

LOCH LOMOND AND THE TROSSACHS NATIONAL PARK AUTHORITY

MINUTE OF PLANNING & ACCESS COMMITTEE MEETING NPA/PC/11/2013

JOHN MUIR SUITE, CARROCHAN, CARROCHAN ROAD, BALLOCH
AT 13:00 ON THE 16th DECEMBER 2013

Present: Owen McKee (Chairman)
David McCowan
Willie Nisbet
David Warnock
Colin Bayes
George Freeman
Fergus Wood

In Attendance: Gordon Watson, Director of Operations
Iain Nicolson, Head of Planning
Bob Cook, Development and Implementation Manager
Vivien Emery, Planning Officer
Erin Goldie, Planning Officer
Jack McGowan, Planning Officer
Fiona Stewart, Natural Heritage Planning Officer
Peter Stevenson, Proper Officer
Kenny Auld, Access & Recreation Adviser (part)

The Chairman opened the meeting and welcomed those present.

1. Apologies

Apologies were received from Petra Biberbach, David McKenzie and Kate Sankey.

2. Declaration of Interests

No Interests were declared by Members.

3. Minutes of Previous Meeting

It was agreed that the draft minutes of the meeting on 21st October were an accurate record of the meeting. They were proposed for adoption by Willie Nisbet and this was seconded by George Freeman.

4. NPA/PC/11/2013/01 – Matters Arising

Peter Stevenson introduced the report, noting that it was being presented in a new format. He asked Bob Cook to speak to the one item highlighted within the report, which related to potential planning enforcement issues at a site in Rowardennan. Bob Cook confirmed that the development management team

were presently in discussions with the landowner relating to other works on site and that the outstanding issues would be addressed at the same time.

5. NPA/PC/11/2013/02 – 2013/0244/DET – Land to East of Old Luss Road and to West of Ben Lomond Way, Balloch – erection of restaurant / bar / hotel & associated development

Bob Cook introduced the report, noting that Jack McGowan had been the planning officer in respect of that case and would also be available to answer any questions that Members may have.

He confirmed that the proposal was a departure from the current local plan, and that there had been some local objection. Accordingly the Committee was being asked to determine the application.

He clarified that the site has been used as a compound during the construction of Loch Lomond Shores. He presented slides and photomontages indicating the layout and elevations of the proposed development. He confirmed that none of the technical consultees had objected to the proposal and that Balloch & Haldane Community Council had written in support of the application. He clarified however that 15 individuals had written in opposition of the application, and a 51-signature petition had been received which also opposed the application.

He highlighted that the site had been allocated for housing, however that a departure could be justified if the development would mean the aims of the National Park Partnership Plan and the Local Plan. He outlined the view that the application would be justifiable on the basis it would be a sustainable tourism development and build on the existing tourism provision at Loch Lomond Shores. He also confirmed that there was sufficient land available for housing elsewhere in Balloch. He noted that the Roads Authority had no objection to the proposal, and on that basis it was compliant with policies TRAN3 and TRAN6. He clarified that some local residents had raised concerns about noise levels, and that Environmental Health had recommended further investigation of this issue if the application were to be approved.

Members queried the methodology of the existing noise assessment. Bob Cook confirmed that measurements had been taken from the site boundaries. Members noted potential noise issues if a beer garden were to put in place. Bob Cook clarified that this would be controlled by West Dunbartonshire Council as licensing authority.

Members queried whether the development would be of a similar scale to neighbouring buildings. Bob Cook confirmed that there was some variety in building sizes within the area, however that the proposed development would be of similar size to the closest neighbouring property.

Members noted that road safety could be an issue. Bob Cook re-affirmed that the Roads Authority had not raised any concerns and that potential alternative road layouts within the site had not been developed on this basis.

Members sought confirmation that the Community Council had supported the application. Bob Cook confirmed that this was the case.

