

The Flamingo Land Planning Application and National Park policy

Description

There have been many objections to the Flamingo Land Planning Application but very little consideration given to how it fits with the policies set out in the Loch Lomond and Trossachs National Park Authority Local Development Plan (LDP). While politics are often a more important factor than plans in determining planning applications, the LDP is supposed to be the key document used to determine planning applications. In September I showed ([see here](#)) how significant parts of the Flamingo Land proposals are contrary to the land-uses which the LLTNPA had approved for different sites in Balloch in their LDP. Here, I will look at how the Flamingo Land proposals also contravene many of the LLTNPA's policies.

The nearest that Flamingo Land comes to setting out the case for its proposals at Balloch is in the Environmental Statement it commissioned from Peter Brett Associates. Interestingly that Report describes a major deficiency in the Park's LDP for Balloch (and, by implication, elsewhere):

Section 3 – Place

- 5.3.4 This section sets out a spatial strategy for the LLTNP area, including land use allocations for each defined settlement. The following land use allocations in Balloch are:
- Balloch VE1: West Riverside – allocated for visitor experience related uses. This allocation covers the eastern part of the site;
 - Balloch VE4: Woodbank House – allocated for visitor experience related uses. This allocation covers Woodbank House and attendant grounds within the site;
 - Balloch MU1: The Old Station – allocated for mixed use (visitor experience and other uses). This allocation is located immediately south east of the site.
- 5.3.5 No details are provided in Section 3 regarding development requirements for these LDP site allocations.

The deficiency is pinpointed in 5.3.5. The LLTNPA's land allocations say nothing about density of development, building height, building materials etc. Allocating land for Visitor Experience could mean anything and everything.

Near the beginning of the ES, a document 285 pages long, Peter Brett Associates set out the policy context. This includes the four statutory aims of the National Park, the Local Development Plan and the policies within it. After quoting from the LLTNPA's overarching policies set out in the LDP they go on to summarise (Table 5.1) 24 specific policies which they believe are relevant to the proposed development. This is a good start, even if you don't fully agree with the selection of policies that apply to the West Riverside and Woodbank House sites (there are 48 policies in all). However, there is then nowhere in the entire document where Flamingo Land's outline proposals are assessed against the

policies which are thought relevant. Indeed, there appears to be no document in the Planning Application where Flamingo Land and Scottish Enterprise, as applicants, attempt to explain HOW their proposals are compatible with LLTNPA policies.

All the ES does is provide an assessment of the degree of impact that various aspects of the development could have. In several cases this misses the point. If an aspect of the proposal is contrary to approved National Park policy, why even bother to assess its impact?

This flaw was exemplified in Flamingo Land's Transport Assessment, which was undertaken on basis that there would be more cars and car parking, despite the Park's policy commitment to sustainable transport ([see here](#)). Below I look at two further areas where the Planning Application contravenes Park policy before taking a wider look at which policies could have a significant impact on the application.

Open Space and the proposed Flamingo Land Development



The most important characteristic of the West Riverside Site, where a large chunk of the Flamingo

Land Development is proposed, is that its mostly open space. That is something valued by local people and visitors alike. When the idea of a walkway along the River Leven and an improved connection with Loch Lomond Shores was developed as part of the Balloch Charrette ([see here](#)), this was not because people wanted to get rid of the open space round about, it was because they wanted to enjoy it more. A walkway would give views across the River Leven to Balloch Country Park and be safer at night. Plonking lots of development at the back of the walkway – dozens of chalets are proposed – would totally change the experience. It would also severely restrict people’s ability to enjoy what is at present open space.

The LLTNPA has, to its credit, a very strong policy on protecting open space which is in line with Scottish Government policy:

Open Space Policy 2:

Protecting other Important open space

Development on formal and informal open space (both inside and outside of towns and villages) in public or private ownership will generally not be supported unless it can be demonstrated that:

- (a) The open space is not of community value and has no other multifunctional purposes such as cultural, historical, biodiversity or local amenity value; and*
- (b) An alternative high quality formal open space provision within a convenient distance and accessible location is provided; and*
- (c) The proposal complements the principal use of the site and will result in improved maintenance or enhancement of open space; and*
- (d) The proposal complements the nature conservation management of the site.*

The summary of this policy in the ES does not come across quite as strongly as the full version,

Open Space Policy 2 - Protecting Other Important Open Space

Sets out criteria to protect formal and informal open space. It requires the proponent to demonstrate that any affected open space is not of community value and has no other multifunctional purposes such as cultural, historical, biodiversity or local amenity value. It also requires an alternative provision and alignment with nature conservation management of the site.

