p> <p>02/00010/DET/S - Proposed boat hire complex incorporating new building &amp; jetty with associated car park. Approved with conditions on 16<sup>th</sup> May 2002.</p>	
<p><b>3. Policy Context</b></p> <p><u>National Park Aims</u></p> <p>The four statutory aims of the National Park are a material planning consideration. These are set out in Section 1 of the National Parks (Scotland) Act 2000 and are:</p> <ul style="list-style-type: none"> <li>(a) to conserve and enhance the natural and cultural heritage of the area,</li> <li>(b) to promote sustainable use of the natural resources of the area,</li> <li>(c) to promote the understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public and</li> <li>(d) to promote sustainable economic and social development of the area's communities.</li> </ul> <p><u>Adopted Local Plan – National Park Local Plan</u>  <u>Relevant Policies:</u>          TOUR3 – Enhancing and Safeguarding Existing Tourism Sites          TRAN3 – Impact of New Development on the Road Network          L1 – Conserving and Enhancing the Diversity and Quality of the Park's Landscapes          ENV16 – Development in Medium to High Flood Risk Areas</p> <p><u>Other Material Considerations</u></p> <p><u>National Park Partnership Plan (2012 - 2017)</u>  <u>Relevant Policies:</u>          Con Policy 3 – Landscapes          VE Policy 1 – Visitor Management          VE Policy 2 – Sustainable Tourism          RD Policy 2 – Spatial Development Strategy</p> <p><u>Scottish Planning Policy – flooding section</u></p> <p><u>Planning Advice Note 69</u></p>	
<p><b>4. Consultations</b></p> <p><b><u>SEPA</u></b>  <i>Response dated 25/07/12:</i>  <b>Object to the application on grounds of flood risk and lack of information. SEPA will remove this objection if the issues detailed below are adequately clarified and addressed:</b></p> <ul style="list-style-type: none"> <li>• How the flood level was calculated and clarification of the return period;</li> <li>• Identification of the 1 in 200 year flood extent taking into account both the Beich Burn and Loch Earn to demonstrate the functional floodplain</li> </ul> <p><i>[Subsequently, the applicant submitted additional information and discussed matters further with SEPA. This resulted in a revised site location and number of stances. These revisions were submitted to attempt to satisfy SEPA's concerns. Following this, SEPA submitted the undernoted response.]</i></p>	

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*Response dated 18/06/13:*

**Object in principle to the proposed development following review of the information supplied by the applicant. In summary SEPA believe that the application site has a significant risk of flooding from both the Beich Burn and Loch Earn. Given the location of the development within the undeveloped/sparsely developed functional floodplain SEPA do not consider that it meets the requirement of Scottish Planning Policy and SEPA's position is unlikely to change. SEPA's review of the case is as follows:**

- Daily observed Loch Earn levels have been recorded previously as being 97.536AOD (at 6 March 1990); and 98.207AOD (at 17 Jan 1993). The 1993 event has a 1 in 100 year return period based on single site analysis at the gauging station at Kinkell Bridge, which is a significant distance downstream of Loch Earn and may not be reflective of the upper end of the Earn catchment.
- The estimated 1 in 200 year level for Loch Earn was supplied by Scottish and Southern Energy and is 98.9m AOD. Site visit record of being 98.3AOD (at Dec 2009).
- The 1 in 200 year Beich Burn flow has been underestimated in the submitted FRA (by approx. 10 cubic metres/sec). SEPA requested that this model be re-run using a higher flow estimate of 83.14 cubic metres/sec – however there is no information which suggests this has been carried out.
- The bridge over the Beich Burn is located at upstream on the western boundary of the site. Flooding can be exacerbated should the bridge become blocked by debris. If this was to occur, even with a 50% blockage scenario, the results indicate that it would be unable to convey flows larger than 1 in 10 year flow and would thus result in water overtopping the A85. The consultant states that in such a case the flood water would then be directed down the access road and discharge into the loch. This demonstrates that safe access and egress would not be possible at this site during significant and lower return period flood events.
- Therefore, the site is at risk from an extreme flood event from the Beich Burn even when the loch level is "normal".
- It would be possible to have an evacuation plan in place to manage flood risk from high loch levels, however, the flood response to a significant thunderstorm event is likely to be rapid with little or no warning. Therefore the risk of flooding cannot be addressed by an evacuation plan.
- Caravan and camping sites are categorised as a most vulnerable use within Scottish Planning Policy (SPP) and SEPA's vulnerability guidance.
- The Risk Framework in the SPP states that new caravanning and camping sites should not be located in undeveloped and sparsely developed areas (such as this site) where that site is at medium to high risk of flooding. People residing in holiday accommodation are arguably at greater risk than those in permanent accommodation because they are likely to be unfamiliar with the behaviour of watercourses and the immediate surroundings. SEPA therefore object to the application on this basis.

