

Special Meeting of KCC

Endrick Mouth National Nature Reserve

Monday 7th January 2019 at 7.30pm

Kilmaronock Millennium Hall

1) Sederunt

Committee : Gavin MacLellan (GM/Chair), Andrew Sinnott (AS/Trs), Jim Morrison (JM/Vice chair), David Scott-Park (DSP), Sarah Guy (SG) & Ivan Mavor (IM)
Councillor Sally Page (SP)
MSP Jackie Baillie (JB)
MSP Maurice Corry
Scottish Natural Heritage : Ian Bray and Gavin Johnson
Loch Lomond Fisheries Trust : Malcolm MacCormick
Loch Lomond Association : Peter and Mary Jack
Kilmaronock Community Trust : Steve Macken and Janet Beveridge

plus

15 members of the community

The meeting was chaired by Gavin MacLellan

2) Presentation from SNH

Ian Bray of SNH kicked off the evening with an overview of [SNH](#) role and objectives.

These included making Scotland a world leader in biodiversity with more people enjoying and benefiting from nature. This is linked to health and wellbeing. SNH are also charged with increasing investment in nature towards these objectives.

For that, partnerships are formed including government, landowners and communities.

SNH are a non-department government body ([NDGB](#)) but have a close role with government in advising them in aspects of natural resources.

Gavin Johnson then took over to give a brief of the official designations and where Endrick Mouth NNR fits in with those.

Sites of Special Scientific Interest

SSSI covers flora, fauna, geology, geomorphology and more

Endrick Mouth exhibits 9 designated features relating to an SSSI
Endrick Water has 5 designated features

For the protection and management of SSSI's SNH must be informed of any works in order to coordinate on control.

Special Protection Areas

An EU designation for rare bird species. Applies to Endrick Mouth same area as SSSI covers as bird species are part of the 9 designated features of the SSSI.

Special Areas of Conservation

Also an EU designation for habitats and species (as opposed to birds as above)

Endrick Water has 3 qualifying interests.

Habitat Regulations Appraisal

Highest level of protection for designated sites.

Used for site management, assessments of any effect on habitats and whether the effects are adverse or not.

National Nature Reserves

Managed designated sites for people to enjoy wildlife experiences.

Management plans are required for such sites.

RAMSAR

Applicable to wetlands habitats

3) Q&A with KCC

EU Habitat Directive

GJ & IB explained that there are two bits of EU legislation, a habitats directive and a birds directive. The Scottish government was required to provide a series of sites throughout Scotland for protection of species of birds and habitats.

These have the highest levels of protection in Scottish law.

Endrick Mouth SAC and SPA designations are covered by this directive due to the respective qualifying species.

Development management

As an SSSI, any development within the designated area has to be assessed for the impact on the, in this case 9, qualifying interests. This will be done during the planning application phase with the planning authority.

4) Q&A with general public

Responsibility

SNH were asked about how much of the area (NNR) they were responsible for.

SNH differentiated between SNH as a non-department government body and RSPB as an environmental charity. They have different resources and remits.

Development management

SNH difficult to comment on proposals that haven't been put in front of them. When proposals are made then the Applicant is responsible for assessing the impact and the Planning Authority to determine if those impacts are acceptable. The Planning Authority can seek advice but don't have to seek advice. It would be unusual for them not to though.

Others voiced that it is common sense that more visitors mean more negative effect against the environment. RSPB state a target to increase from 12,000 to 40,000 per year. The necessary infrastructure to support this most probably means more car parking and access roads and a probable visitor centre.

SNH re-iterated that they do not have a full or partial plan in front of them with a car park to comment on but for example if a plan for a car park impacted on a qualifying species then they would advise relocation.

The steps of the planning process were discussed and that any necessity for an Environmental Impact Assessment (EIA) will come up then if Planning Authority determines so.