The summary of the Open Space Policy in the ES

This is, however, in a sense irrelevant because the ES makes no attempt to assess the impact of the proposed development on Open Space. Instead section 14.8, entitled “Assessment of Tourism, Recreation and Access Potential Effects”:

“reviews the potential impact of the proposed development on tourism, recreational and access resources in the local area. Resources include visitor attractions, walking routes, rights of way, cycle routes, golf courses and fishing (i.e. lochs and rivers) present within the study area.”

There is no mention of open space. There is no evidence provided which establishes that the West Riverside Site is “not of community value” and has no other purpose as is required by the policy. Neither is there any attempt to show how 103 holiday lodges or a hotel and leisure complex blocking out the views across Loch Lomond will improve the existing open space.

The proposal also contravenes Open Space Policy 3 which states:

Where appropriate, development proposals will:

(a) Incorporate accessible multifunctional open space of the appropriate quantity and quality to meet the needs arising from the nature of the development itself; and

(b) Retain and maintain for the long term such open space.

Whatever the needs for open space are, of visitors staying in the hotel and other accommodation, we are not told.

In planning terms, Flamingo Land, in their desire to develop a holiday resort, an aspiration supported and driven by Scottish Enterprise, have ignored how the Park's Open Space Policy should inform what type of developments might be appropriate on land earmarked for visitor experience. Despite Open Spaces playing a central role in that experience.

While some development is necessary to enable people to enjoy National Parks, and there may be some opportunity for this at Balloch, most people believe that the very idea of the West Riverside open space being intensively developed is wrong. The failure of Flamingo Land to take this into account helps explain why their application has received so many objections. The LLTNPA bears a lot of responsibility here in its failure to articulate – as pointed out by Peter Brett Associates – the type and intensity of developments that should be allowed on the land it had earmarked for Visitor Experience. On grounds of Open Space alone it should never have allowed the Flamingo Land Application to get as far as it has.

Woodland and the Flamingo Land proposals

03 PROJECT DEVELOPMENT DEVELOPMENT CONSTRAINTS

Woodland
There are four areas of woodland within the site:

- Drumkinnon Woods
- Woodbank House
- An area to the north of Loch Lomond Shores Car Park
- Woodland located at the previous railway line and sidings beside the River Leven

The dominant tree species throughout the site today are Oak, Sycamore, Beech, Pine, Alder and Birch.

Some proposed development areas (Drumkinnon Woods, Woodbank house and the area to the north of Loch Lomond Shores Car Park) are located within SNH designated 'Long Established Woodlands of Plantation Origin' and included within the Scottish Ancient Woodland Inventory.

These areas are granted a degree of protection through the planning system, and the Scottish Government's policy on control of woodland removal states that there is a strong preference for retaining ancient woodland, amongst other types of woodland.

Some existing woodland has recently been disturbed or altered/ reduced in size as a result of:

- INEOS pipeline installation (1991)
- Recently constructed housing at Drumkinnon Gate
- Road access and parking for Loch Lomond Shores
- Previous landscaping associated with the historic garden/ setting for Woodbank House
- The location of various businesses in woodland to the north of Loch Lomond Shores
- Planting or spread of exotic tree species and shrubs, as well as invasive plant species - for example extensive areas of bamboo at Woodbank House

KEY

- Long-established woodlands of plantation origin, interspersed from strips of trees and continuously wooded since. Many of these areas have developed some natural characteristics especially the older areas which may be as rich as ancient woodland (as described in the Ancient Woodland Inventory)
- 1700s old sessile oak woodland/habitat (SAC)
- 1860s native natural woodland



The green areas show areas of woodland dating from 1860 and the purple areas of sessile oak. The red line delineates the area covered by the Planning Application.