#### **Stirling Council - Flood Prevention**

*Response dated 29/06/12:*

The proposed development site is within the functional floodplain as determined by SEPA's 1 in 200-year flood extent. Having visited site it is clear that the risk from Loch Earn itself and also from the Beich Burn need to be determine via a Flood Risk Assessment (FRA).

*Response dated 22 May 2013 following submission of the FRA and revised layout:*

**No objection, subject to the following:**

1. The works be carried out in accordance with the revised drawing P01 submitted in April,
2. FFLs to be set no lower than 99.5m AOD providing 600mm freeboard above the 200 year flood level of 98.9 provided by the applicant,
3. No land-raising should take place within the functional floodplain

#### **Transport Scotland - Trunk Road Network (Glasgow)**

**No objection subject to the following conditions that visibility splays be provided and maintained on each side of the access:**

These splays are the triangles of ground bounded on 2 sides by the first 4.5 metres of the centreline of the access driveway (the set back dimension) and the nearside trunk road carriageway measured 215

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metres (the y dimension) in both directions from the intersection of the access with the trunk road. In a vertical plane, nothing shall obscure visibility measured from a driver's eye height of between 1.05 metres and 2.00 metres positioned at the set back dimension to an object height of between 0.26 metres and 1.05 metres anywhere along the y dimension.

**Stirling Council - Roads**

*Comments received in relation to the previous planning application ref: 2008/0237/DET*

**No objection, as the applicant proposes using the existing established site access.**

**Stirling Council – Environmental Health**

*Contaminated land:* Based on a review of historic maps and a site visit, no concerns regarding this development.

*Noise:* The nature of the proposed development in this location should not result in any adverse noise impact.

**5. Summary of Representations**

No representations received.

**6. Summary of Supporting Information**

A Flood Risk Assessment was submitted in support of the original planning application – this FRA was conducted by MNV Consulting (dated January 2013). This report includes the following:

- Photographic survey
- Topographic survey of the development site, the Beich Burn channel, banks and floodplain, Bridge of Beich and other relevant infrastructure
- Augmentation of topographic survey with Digital Terrain Model of the wider area
- Review of existing flood risk information for the site
- Flood frequency estimation and verification for the Beich Burn, including an appropriate adjustment for climate change
- Construction of a hydraulic model to estimate the extent of the 'functional floodplain' at the study site (based on a theoretical flood with a return period of 1 in 200 years flood, including climate change)
- Sensitivity testing to determine how well the model represents the flood dynamics of the site
- Scenario testing to ascertain the potential impacts of both separate and combined flooding in the burn and in the loch, and the potential impact of a blockage in Bridge of Beich
- Presentation of inundation maps for the site, in relation to the proposed development site
- Recommendations for appropriate final floor levels, including appropriate safety margins
- Recommendations for land raising / compensatory flood storage requirements

The FRA concludes that:

- This Flood Risk Assessment is considered to provide the most accurate flood level estimates for the development site to date.
- A hydraulic model of the Beich Burn was set up using up-to-date topographic and hydrological information, and a comprehensive range of scenarios has been tested to assess flood risk at this location from both the Beich Burn and Loch Earn. A conservative approach has been taken, and uncertainties have been accounted for through sensitivity analysis, bridge blockage scenarios, and allowances for climate change.
- The proposed development site lies within the functional floodplain, and is flooded by water in the burn and loch, during both individual and combined flood scenarios.
- To avoid flood risk to temporary residents, it is recommended that the plots are relocated outwith the functional floodplain in the first instance, or if this is not possible, the land under the plots should be raised to a safe level above the design flood levels. To accord with Scottish Planning Policy, any landraising within the flood envelope should be offset by appropriate compensatory flood storage, which should be designed on the basis of an extended analysis whereby the hydrological impact of various landscape designs can be thoroughly tested.
- Routine maintenance of the bankside vegetation and woody debris in the channel is

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recommended to minimise the flood risk associated with bridge blockage, which may compromise safe access and egress to the site.