The Chairman invited Scott MacKay of MacKay Planning to address the Committee on behalf of the applicant. Mr. MacKay confirmed that the application had been 18 months in the making, with a number of pre-application meetings taking place with relevant parties including the Roads Authority. He provided some information about Marstons PLC, the applicant, and noted that the development would require investment of up to £5,000,000 and would create 27 full-time and 30 part-time jobs. He clarified that although the landowner, Scottish Enterprise, had originally sought that the site would be used for housing, they too were supportive of the current proposal. He confirmed that an additional noise survey would be carried out, specifically looking at noise impacts from plant within the site.

Members queried how the applicant planned to ensure a consistent ground level within the site. Scott MacKay noted that there would be some infilling using material brought in to the site from elsewhere.

Members asked for information about alternative road schemes, including one-way systems and access from Ben Lomond Way. Scott MacKay noted that access from Ben Lomond Way had been considered but discounted on the basis that Ben Lomond Way is a much busier road.

Members queried whether the operators intended to market to coach parties. Scott MacKay advised that the hotel would be open to anyone but that coach parties were not specifically being planned for.

The Chairman thanked Scott MacKay for his presentation.

Members sought further information on potential alternatives to the planned access to the site. Bob Cook reiterated that the Roads Authority had not raised concerns with the proposal so alternatives had not been investigated.

Following some concern being expressed by audience members about lack of consultation and lack of opportunity to address the Committee, the Chairman outlined the process being followed and clarified that presentations would only be accepted from individuals who had submitted a public participation form. Bob Cook confirmed that the usual processes had been carried out in relation to public consultation in respect of the application and advised aggrieved members of the public to discuss the matter with their Community Council.

The Chairman asked Members to indicate their agreement with the recommendation or propose amendments as they saw fit. Members approved the application by majority decision. Willie Nisbet abstained from the decision.

DECISION: Members approved the application subject to the conditions outlined in Appendix 1 of the report.

The Chairman adjourned the meeting for ten minutes to allow members of the public to depart.

6. NPA/PC/11/2013/03 – 2013/0121/DET – Glen Luss, Luss – Construction of run of river hydro power scheme (2,000kw)

Vivien Emery introduced the application, noting that Fiona Stewart was in attendance and would also be able to answer questions from Members. She

confirmed that Luss & Arden Community Council had given qualified support to the proposal.

She advised that the development site was adjacent to the Loch Lomond Woods Special Area of Conservation ("SAC"). The development would require the installation of 5½km of pipeline with some temporary and permanent tracks. She noted that the nature of the woodland differed in several areas, and that some felling would be required in the larger wooded areas, impacting upon mature Oak and Birch trees. SNH had advised that there would be an impact on the SAC however had since withdrawn their objection. She confirmed that a wayleave would be likely along the pipeline; however that work had been carried out with the developer to mitigate impacts on the ancient woodland. She clarified that floating tracks or boardwalk would be used for access to various parts of the site to minimise impacts. She confirmed that Fiona Stewart had advised the proposal was consistent with the natural heritage elements of the Local Plan; however particular attention would be required to impacts on fish spawning and the impact of tree removal from the top of nearby hills. She highlighted that the track construction was likely to have the most noticeable permanent impacts, but that this would also be mitigated as far as possible. She advised that the powerhouse and pipe intakes were unlikely to increase the perception of development. She noted that an objection from the Community Council and Glen Luss Residents Association had been removed subject to agreement with the developer that heavy vehicles would use a temporary track to access the site rather than the Glen Luss Road.

Members queried the width of any wayleave. Vivien Emery noted that 2m directly above the pipe would have no vegetation at all, and that 2m either side of that would have only smaller trees and shrubs. Members sought assurances that this would not result in the failure of the tree canopy. Vivien Emery confirmed that the canopy should re-close.

Members queried whether fish spawning would be monitored on an ongoing basis. Vivien Emery confirmed that this would happen, and that the applicant would have to apply to SEPA to amend its CAR licence if it wanted to reduce the level of pipe closedown.

The Chairman invited Simon Miller, representing the applicant, to present to the Committee. Simon Miller noted that Luss Estates Company were equally concerned with safeguarding the countryside, but that to do so the Estate needed to be a viable business. He confirmed that a nearby hydropower development operated by the Estate also ran near to a SAC and Site of Special Scientific Interest and with ecological points having been addressed this development was an invaluable income stream for the Estate.