The Environmental Statement lacks detail about where Flamingo Land is proposing to place developments within the wooded areas on the site and therefore how far it may conflict with the LLTNPA's policies on woodland:

NATURAL ENVIRONMENT POLICY 8:

Development Impacts on Trees and Woodlands

Development proposals will not be supported when it would result in the loss or deterioration of an ancient or long-established plantation or semi-natural woodland unless there are overriding public benefits from the development that outweigh the loss of the woodland habitat.

Development proposals will not be supported where it is likely to lead to the loss of, or damage to, important individual trees, hedgerows or groups of trees or woodlands that contribute to local amenity, the character of the area and/or are of nature conservation value or historic significance. Where development is accommodated, compensatory planting is to be undertaken to contribute to the National Park's Biodiversity Action Plan.

Where trees, hedgerows or woodlands may be potentially affected by development or land-use change, the following measures may be required on a case by case basis:

(a) Provision for the protection, management and planting of new trees, hedgerows and woodlands in keeping with distinctive landscape character of the area and where possible enhancing existing or creating new wildlife habitat;

- (b) Tree Preservation Orders to protect important trees or groups of trees or woodlands perceived to be under threat of damage or removal if it appears expedient in the interests of amenity, and/or the trees and woodlands are of cultural or historical significance;
- (c) Control of Woodland Removal Policy (Scottish Government) to assess acceptability of woodland removal and need for associated compensatory planting
- (d) Management agreements and/or legal agreements to encourage positive management of trees, hedgerows and woodlands on or adjacent to development sites.

NATURAL ENVIRONMENT POLICY 9:

Woodlands on or adjacent to development sites

Where development is proposed that may affect trees or woodland on or adjacent to the site, measures following the recommendations and guidance in British Standard 5837:2012 'Trees in relation to design, demolition and construction', shall be followed to identify trees to be retained and adequately protected.

This policy will be supported by a Woodland Strategy Planning Guidance which will provide guidance on the most appropriate species and locations for establishment of woodlands, hedgerows and trees.

What is clear in policy terms, however, is that there will be some loss of long established plantation and semi-natural woodland. For the LLTNPA to agree to this Flamingo Land and Scottish Enterprise need to demonstrate “*there are overriding public benefits from the development that outweigh the loss of the woodland habitat*”. They haven’t done so. In my view can’t because the loss of woodland and associated open space here can only be to the detriment of the public. The evidence for this, which will be impossible to counter, is the number of objections to the application.

Reconciling other policies with Flamingo Land

There are many other policies from the LDP which offer serious challenges to the development:

Developer Contributions Overarching Policy 3

Developer contributions may be required for public infrastructure, public services or to address adverse environmental impacts. Where an identified need has been demonstrated development proposals will help contribute towards:

- *Affordable housing;*
- *Education provision;*
- *Transport infrastructure and services (where appropriate);*
- *Water and sewage infrastructure (including Sustainable Drainage System);*
- *Open space (including landscaping and public access);*
- *Community facilities (including health, leisure, sport and recreation);*
- *Waste management facilities (including recycling); and*
- *Natural and historic heritage.*

Comment: What Developer Contributions is Flamingo Land proposing to make? We do know they have ruled out a pedestrian bridge over the River Leven.

Natural Environment Policy 1:

National Park Landscapes, Seascape and Visual Impact

Development will protect the special landscape qualities of the National Park in accordance with The Special Landscape Qualities of Loch Lomond & The Trossachs National Park (SNH 2010).

Development proposals will be required to be sympathetic to their setting and minimise visual impact, including areas of wild land character (1) and wild land areas.

Note: The special landscapes of the National Park include a range of character types and are covered by various designations.

Comment: how is placing a hotel and leisure complex on the edge of Loch Lomond sympathetic to the setting? How will it minimise the visual impact of the development? A far more appropriate site which could meet this policy is the large and mostly unused extension car park behind Loch Lomond shores.

Housing Policy 2

a) Towns and Villages – on sites identified for housing in this plan and appropriate gap and infill sites within town and village boundaries. Each site shall be developed to a density which is in keeping, or where appropriate a higher density, to its surroundings:-
(i) Sites for 4 or more homes shall provide for affordable housing needs in accordance with Affordable Housing Requirements map on page 24.

Comment: what proportion of the 20 new houses at Woodbank are proposed as affordable homes?

