

Special Meeting of KCC

Planning Application 2016/0126/DET

Monday 11<sup>th</sup> February 2019 at 7.30pm

Kilmaronock Millennium Hall

Present : KCC : Gavin MacLellan (GM), Neil MacGregor (NM), Andrew Sinnott (AS), David Scott-Park (DSP), Sarah Guy (SG) & Ivan Mavor (IM)

WDC : Councillor Sally Page (SP)

LLTNPA : Willie Nisbett attended but excused himself before the meeting commenced.

Loch Lomond Fisheries Trust : Malcolm MacCormick

RSPB : Paula Baker

plus 44 members of the community

Reference :

Minutes of Special meeting – August 2016

Letter KCC to LLNP August 2016

Meeting notes KCC/LLNP 1 Feb 2019

**Purpose of Meeting**

The meeting was called by KCC since a revised Application has been submitted in January 2019. KCC held a Public Meeting, including the Applicant, in summer 2016 resulting in a letter dated 15 August 2016 with eleven concerns to be addressed by the planning authority. KCC met with the planning authority on 4 February 2019 to get an update on each point raised.

The purpose of this meeting was to review each point from that letter (represented in italics below) relative to the Revised Application and the LLNP review process in order to understand progress on each point and the impact of the Revision.

At the Chairs introduction the Chairman confirmed there was no conflict of interest among the CCs present who were discussing the meeting subject (sitting at the meeting table).

1. Project business case.

*LLNP will review the headline business plan confidentially but this is not a major part of the assessment. KCC understand the Application is a holistic project plan. The LLNP will review the substance to this expectation.*

Community Discussion:

Scale of updated project is much bigger than the original and this should have been considered a NEW application not an ongoing one. Everyone would have been notified not just previous contributors.

KCC Summary

**Noted. To be discussed further under sections #2 & #8.**

## 2. National Park Plan.

*LLNP comment that there is no specific policy in the Plan document for this kind of project. Page 96 refers. No decision has been made as to the project being a "small" project which reflect sub section e). Note that "large" projects are normally considered to be major roads, power stations, public works etc.*

*(Page 96 refers to Visitor Experience Policy 1 of the Local Development Plan which differentiates between small, medium and large-scale proposals for visitor facilities, accommodation and infrastructure. This is different from local and major planning applications which the note of the meeting refers to, which are defined in the Planning etc. Scotland Act 2006 and The Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009.)*

Community Discussion:

The scale of the latest proposed development is of concern >2 hectares is defined as a **major** development.

Why have the planning authority not been able to determine the scale of the project already?

Seems clear to the community that it is a LARGE project.

KCC Summary :

**KCC to ask planning authority to comment on this definition and/or criteria as to what scale of development this is.**

## 3. National Park Aims

*KCC referred the LLNP to the aims of the National Park as understood by the Sandford principle. The LLNP will review the application using advice from SNH including an evaluation of significant environmental harm. Site is not graded as prime agricultural land.*

*(European Sites are Special Areas of Conservation (SACs) designated under the EC Habitats Directive to protect particular habitats and non-bird species and Special Protection Areas (SPAs) designated under the EC Birds Directive to protect wild birds. The EC Directive is applied in Scotland through the Conservation (Natural Habitats &c) Regulations 1994, which is known as the "Habitats Regulations". The Habitats Regulations require that: Where an authority concludes that a development proposal is likely to have a significant effect on a European site (SPA or SAC), it must undertake an appropriate assessment of its implications for the European site in view of the site's conservation objectives. An appropriate assessment will be undertaken in relation to this planning application in conjunction with advice from SNH.)*

Community Discussion :

Point raised about the assessment process and the order of reports and assessments being incorrect and therefore invalid.

EIA should be done and published before public consultation but has not. (cf. PAN 1/2013).

The Scoping Process has therefore been done in the absence of an EIA.

An Appropriate Assessment specific to SPA's has not yet been done.

SP – The direction of travel of the LLTNPA is of public concern – the environment coming second behind visitor attraction and residents having little say in the process.

SP also noted that the 2 yr Goose Survey was done by a non-subject matter expertise party. SNH do not have expertise either but other experts could be called upon by the planning authority e.g. Wildfowl Trust based in Dumfries or Greenland White Fronted Goose Association based in Denmark. This poses questions on what guides the qualification of the reporters making important reports needed for proper assessment?

This continuation of a previous application is apparently unusual – the normal process would be to stop the application then open a new one once all the requested documentation is submitted. This would ensure that a new consultation process was opened.

Delays – the request for a 2 year ornithology survey meant the survey concluded March 2018 and the report written in April 2018. However, it was not submitted until December 2018 i.e. a delay of 8 months with no explanation. This is an inappropriate delay to the process.

Normally decisions are determined within 4 months for major developments or 2 months for small scale developments.