Members queried whether grazing stock would impact upon woodland regeneration. Simon Miller responded that stock fencing would be installed or repaired as part of the implementation of a woodland management plan.

The Chairman thanked Simon Miller for his presentation.

The Chairman asked Members to indicate their agreement with the recommendation or propose amendments as they saw fit. Members unanimously approved the application.

DECISION: Members **approved** the application subject to the imposition of the conditions set out in Appendix 1 of the report and the imposition of a legal agreement based on the terms set out in Appendix 2 of the report.

7. NPA/PC/11/2013/04 – 2013/0120/DET – Donich Water, Inveronich, Lochgoilhead – Construction of run of river hydro power scheme (1,350kw)

Erin Goldie introduced the report. She confirmed that sixteen representations had been received, 11 from objectors and 5 from supporters. She added that a 23-signature petition had been received from supporters of the application. She commented that both the Community Council and local Residents Association had objected to the proposal.

She noted that proposed pipeline would run through an area of forestry, and in places would be housed by an existing ditch. She noted that the route avoided a nearby area of ancient woodland. She confirmed that the geography of the site restricts the pipeline route. She added that the pipeline corridor would vary in width along its route, but that the width of access tracks would not exceed 3.5m. She clarified that the route is a popular walk and the works would result in its closure for three months. She identified that a risk management plan would be required to remedy potential instability in the hillside above the pipeline. She noted that the applicant would pay for remedial works to the access road to Inveronich.

Members queried whether anything could be added to the narrated response from Scottish Water. Erin Goldie confirmed that Scottish Water were happy that the quality of water would be maintained.

Members queried whether the ditch, which will house part of the pipeline, currently served any purpose. Erin Goldie confirmed she was not aware of any existing purpose, however on the basis that the adjacent walking route was important within the Park it was vital that impacts of the pipeline be carefully monitored.

Members queried whether there was a risk of landslides during or post-construction. Erin Goldie confirmed that the developer's engineers would be responsible for securing the site during construction and demonstrating how the site would be managed post-construction.

Members queried the timeframe for felling of the commercial timber. Erin Goldie confirmed that the forestry was within Forestry Commission Scotland's ten year plan for the area.

Members asked whether nearby properties would be affected by noise issues. Erin Goldie highlighted that the nearest property to the powerhouse was 60m away and that Environmental Health had provided a condition to ensure residents were not affected. She noted that if the proposed mitigation was not sufficient, the developer would be able to do more to insulate sound.

Members queried whether the development would impact upon the Donich Waterfall, fish spawning or red squirrels. Erin Goldie assured Members that the Waterfall would not be impacted by the intake, that fish spawning was unlikely within particular areas as the waterfall itself acted as a barrier, and

that robust conditions would be put in place to protect the healthy population of red squirrels in the vicinity.

The Chairman invited Ewan Hardy, representing Lochgoilhead Community Council, to present to the Committee. Mr. Hardy confirmed that the Community Council had registered an objection to the application and that he felt there had been a lack of consultation in respect of the application within the village. He noted that local residents were confused about details of the application and that some former supporters of the proposal were now in fact objectors. He confirmed that in his view there would be impacts upon the Donich Waterfall, and that the Authority had a duty to preserve the landscape.

Members asked how many residents lived in the Inveronich area. Erin Goldie confirmed that there were two residential properties within the Inveronich group of buildings.

Members asked why the Community Council opposed the application whilst the Community Development Trust supported it. Ewan Hardy confirmed this was the case and that it was a regrettable position.

Members asked whether squirrel dreys would be affected by tree felling. Fiona Stewart confirmed that if there was any possibility of this, the trees in question could not be felled.

Members asked how the Community Council had sought the views of the community. Ewan Hardy confirmed that he was sure the Community Council's position had the support of the majority of the community.