Visitor Experience Policy 1:

Location and scale of new development New or improved/expanded/alterd visitor facilities, accommodation and visitor infrastructure (including recreation and access proposals) will be supported where the proposal:-

(a) Forms an identified strategic tourism opportunity in Callander, Balloch, Tyndrum, Drymen, Arrochar and Tarbet, as shown in the Development Strategy Map (page 17), or forms new strategic tourism opportunity in the Aberfoyle or Blairmore/Strone/Kilmun areas; or is located in, or within a safe walking distance from a town or village;

Comment: this is the main policy that supports the development. It doesn't explain what density or types of development might be acceptable.

Visitor Experience Policy 2

Delivering a World class Visitor Experience

New tourism development will enhance the visitor experience of the National Park and offer a bespoke and high quality product. Some proposals may require to be accompanied by a business statement to demonstrate that the business is viable and there is market demand.

The occupancy of new holiday letting developments will be controlled by conditions that limit the length of residency.

Arrangements for the long term management and maintenance of communal areas within new holiday accommodation developments will be required, by means of a legal agreement if necessary.

Comment: I have been unable to find any assessment that demonstrates market demand. We know, for example, that there would be some demand for glamping type accommodation, but this number of chalets at this location?

Natural Environment Policy 4:

Legally Protected species

Development will not be permitted where it would have an adverse impact on any protected species under schedules 2, 3 and 4 of the Conservation (Natural Habitats &c.) Regulations 1994, wherever they occur unless it is demonstrated that:

- (a) It would not be detrimental to the maintenance of the United Kingdom population or conservation status of the species concerned; and*
- (b) There is no alternative; and*
- (c) The applicant can demonstrate public health, public safety or other imperative reasons of overriding public interest, including those of a social or economic nature, and that there are beneficial consequences of primary importance for the environment. In addition full consideration will be given to the protection of species protected under schedules 1, 5 and 8 of the Wildlife and Countryside Act 1981 (as amended), species listed in Annex 1 of the Birds Directive and badgers under the Protection of Badgers Act 1992 (as amended).*

Where there is good reason to believe that a protected species may be present on a proposed development site, an ecological survey will be required to determine whether the species is present, the likely impacts on the species or habitat, and any mitigation and compensation measures that will be undertaken.

Comment: while the ecological surveys from the Planning Application have not found protected species on the site (eg red squirrel, pine marten, otter) other people claim to have sighted these species. The facts need to be established but if such species are found criteria a) – c) need to be demonstrated before any application could be approved.

Natural Environment Policy 6:

Enhancing Biodiversity Developments will be required to enhance biodiversity by:

- (a) Securing the protection, management and enhancement of natural landscape, wildlife, wildlife habitat, habitat networks and green corridors, and where possible the creation of new wildlife habitats; and*

Comment: the Environment Statement states the impacts in these areas will not be that great which is not the same at all as “securing the protection.....”

Natural Environment Policy 11

Protecting the Water Environment

Development will be required to ensure no significant adverse impact on the water environment by:

- (a) Protecting and enhancing the ecological status and riparian habitat, natural heritage, landscape values and physical characteristics of water bodies (including biodiversity and geodiversity);*
- (b) Demonstrating that there would be no significant adverse impact on protected species or their habitats in the water body or its catchment area.*

- (c) Ensuring that development has no adverse impact on the quantity of water available for drinking water and other uses;*
- (d) Protecting and enhancing existing flood plains; protecting opportunities for public access to and recreation and enjoyment on and around lochs, rivers, burns, wetlands and the coastal marine area; and*
- (e) Having regard to any designated Bathing Waters in the Park.*

Comment: how does locating the major development proposals in the pierhead area meet any of these policy requirements?

Natural Environment Policy 13:

Flood Risk

..... Development will not normally be permitted in areas that are:

- (a) Within existing settlements that have been identified as being at medium to high risk of flooding or are in areas otherwise known to flood frequently, unless a flood risk assessment has been undertaken and is approved by the relevant Responsible Authorities and can demonstrate that:
 - (i) The site is protected to the appropriate standard by existing flood protection measures that are maintained, under construction or are a planned measure in a current flood risk management plan;**

Comment: as SEPA indicated in their objection on 22nd June its not clear from the Application for Planning Permission in Principle whether parts of the development are on the flood plain. No documentation appears to have been subsequently published which shows its not.