The recommendations in the FRA resulted in the applicant re-positioning the new stances to lie outwith the *flood scenario 3*.

## 7. Planning Assessment

### **Principle of Development**

Policy TOUR3 of the National Park Local Plan supports proposals which enhance and improve existing tourism developments, including appropriate small-scale expansion. It is considered that the existence of the Caravan Club Site and the Fishing and Boat Hire business can be taken as an existing tourism use and therefore it is concluded that the principle of this proposal is supported by Policy TOUR3 of the National Park Local Plan. Furthermore, the use of the site as a touring caravan site could help alleviate some of the visitor management pressures experienced from wild camping/campervans along the north and south shoreline of Lochearnhead.

### **Landscape**

Due to the proposed location of the new stances and the existence of good tree cover along the lochside edge of the larger site, the proposal (at the size currently proposed) does not raise any significant issues regarding landscape or visual impact. If the application was to be supported, further consideration should be given to some additional screen planting to strengthen the northern boundary of the site and thus assist in screening the new touring stances from the roadside public viewpoint. Overall, the current application does not raise any significant issues with respect to the aims of Policy L1 of the National Park Local Plan.

### **Access**

Subject to the application of Transport Scotland's recommended conditions on visibility splays, the proposal would comply with Policy TRAN3 of the National Park Local Plan.

### **Flood Risk**

As the site and proposal is located within the 1 in 200 year flood risk zone, a full assessment of the suitability of the site for development, in relation to flood risk, is the main point of consideration in the assessment of this application

### **Policy Background**

Scottish Planning Policy (SPP) is a statement of Scottish Government policy on land use planning. It states that for planning purposes the functional flood plain will generally have a greater than 0.5% (1:200) probability of flooding in any year. Built development should only take place on functional flood plains where it will not affect the ability of the flood plain to store and convey water, where the development will not be at risk of flooding and where the development will not increase the risk of flooding elsewhere. In undeveloped and sparsely developed areas (such as this site location), medium to high risk areas are generally not suitable for additional development. The Risk Framework in the Scottish Planning Policy (para. 204) goes on to state that new caravan and camping sites should not be located in these areas. Therefore, in principal, the proposed development would be contrary to Scottish Government flooding policy outlined within Scottish Planning Policy. Unless the submitted Flood Risk Assessment and/or mitigation solutions presented were to satisfy SEPA and the planning authority that the application should be refused on this basis.

Policy ENV16 of the National Park Local Plan, states that:

*"New development on undeveloped or sparsely developed functional floodplain will not be supported, unless it is demonstrated that the proposed development complies with the Risk Framework as defined in Scottish Planning Policy. Development in the National Park will not normally be permitted in areas that are:*

- a) outwith existing settlements and that have been identified as medium to high flood risk on SEPA's flood map or in areas known to flood frequently that have not been identified by SEPA unless:*
  - i. the location is essential for operational purposes such as navigation and waterbased recreation uses, agriculture, transport or utilities infrastructure;*

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- ii. an alternative lower risk location is not physically available; and  
iii. a flood risk assessment in compliance with (b) i, ii, iii, and approved by the relevant flooding authority can demonstrate that the risk can be mitigated;

Therefore, in principal, the proposed development would be contrary to this policy as the site is located within the functional flood plain and the proposed development does not accord with the SPP Risk Framework, as referred to previously. Unless the submitted Flood Risk Assessment and/or mitigation solutions presented were to satisfy SEPA and the planning authority that the application should be refused on this basis.