KCC Summary :

**KCC to ask the planning authority to clarify the sequencing. Is there a defined sequence, did this application follow it and if not, what was the reason for deviation?**

**KCC to seek reassurance from LLTNPA (not just planning dept) on the upholding of the key principles, the precautionary approach and the weighting of them in order to apply the Sandford principle when aims conflict.**

**KCC to ask planning authority to comment on the length of the process, the delays and the reason for not opening a new case when the plans are so much changed from the original.**

**The quality of environmental reports will be revisited in section #6 and #11 below.**

#### 4. Road Access

*The project has changed to only require operational access using the existing Wards access road.*

*A field gate is shown on the drawings, for agricultural purposes. LLNP advised that the WDC Roads dept would be consulted and discussion as to the necessity with the Applicant.*

Community Discussion :

DSP clarified the changes to the plan regarding the access to be now via the existing main Wards entrance however, an additional field gate is still in the proposal to provide agricultural access. The planning authority are questioning the need for this with the applicant.

That field has not been maintained in agricultural use and there are several other gates into that field.

There will be an increase in traffic coming out of the estate at night with the lights causing issues to residents opposite and to oncoming traffic.

KCC Summary.

**Noted. WDC Roads dept ought to at least take the latter into consideration during their assessment.**

## 5. Property Position

*In 2016 there was significant concern from the owners of Laigh Raws, an adjoining property. LLNP advised that the owners had been in communication with them in connection with the development and its location (KCC not party to discussions). KCC understand the impact has been decreased but not eliminated by the relocation of buildings in the revised Application.*

### Community Discussion :

The owners of Laigh Raws clarified that there has not been any dialogue with the planning authority. They sent in their comments but have not had any communication back.

### KCC Summary

**KCC to ask planning authority to clarify the extent of neighbour consultation. Seems to be limited to notification and receipt of correspondence but no dialogue.**

## 6. Environmental impact

*Additional study reports have been provided and the buildings have been relocated. KCC are concerned specifically for the integrity of the National Nature Reserve.*

*LLNP will take advice in their assessment from SNH based on the reports submitted and a regulatory Habitats Assessment review will be made and available for public viewing.*

### Community Discussion :

Recently submitted report by SNH suggests it to be a small scale development.

The lack of publicly available Business Plan makes it impossible to determine the true usage figures.

The Drainage Report has statistics indicating up to 250 people on site. Plans for units indicate 8 double rooms implying 16 occupants (times two gives 32) so not clear why 60 is quoted in the Drainage Report. It would be useful to clarify the number of guests and staff on site before any environmental assessments are made.

SP – the boundary of Wards Estate on the application map does not include Wards Pond. In her written objection Sally has asked the planning authority to assess the plans for NNR as a whole including the RSPB plans with this development as well.

Regarding noise, the SNH report recognizes that the moving of the events to the new building will decrease noise levels from events, they do not seem to take into account the remaining use of the Wards Mansion for guest accommodation and associated parties that will remain at the house.

Another resident testified to the existing noise levels affecting his tourism business by way of guest complaints at his accommodation.

DSP brought up the issue of fireworks bans.

GM noise is a significant factor to the planners if it affects wildlife but not people.

People can complain but wildlife cannot. To whom can people complain on behalf of the wildlife. WDC Environmental Health say it is not them.

### KCC Summary :

**KCC support a holistic approach to NNR and use of the precautionary principle.**

**KCC will keep reiterating concerns over NNR and robustness of assessments and enforcement.**

**KCC to ascertain**

- **how infringements of light or noise levels for wildlife are measured and reported when an impact is suspected. For humans it is via local Environmental Health department. They can perform site visits and take measurements. What is the equivalent for wildlife?**
- **What enforcements are available and who would implement them, for humans it would be Police Scotland. What is the equivalent for wildlife?**

7. Environmental report from SEPA

*The Applicant has submitted additional reports following studies for sewerage waste disposal and the LLNP indicated that SEPA would be requesting more detail and currently hold an objection (letter dated 30 Jan19). KCC noted that the flows given in the reports were average flow where as the nature of the business would have significant peak flow multiples which would be more relevant.*

*LLNP advised that in addition to the Sewerage proposals there would be a requirement for a SUDS plan and that evidence of a provision for the equipment would be required in the Planning Assessment.*

*No reports from the Loch Lomond Angling Assoc.*

*No reports on SUDS or spillage control.*

Community Discussion :

Phosphorus limits are no longer applied.

Noted that there is no mention of swimming pools. Chlorine treatment. Other biotoxin build ups?

KCC Summary

**KCC await conclusion of SEPA requirements before further comment.**

8. Building Design

*The Revised plans show building with lower roof levels. The LLNP were uncertain as to the reasoning of the number of rooms in the manager's house and were to discuss with the Applicant. The buildings are to be timber clad with slate effect roofs. The main wedding facility building will replace the existing marquee and will improve containment of noise and light. (Measurement of the venue building is approximately 15m x 30m with additional space approx 15m x 17m)*

Community Discussion :

New plans for the accommodation units shown to have **higher** rooflines. Approx 1m. Essentially two storey, not single storey with roof space.

The venue building (Larder) was originally single storey in 2016, now two storey.

Manager's house gone from 3 bedroom to 7 bedroom and 5 car garage.