In addition to comments on actual planning applications, SSSI owners are required to produce a Land Management Plan which covers general use of land that may not need planning permission – SNH review those with the landowner.

General concern was expressed by community members regarding incremental developments increasing overall impact bit by bit e.g. car parks, cafes, restaurants etc. not being assessed correctly due to the limited information available at each separate planning application not mentioning future development or expansion.

In the planning process, SNH only advise, that advice can be ignored but it is rare for a Planning Authority to go against SNH advice.

SNH themselves cannot directly refuse an application, only the Planning Authority can do that. SNH could recommend refusal under certain conditions relating to the directives. In such a case, the Planning Authority cannot then make a decision – it goes up to government or in certain circumstances EU.

National Parks

A discussion was had on where SNH stand on the founding principles of the NP

1. *To conserve and enhance the natural and cultural heritage of the area*
2. *To promote sustainable use of the natural resources of the area*
3. *To promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public*
4. *To promote sustainable economic and social development of the area's communities*

These aims are to be pursued collectively. However, if there is conflict between the first aim and any of the others then greater weight must be given to the first aim (section 9.6 of the National Parks (Scotland) Act). [Link.](#)

The Sandford principle decides the precedence in the case of conflicting circumstances

Since LLTNPA formation there is a public lack of trust in planning in the park as it appears that commercialisation is overtaking conservation as policy coming down from the government.

At this point MSP Jackie Baillie explained the central pillars of the legislation she helped to bring in at the time :

- Law is very clear – the 4 principles apply
- Sandford principle holds that if all matters are equal and there is an issue with conservation or the environment then that trumps the lot. Irrespective of who has said what and when – that is the law.

plus

- Summing up the present situation, we have an applicant (whether you like their proposals or not) who will submit their application to the NPA who are required in law to make a decision.
- SNH must be the honest brokers between applicants and planners in the planning process and act without favour. That role is critical.
- The widest impact should be assessed along with over-access and so the total project must be assessed as that is the biggest fear of the community that number of paths increase, numbers of visitors increase.

GM highlighted that EU law indicates that projects must be assessed as a whole.

SNH agreed and that piecemeal application is not a good way to go

- 1) The NPA should be asking for a complete plan which SNH can then assess
- 2) EU requires combinations of separate applications should be considered together not separately

While it is up to applicant – the Planning Authority must work with applicants – ask what overall intentions are for entire site if not forthcoming.

SP advised she has previously written to Stuart Mearns on just that topic.

Further discussion on piecemeal approach being undesirable and ways to try a more holistic approach.

MSP Jackie Baillie advised the KCC that the way forward to satisfy the concerns of those attending the meeting would be for the Planning Authority to request the Applicant to present a complete project plan for consultation and Approval.

MSP Jackie Baillie summarised further, highlighting that the NPA go through an extensive exercise consulting CC's etc to construct a Local Plan which is then used to control overall development.

Although the plan can be deviated from it takes significant effort to do so.

Like SP, JB wrote to NPA and SNH requesting that they look at this in its totality.

The hope is that the NPA and applicant will seek that bigger picture

What the public can do, when an application goes in, is write to NPA asking them to do just that.

Copy it to SNH

JB closed by advising that the Planning Authority would be daft not to listen to SNH and to ignore them would have consequences.

5) Chairman's Summary

GM - A holistic approach would solve everyone's concerns and help all parties, RSPB, NPA, SNH and the community in working together.

SNH – The NPA Local Development Plan captures visions for development with relation to the 4 statutory aims.

LLFT – Don't forget the water, the lower tributaries of the Endrick are key areas. Malcolm also warned about incremental development with an example from the last 3 months up the Endrick Valley – a windfarm, a trout farm and a hydro plant. All at different times, bit by bit by bit and slipped through SNH scrutiny.

GM - This reinforces that a holistic approach is essential.

GM closed the meeting at 9pm with a thank you to Ian & Gavin from SNH and all who attended.