

The Hunter Foundation's proposed development at Ross Priory and our corrupt planning system

Description

Ground	Councillor Page 3 rd Party Request	LLTNPA Comments	Councillor Page Further Comments (In summary)	PAD Conclusion
1	In the opening section of the EIA screening document the Schedule 2 classification is incorrect in stating that this is a Column 1 Description 10 item, namely Urban development projects, including the construction of shopping centres and car parks, sport stadiums, leisure centres and multiplex cinemas. The Schedule 2 classification closest to this proposal is Column 1 Description 12, Tourism and Leisure, Holiday Villages and Hotel Complexes outside urban areas and associated developments. This incorrect classification is a serious error in the screening process.	The consideration of whether a proposed development is a type listed within 'Schedule 2' of the EIA Regulations determines whether it ought to be subject to the screening process or otherwise. Developments may be considered to fall under one or more types within the Schedule. The identification within one category or another does not alter the process – the simple identification of the development as a type listed in Schedule is sufficient to trigger a requirement for EIA screening which was duly undertaken. The application is not for tourism or leisure-led uses but for a residential training centre (Use Class 8 of the Town and Country Planning (Use Classes) (Scotland) Order 1997).	The proposed development is in a sensitive area, it satisfies a Column 2 criterion and it is likely to have significant effects on the environment, thus it requires a EIA, by law.	EIA schedules are not definitive. The decision to consider the proposal as an urban development project is not an unreasonable one. Schedule 1 developments require EIA. Schedule 2 developments require EIA where in a sensitive area and thresholds exceeded and has likely significant effects. In this case, the LLTNPA is content that the development does not have likely significant effects.

Extract from the Scottish Government decision that an EIA was not required. PAD = Planning and Architecture Division

On Friday the Scottish Government's Planning and Environmental Appeals Division rejected a request from the local community at Gartocharn that the Loch Lomond and Trossachs National Park Authority (LLTNPA) should have required the Hunter Foundation to conduct an Environmental Impact Assessment (EIA) before approving their planning application at Ross Priory.

The reasons for the decision are not (yet?) public on the Department of Planning and Environment Appeals website ([see here](#)) but the decision letter is circulating in the local community (see above). The decision means that Sir Tom Hunter has effectively been given the all-clear for a development that is on the last undeveloped section of shoreline at the south end of Loch Lomond, in the most prominent position possible ([see here](#)). PAD, however, found that the LLTNPA decision to classify the development at Ross Priory as an 'Urban Development Project', which circumvented the need for an EIA, was 'not unreasonable'.

So, now we know! According to the planners the bonnie banks and presumably all the other scenic places in the Loch Lomond and Trossachs National Park can be classified as just another bit of urban sprawl. Any word, it seems, can be manipulated to mean its opposite. In the world of planning, our finest natural landscapes have no value.

How those responsible for the planning system in the National Park justify it

I sent my post about the LLTNPA's failure to conduct an EIA ([see here](#)) to the local MSP for Gartocharn, Jackie Baillie. She asked both the Scottish Government and the LLTNPA about why the local community, having raised concerns about the lack of an EIA, were not advised of their right to seek a screening from Scottish Ministers. She has received answers from the very top, for which I am very grateful. I have not discussed either response with Ms Baillie and the commentary is mine alone. First, the letter from the Minister, Kevin Stewart:

Thank you for your letter of 22 December, regarding Mr Kempe who contacted you regarding his concerns around the advice offered by the National Park Authority (NPA) to local communities about their rights in relation to Environmental Impact Assessment (EIA).

The role of a planning authority in EIA matters is set out in the relevant legislation and guidance [Planning Circular 1/2017: Environmental Impact Assessment regulations - gov.scot \(www.gov.scot\)](#). The Planning Circular states 'Scottish Ministers may make a screening direction as to whether development (of a type listed in Schedule 1 or Schedule 2 to the Regulations) is EIA development at any time prior to consent being granted, either at their own volition or where requested to do so in writing by any person (Regulation 7(4)).'

The planning authority was not obliged to highlight the possibility that a request could be made to Scottish Ministers to issue a screening direction. Interested parties however, are able to obtain independent planning advice from a range of other sources, including the PAS Advice Service (formally Planning Aid Scotland) and planning consultants.

Extract of letter from Kevin Stewart Minister for Local Government, Housing and Planning, dated 11th January

The key words are in the final paragraph, the LLTNPA *was not obliged to highlight the possibility that a request could be made to Scottish Ministers to issue a screening opinion*. This ducks the point.

The issue is not about whether the LLTNPA was legally obliged to inform people in the local community of their rights, its whether morally they should have done so. The Minister is completely silent about that. It shouldn't have been difficult. The LLTNPA knew people in the local community were concerned about the lack of an EIA, but rather than say 'you know you always have the option of seeking an opinion from Scottish Ministers' they kept silent and pushed ahead with the planning meeting. The Minister's response provides more evidence that the screeds of Scottish Government policy documents about the importance of involving local communities in the planning process are not worth the paper they are written on.

The response from the Chief Executive of the LLTNPA, Gordon Watson ([see here for full email](#)), is even more revealing. It shows that the planning system in the Park is systematically biased in favour of developers. It starts with the usual parkspeak, for example:

At this [i.e the planning] meeting the Committee heard from some of those who were opposed to the application and from the applicant. The Committee received a comprehensive Officer's report. Committee Members asked questions of Officers and those for and against in coming to their decision. This was a carefully considered application.