Has the planning authority looked at sound-proofing the venue building? How has the noise analysis been carried out – does it assume open doors, closed doors etc.?

General dis-satisfaction with assumptions on use affecting assessments e.g. on noise levels. Events considered but not general house party noise.

SP – does the new SNH report comment on the increased height of the buildings as this will have an effect on geese – for instance take off flight lines? Another reason for goose reports to be carried out by an expert on the topic.

KCC Summary :

**KCC to refer these matters to the planning authority for clarity on the increase in heights of properties and whether any adverse effects on geese as a result. The increase in size has more likelihood of project being classed a major development.**

#### 9. Sustainability

*This was discussed under Item 2 and 8 above.*

*The revised Application draws on experience of an existing business which has been in operation for over 5 years.*

*The LLNP advised that the assessment will consider any impact to wildlife and restrictions could be applied though only for wild life protection (not people).*

Community Discussion :

Why don't planners take account of effects on people's and particularly neighbours' quality of life?

Human rights acts etc mentioned.

People are important too.

No-one to speak for the wildlife.

Many complaints over the years would provide evidence of impact to quality of life.

KCC Summary :

**KCC to ask the planning authority to clarify why people/neighbours' quality of life is not considered to a higher degree.**

**KCC to suggest that the planning authority obtain statistics on the number of complaints received by WDC Environmental Health regarding noise levels from existing events.**

#### 10. Local benefit

*The LLNP assessment will consider the balance of benefit against impact.*

*LLNP advised that it would discuss in more detail with the Applicant.*

Community Discussion :

There is no scoring mechanism to do with number of jobs or input to the local economy in order to quantify the benefits.

If there is no scoring mechanism then surely community voices saying that the impact to the environment will vastly outweigh any benefit should be material.

KCC Summary

**See action point in section #3 above regarding weighing benefit vs impact. What benefit outweighs impact on a NNR with SSSI, SPA, SAC and RAMSAR designations?**

11. The next stage of Planning Application review

*There is no current fixed time table by the LLNP.*

*LLNP will Review together with dialogue with the Applicant, public, SNH and individuals. The Habitats Assessment review will be worked on and completed.*

*LLNP asked the KCC to pass the message that individual representations can be submitted at any time up to the Planning Committee meeting and that comments should refer to a specific planning issue.*

Community Discussion :

Planning norms are determination within 4 months of application for a major development which some see this is and 2 months for a small development.

KCC Summary

**KCC to ask the planning authority for clarity on scheduling and the setting of a date consistent with the norms mentioned above.**

**KCC to ask the planning authority to clarify what the outstanding issues are that are needed to make their decision.**

**KCC to ask planning authority to allow time between receiving all the documentation and making a decision to allow KCC to close out all actions above.**

**KCC to ask the planning authority what is the LLTNPA process or criteria for qualifying reports.**

12. AOB

Community Discussion :

DSP reminded the meeting of which documents are relevant to the planning authority's decision-making process.

Local Development Plan – LIVE Park and Visitor Experience – Planning Guide all available on LLTNPA website.

An out of date (2012-17) Tourist Strategy was referred to – perhaps we can confirm if it has been superseded and get the latest version as a guide.

GM read out an excerpt on the small project definition.

Visual amenity – Landscape Assessment – although prepared by a reputable Landscape Architect, there seems to be some errors in their reports e.g. references to Cairngorms, Glenmore, peat etc indicating a cut and paste job without proof reading. Neighbours question their methodology and source of information used to make the assessment. Visualisations impaired by foreground objects easily avoided. Location of visualisations should have been more relevant. Possibly using wrong plans to start with.

The closest property to the development is the RSPB house which is ignored in the assessments and ought to be included. Not on map, not in noise impact assessment.

Suggestion that KCC obtain the business plan using a FOI request.

Some submissions seem to have gone missing from the planning authority website – particularly a handwritten note from John Mitchell.

There is guidance on the LLTNPA website as to how to respond to planning applications with reference to things like residential amenity.

Due to the number of people in attendance, it was proposed a show of hands from the floor be made for those in favour and those against to allow KCC to demonstrate strength of feeling from the community. A show of hands from members of the audience was as follows :

2 abstentions (both non-resident of Kilmaronock)

36 against the proposal (all residents of Kilmaronock)

0 in favour

GM - KCC will welcome further input post-meeting and the coming days. Send any supporting evidence to the secretary. Anyone wanting the notes from our meeting with the planning authority please apply to the secretary.

SP – It should be supported that someone is willing to put so much of their money into a business development like this but it is a pity about the location in a special area so close to the NNR.

There was reiteration of the point about fear of future sale of the business and potential repurposing of the properties.

KCC Summary

**KCC to ask the planning authority to comment on the quality of the Landscape Assessment document.**

**KCC to ask the planning authority comment on strength of feeling within the community particularly neighbours against the proposal as demonstrated by tonight's show of hands.**

**KCC to ask the planning authority to provide a redacted Business Plan for public consumption.**

GM thanked all who attended and closed the meeting at 21:30

Checked by: NM,GM,SG,IM,AS,DS-P