#### Flood Risk Assessment

Due to the site being situated within a flood risk area, the applicant submitted a Flood Risk Assessment report in support of the application. This has been considered and assessed by SEPA and their conclusions are as follows:

- SEPA are of the opinion that the site is at significant risk from flooding – with the highest risk to buildings and persons being from a flood event occurring on the Beich Burn;
- If a flood event was to occur on the Beich Burn, the submitted FRA concludes that the flood water would overtop the A83 and flow down the site entrance, thus blocking the site entrance and egress from the site.
- Due to the nature of this risk, it is determined that no suitable evacuation or risk management measures could be put in place to offer an acceptable level of protection.

SEPA has objected to the principle of the proposed change of use on the grounds that it may place buildings and persons at flood risk contrary to Scottish Planning Policy and PAN69. Given the location of the proposed development within the undeveloped/sparsely developed functional floodplain they do not consider that it meets with the requirements of Scottish Planning Policy. In providing this advice they have acknowledged the history of camping within the site

Assessing SEPA's stance, the guidance contained in Scottish Planning Policy, and Policy ENV16 of the National Park Local Plan, it is deemed that the application cannot be approved. SEPA have stated that a decision to approve, contrary to SEPA's advice, would require to be notified to Scottish Ministers. However, a recent planning case in the National Park (2013/0008/DET – Camping and motor homes parking at Loch Lubnaig North) has highlighted that this may not always be the case. Specifically, advice was provided by Scottish Government that only cases which result in "a material increase in the number of buildings at risk of being damaged by flooding" should be notified to Ministers (ref: *The Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 & Article 15(1)(h)(i) of the Town and Country Planning (General Development Procedure (Scotland) Order 1992 (as amended)*). This proposal is for caravans, not buildings; therefore, although this has no bearing on this planning recommendation, it highlights that, in the event that the planning authority were to proceed with a recommendation for approval on this case regardless of SEPA's advice, this recommendation may not require to be referred to Scottish Ministers.

#### Alternative Options

A considerable length of time has been given to the applicant during the planning application process to find an alternative solution to this matter. The results of the FRA have brought about a re-positioning of the stances and the reduction in number of stances to avoid *flood scenario 3* (detailed in the FRA). In addition, the FRA recommends that routine maintenance of the bankside vegetation and woody debris in the Beich Burn channel be carried out to minimise the flood risk associated with bridge blockage, which may compromise safe access and egress to the site.

No alternative acceptable solution has been identified by the applicant's agents. It is considered that a solution to remove/reduce the risk posed by a flood event from the Beich Burn would be the particular area for focus in any revised application.

SEPA have concluded that the measures recommended in the FRA are not sufficient to avoid risk of flooding and that any additional risk management measures (such as closing the site during periods of high rainfall and/or site evacuation measures) would not be acceptable given the risk posed by the Beich Burn: namely, the short notice of a flood event occurring and also the potential blockage of the entrance/exit of the site.

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### Conclusions

It is considered that, for the Authority to be able to fully support this, or any future application for this same proposal a positive Flood Risk Assessment and/or mitigation solutions to the flooding issue must be forthcoming to ensure that all regulatory bodies are satisfied at the outset. This is not the case at present.

Therefore, the principal of this development must therefore be assessed as it stands against the policy guidance contained in Policy ENV16 of the adopted National Park Local Plan and the Scottish Planning Policy on Flooding. Therefore, due to the outstanding objection from SEPA and concerns of the planning authority, it is recommended that the risk is such that there is no other option but to refuse this application.

Furthermore, there is a risk, that by recommending approval for this proposal, an undesirable precedent would be set for a further expansion of this site, or indeed similar proposals on other site locations that are also within the 1 in 200 year flood areas.

As discussed above; if this planning application was to be recommended for approval, contrary to SEPA's advice, the application may have to be referred to Scottish Ministers as per the requirements of The Town and Country Planning (Notification of Applications) (Scotland) Direction 2009.

Having been advised of the likely outcome of this case, the applicant confirmed that they did not wish to withdraw the application and requested that it be determined as it stands.