The Chairman thanked Ewan Hardy for his presentation and invited Joseph Murray, representing various groups and several other members of the public who had submitted participation forms, to present to the Committee. Mr. Murray provided the Committee with a document which outlined his position in relation to the development and asked the Committee to note that a CARs licence was still to be issued by SEPA, and that the developer's own literature confirmed that a length of the river would be left with severely reduced flows as a result of the development. He confirmed that other possible routes existed which would have less impact on the natural heritage of the area. He affirmed his view that the proposal was in breach of policy ENV1.

Members noted that Mr. Murray had supplied his own evidence which contradicted the planning report, and asked for clarity as to which account was correct. Gordon Watson noted that a CARs licence was not required at this stage of the application. Colin Bayes noted that the licence was designed to protect ecology rather than landscape. Gordon Watson added that an acceptable minimum flow would be maintained. Erin Goldie highlighted that SEPA would assess the minimum acceptable flow during the CARs application. She added that SEPA had indicated they would be minded to grant a licence but that this case may be referred to the Scottish Ministers for approval. Joseph Murray suggested that fish spawning would be directly affected by the development as fish would be attracted by the stronger current of the tailrace, and that this would result in 40% of fish spawning grounds being lost.

Members asked Mr. Murray for his view on the noise impacts of the tailrace and powerhouse. He suggested that the nearest property boundary was only

15m from the tailrace, and that the developer would require a 20 decibel drop for the development to comply with conditions.

The Chairman thanked Mr. Murray for his presentation.

Members highlighted concern about the flow of the river. David Warnock proposed that the determination of the application be deferred to allow a site visit to take place. Fergus Wood seconded this proposal. Gordon Watson noted that the impact on landscape would require to be quantified, as to whether there was an issue with the development at times of normal or peak flow. The Chairman adjourned the meeting briefly to allow officers to confirm the additional information which would be required. When the meeting recommenced, Gordon Watson confirmed that Members had been provided with high and low flow information, so the additional information required would be around medium flow conditions. He noted that the applicant was happy to provide this but it would depend on appropriate weather conditions.

DECISION: Members deferred the determination of the application pending submission of information about medium water flow in the watercourse, and pending a site visit by the Committee to be arranged at a future date.

8. NPA/PC/11/2013/05 – 2013/0002/DET – Balmaha Road, Drymen – recent appeal update

Bob Cook introduced the report and explained that the appeal related to the proposed construction of a house in Drymen, refused contrary to the officer's recommendation on the basis of the impact on car parking allocation in the village. He advised that the Reporter appointed by the Scottish Ministers had upheld the appeal and found that housing policies took precedence in this case. He clarified that particular information had been sought relating to the Authority's obligations under the Equalities Act 2010, but that the Authority's response had satisfied this concern.

Members highlighted a wider issue in that Drymen no longer had a Community Council and suggested that Planning Aid Scotland could be asked to advise the community on representation with the NPA facilitating. Iain Nicolson agreed that the lack of a Community Council was an issue and that he would raise this point with Stirling Council to see what action Stirling Council were taking to re-establish the Community Council.

ACTION: Iain Nicolson to speak with Local Authority partners in relation to Community Councils.

DECISION: Members noted the report.

9. NPA/PC/11/2013/06 – 2010/0011/ENF – The Pass, Aberfoyle – recent appeal decision

Bob Cook introduced the report and advised that a Reporter appointed by the Scottish Ministers had dismissed an appeal relating to the refusal to grant planning permission for the installation of glass-fronted stoves in open fireplaces within a Category B listed building.

DECISION: Members noted the report

10. A.O.B.

Members noted public unhappiness during the discussion of agenda item 5 and sought confirmation over public representation. Bob Cook noted that objectors had contacted the Authority but had done so outwith the required timeframe for submitting public participation forms.

Kenny Auld entered the meeting and provided Members an update on access enforcement action at Drumlean Estate near Aberfoyle. He confirmed that a court hearing would take place on the 14th January. David Warnock advised that the Local Access Forum had been apprised of the situation and had supported the taking of enforcement action.

11. Date of next meeting

The next meeting of the Planning & Access Committee will take place on the 27th January 2014.

Signed _____

O. McKee, Chairman