Historic Environment 1

(c) Enabling Development

Where a listed building is seriously at risk from neglect or from an inability to secure an appropriate new use, enabling development may be supported. In considering such development it must be demonstrated that:

- (i) Financial assistance is not available from any other source; and*
- (ii) Development will be restricted to the minimum required to secure the longterm future of the listed building; and*
- (iii) Development conserves and/or enhances the special interest, character and setting of the listed building through appropriate layout, scale, massing, design, and use of materials.*

Comment: Flamingo Land have not demonstrated points i), ii) or iii) in respect of their proposals to build housing as enabling development at Woodbank House.

Historic Environment Policy 3:

Wider Built Environment and cultural Heritage

Development proposals will be expected to protect, conserve and/or enhance a building or feature of architectural and/or historical merit or of cultural significance. Buildings or features of merit which are important to the cultural heritage of the National Park should be retained and incorporated in new developments where possible and any adverse impacts of the development should be avoided or

mitigated.

Comment: the Flamingo Land proposals say nothing about how the historic buildings at the pierhead or the Maid of the Loch, which will be isolated by the development, will be protected.

Historic Environment Policy 4

Gardens and Designed Landscapes

Development affecting Gardens and Designed Landscapes shall protect and/or enhance such places and shall not impact adversely on their character, important views to, from or within them or their wider landscape setting.

Significant development proposals in gardens and designed landscapes will require management plans as a condition of any planning permission.

Comment: what management arrangements are being considered for Woodbank House?

Historic Environment Policy 6:

scheduled Monuments and other nationally Important archaeological sites

Scheduled monuments and other identified historic environment assets which satisfy the criteria for national importance set out by Scottish Ministers shall be preserved in-situ within an appropriate setting.

Development shall not be permitted which adversely affects scheduled monuments and their setting.

Comment: how will the construction of a 60 bed Apart Hotel, Leisure resort, cafe/retail areas and parking NOT adversely affect the setting of the steam slipway and associated buildings?

Retail Policy:

Development in Towns and Villages

New retail development opportunities within towns or villages will be supported where they:

- (a) Demonstrate a sequential test has been applied to the choice of location; favouring town and village central areas, and*
- (b) Create no significant adverse impact on vitality and viability of the overall centre, and*
- (c) The development supports sustainable transport – access by a range of transport modes*

Comment: how does proposal for “Restaurants/Cafe & Retail areas up to 1,100m²” fit with this?

Waste Management Policy 1:

Waste Management Requirement for new Developments

Development proposals will be required to include suitable commensurate on-site provision for waste management for the collection and storage of recyclable materials and/or composting facilities.

Comment: the Planning Applications contains no information as far I can see how of how much waste

will be generated. Unfortunately Park policies don't require developers to minimise waste or even to recycle it – that is left to the “market”.

Flamingo Land – a policy overview

The Flamingo Land Planning Application poses an enormous challenge to the LLTNPA if it wishes to restore its reputation and integrity. On the one hand the LLTNPA has promised the Scottish Government to deliver the development of the West Riverside Site (that commitment did not include Drumkinnon Woods) over the period of the current National Park Partnership Plan and was involved in the appointment of Flamingo Land as preferred developer. On the other, the development is clearly incompatible with a number of its policies and poses serious challenges to others. Instead of immediately making clear that certain aspects of the application were unacceptable on policy grounds, the LLTNPA appears to have spent the seven months since the application was lodged in secret negotiations.

There is a real risk that the LLTNPA will try and replicate the approach they took with the Cononish Goldmine where they discounted some of their policies completely and stretched the interpretation of others to the extent they became meaningless ([see here](#)) and ([here](#)).

In planning terms one way that the public can put pressure on the LLTNPA is to submit comments/objections on how Flamingo Land's proposals contravene LDP policies. There is plenty of scope for more people to submit objections/comments on specific aspects of the development, whether from a woodland, historic environment, retail or some other perspective, based on the LLTNPA's own policies. That would make it much harder for the LLTNPA to ignore those policies.

At a wider level people with concerns about the development need to campaign to ensure that the LLTNPA at the very least adheres to its policies when determining this application and does not manipulate them to meet Scottish Government targets.

Category

1. Loch Lomond and Trossachs

Tags

1. conservation
2. flamingo land
3. landscape
4. LLTNPA
5. natural environment
6. planning

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