*(Additional note: if permission was to be approved, the applicant would require a separate licence from Stirling Council Environmental Health under the Caravan Sites and Control of Development Act 1960. In addition, any new private water supply for the premises would require to comply with the Private Water Supplies (Scotland) Regulations 2006.)*

### **Recommendation:**

Refuse

### **Reasons for Refusal:**

The applicant has failed to satisfy SEPA, or the Planning Authority, that the issue of flooding on the application site and resultant risk to property and life can be adequately addressed or mitigated by acceptable solutions, as required by this authority and by SEPA. Therefore, the proposal is contrary to Scottish Planning Policy (Flooding section), and Policy ENV16 of the adopted National Park Local Plan 2010-2015.

### **List of Plans**

The plans to which this decision relates are listed below:

<b>Title</b>	<b>Reference</b>	<b>Date on Plan*</b>	<b>Date Received</b>
Location Plan	LOC-1		17/05/12
Site Plan Existing	3120-13-03		14/05/13
Site Plan Proposed	3558 P01B		19/09/13

\*Where no specific day of month has been provided on the plan, the system defaults to the 1<sup>st</sup> of the month.

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Signed: Craig Jardine  
Development Management Planner

Dated: 23/09/13

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# Decision Notice

Drummond Estates  
c/o James Denholm Partnership  
11 Dunira Street  
Comrie  
PH6 2LJ



APPLICATION NUMBER 2012/0145/DET

## *Refusal of Planning Permission*

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This decision notice is issued under the Town and Country Planning (Scotland) Act 1997, as amended. It should be read together with the official plans. If any details differ then the decision notice takes priority.

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### **Description of the proposed development:**

Change of use of land, comprising an existing Caravan Club site (5no. stances) and adjacent land, to form a holiday touring caravan site comprising 9no. stances; and formation of internal access road and parking.

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### **Location of the proposed development:**

Drummond Fish Farm, Lochearnhead, FK19 8PZ,

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### **The National Park Authority's reason for refusal is:**

The applicant has failed to satisfy SEPA, or the Planning Authority, that the issue of flooding on the application site and resultant risk to property and life can be adequately addressed or mitigated by acceptable solutions, as required by this authority and by SEPA. Therefore, the proposal is contrary to Scottish Planning Policy (Flooding section), and Policy ENV16 of the adopted National Park Local Plan 2010-2015.

## Plans and Documents

The plans and documents to which this decision relates are listed below:

Title	Reference	Date Received
Location Plan	LOC-1	17/05/12
Existing Site Plan	3120-13-03	14/05/13
Proposed Site Plan	3558 P01B	19/09/13

The plans are available to download on the National Park's Online Planning Portal by following the link below:

<http://eplanning.lochlomond-trossachs.org/OnlinePlanning/applicationDetails.do?activeTab=documents&keyVal=M44F2NSIA9000>

If you have any problems downloading the plans then please contact the Planning Information Officer on 01389 722 024 or email [planning@lochlomond-trossachs.org](mailto:planning@lochlomond-trossachs.org).

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**Director of Operations**

**Date:** 30 October 2013

## GUIDANCE

This guidance forms part of your Decision Notice. Should you have a specific enquiry regarding this decision please contact the planning officer, Craig Jardine on 01389 722020. If you have an enquiry on a procedural matter please contact the Planning Information Officer on 01389 722 024 or email [planning@lochlomond-trossachs.org](mailto:planning@lochlomond-trossachs.org).

### Rights of Appeal or Review

If you, the applicant, are aggrieved by the decision of the planning authority to refuse permission in respect of the proposed development, you may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 within **three months** from the date on this decision notice. The notice of review should be addressed to:

Local Review Body  
Loch Lomond and The Trossachs National Park Authority  
Carrochan  
Carrochan Road  
Balloch  
G83 8EG

Reviews can also be submitted online. You must apply using the Notice of Review Form which can be found at [www.eplanning.scotland.gov.uk](http://www.eplanning.scotland.gov.uk).

If you have any queries or would like a hard copy of the form sent out then please phone the Planning Information Officer on 01389 722 024 or email [planning.reviews@lochlomond-trossachs.org](mailto:planning.reviews@lochlomond-trossachs.org).

Following submission of the Notice of Review Form, you will receive an acknowledgement letter informing you of the date on which the Local Review Body will consider the case.

### Additional Note

If permission to develop land is refused or granted subject to conditions, whether by the planning authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the planning authority a purchase notice requiring the purchase of the owners of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