Comment: note the opinion presented as fact, the 'Comprehensive Officer's report', which made no mention of the nesting ospreys, and the 'carefully considered' application which treated Hunter's proposals as 'an urban development'. After a whole lot more 'considered conclusions' and 'robust assessments' Mr Watson gets to the point:

The relevant EIA regulations provide the ability for requests to be made to Scottish Ministers for a Screening Opinion in certain circumstances, which I presume is what Mr Kempe is referring to.

Comment: note the 'presume'. If you check the letter, Jackie Baillie couldn't have been clearer, but a favoured tactic of the LLTNPA is to try and undermine critics by implying they don't know what they are talking about. And then, after some more explanation about the process:

It is not appropriate for a planning authority to proactively advise either applicants, those in objection or in support of an application on all legal rights or recourse. We must remain impartial and independent in our determination and handling of applications. We will always assist all interested parties where we can and as appropriate. For example, we received a number of queries in respect of this case and Officer's made time to help answer these queries and questions as they always do. This included individuals from the local community.

This is garbage. The Planning System encourages developers to seek advice from the Planning Authority before making any planning application and we know from the [Ross Priory email correspondence](#) obtained through FOI that the LLTNPA spent months advising the Hunter Foundation not just on the planning rules, but how to get its development through the system. Here is an example:

32.From: [REDACTED] [mailto:[REDACTED]@kettle.co]
Sent: 10 May 2019 12:24
To: Stuart Mearns; Bob Cook
Cc: Khairul Khalifah
Subject: Re: Vision Statement: Ross Priory Leadership Centre

Dear Stuart / Bob

Many thanks for taking the time to meet with us on what is now to be called the 'Hunter Global Leadership Centre' or (HGLC) at Ross Priory.

We really appreciate your thoughts and advice and look forward to working together with you again.

Stuart Mearns is the Head of Rural Development and Planning at the LLTNPA

This shows that Stuart Mearns, the Head of Planning no less, advised the consultants acting on behalf of the Hunter Foundation of how to progress the application. But the same Mr Mearns, according to Mr Watson, would NOT have been acting impartially had he had responded to community concerns about

the lack of an EIA by advising them of their rights. Instead of apologising for this failure, Mr Watson then ties himself in knots claiming *“we will always help all interested parties”*. So which is it?

Then, In response to Jackie Baillie’s *“Mr Kempe is extremely concerned that the National Park do not advise local communities of their rights and the neutrality of the planning process”*, Mr Watson’s email states:

“It is disappointing to read of these concerns. It must be recognised that the Park Authority in undertaking its statutory planning functions must remain impartial and independent of all interested parties when determining planning applications. It cannot advise or advocate on a particular course of action.”

Again, this misrepresents the facts. No-one is claiming the LLTNPA should have *“advocated”* the local community should seek a screening opinion from Scottish Ministers, only that they should have advised them of their right to do so.

The bias towards developers that drives the planning system in the National Park

Just after New Year the LLTNPA, under pressure as a result of adverse media publicity, issued a news statement on the [Flamingo Land and Ross Priory](#) planning applications. These quote Mr Watson and start with the spin that the LLTNPA *“takes its environmental responsibilities extremely seriously undertaking a wide range of work to tackle both the nature and climate emergencies”*. Like allowing the Ross Priory development in close proximity to the Nature Reserve while willfully ignoring the carbon implications (an estimated 1000-1500 tonnes of CO2 created by the construction and the lack of any public transport)?

Mr Watson then proceeded to repeat a lie that dates back to 2017:

“The decision to appoint Flamingoland as preferred bidder for the West Riverside site was made by Scottish Enterprise alone. While a former member of the National Park Authority’s tourism team did provide informal tourism advice to Scottish Enterprise before their decision, no member of the planning team or any member of the National Park Board was involved in their selection and there was no conflict of interest”

As I showed almost four years ago ([see here](#)) LLTNPA was on the interview panel for Flamingo Land, involved in designing the scoring process and, according to Scottish Enterprise, *“All the proposals were scored by a panel comprising of representatives from SE, LLTNPA and SE’s Property Advisors (Bilfinger GVA)”*.

I have since been informed that Fiona Logan, former Chief Executive of the LLTNPA, may have visited Flamingo Land at their base in Yorkshire prior to them submitting a formal bid for the site. Yet Mr Watson, who almost certainly gave his consent for the member of staff to be on the interview panel, claims the LLTNPA was not involved.

In the context of the Ross Priory Planning Application, however, it is important to appreciate that the LLTNPA does not favour all developers equally. Developers are required to play the game that keeps

the planners and the planning consultants in their jobs, an expensive business. 18 months ago the LLTNPA rejected a significant development at Ward's Farm ([see here](#)), 1.5 km from Ross Priory but in a far less prominent location:

The Visitor Experience Policies as set out in the Local Development Plan, and associated Planning Guidance, provides for areas within the National Park where larger scale development can be supported. This is not such a location. It is a more sensitive location particularly given its proximity to a comprehensive range of sites designated for their natural heritage and landscape significance.

On first reading a completely different approach to the Hunter Foundation application but the LLTNPA added some weasel words at the end:

Sufficient justification has not been provided to enable an exception to these policies to be supported in this location. The proposed development would not integrate well with its surroundings.

If you are rich enough to play the game, as the Hunter Foundation undoubtedly is, there is almost nothing to stop you developing almost anywhere in the National Park, as long as you can integrate your proposal with its surroundings. And, if you are famous and well-connected to boot, the LLTNPA will fall over itself to oblige whatever local communities think.

Category

1. Loch Lomond and Trossachs

Tags

1. LLTNPA
2. planning
3. Scottish Government

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