

Too big is bad – Flamingo Land appears to be losing the battle at Balloch

Description

Since my last post ([see here](#)), another 10,000 or so objections have been lodged through the Scottish Greens against Flamingo Land's proposed development at Balloch, more than the original application in 2018 and the most in Scottish history. Flamingo Land's response has been to issue a news release, which was quoted in various papers from the Sun to the Times ([see here](#) for an example), lashing out at Green MSP Ross Greer:

"Ross Greer has once again demonstrated that he is more interested in clickbait politics aimed at raising his own profile than having a constructive dialogue about what could be a major investment into both the local economy in Balloch and Scotland as a whole,"

"He has relentlessly tried to interfere with a statutory planning process that doesn't sit within his jurisdiction and — in a shameless attempt to get people to click his online petition — the majority of the claims he has made about our proposals are utterly false."

"There is simply no way to validate the numbers he is quoting and who the people who clicked his sham petition are or where they live."

Flamingo Land has provided no evidence to show why it believes the claims made by Ross Greer are "utterly false", neither has it acknowledged or apologised for the demonstrably false claims it made last summer that its Mark II application would not affect the Drumkinnon ancient woodland ([see here](#)).

The objections submitted through the Greens to Flamingo Land's 2017/18 application were accepted as valid by the Loch Lomond and Trossachs National Park Authority, who I understand checked every one and separated out the handful of people who had used the green planning portal to submit letters of support! Moreover, in terms of planning law, for an objection to be valid it is irrelevant where someone lives, what matters is whether they have raised a "material consideration". Local people are normally in a better position to do so because they know their patch – who from London or Edinburgh would be aware of the drainage problems below Woodbank House? – but that does not exclude others from objecting or devalue what they have to say

What matters in planning terms, therefore, is the grounds people have for objecting. In the case of the Green's model objection, which appears to have been produced with professional advice, this includes the scale and density of Flamingo Land's development, its consequences for transport and climate change and its impact on open space and access.

Politically, however, the number of objections do matter, particularly when those being lodged by individuals on the planning portal greatly outnumber those being lodged in support and many of the individual objections are raising new material considerations ([see here](#)). Flamingo Land's reaction suggests they know they are losing the arguments.

Who is really abusing the planning system?

It is now almost a year since Flamingo Land submitted their Mark II Planning application for Balloch. According to Scottish Government guidance major planning applications should be determined within four months but the documentation Flamingo Land submitted was far from clear and full of inconsistencies, despite their having had almost four years to revise the application they withdrew.

The more the Mark II application was subject to critical scrutiny the more it unravelled. The result was it took the officers of the LLTNPA, through no fault of their own, until November to provide a list of the points they wanted Flamingo Land to clarify. In response Flamingo Land submitted documents at the end of January which attempted to clarify some of the points the LLTNPA had raised but included significant REVISIONS to their proposals, which is why I dubbed it their Mark III application.

Ian Cowan, acting on behalf of Ross Greer, has now challenged this in a letter to the LLTNPA dated 30th March:

You are no doubt aware of the provisions of section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) ("**the Act**"), saying that a planning application for planning permission may be varied after it is made, but only "*with the agreement of the planning authority*", and that "*if the planning authority consider the variation to be such that there is a substantial change in the description of the development for which planning permission is sought, they are not to agree to the variation*".

My client submits that the revision of the site boundary of any planning application has to be regarded as a substantial variation of that application, that the Applicant has no right to subvert due process by varying the Application in response to comments from members of the public, and therefore that, if you have already considered and agreed to this variation, you should not have agreed to it. If so, please provide a copy of the written record of your decision or post it on the public portal for the Application.

If you have not already decided whether or not to agree to the variation, my client urges you not to agree to it, for the reasons given, but instead recommend that, if the Applicant wishes to alter the proposed development in this way, they withdraw the Application and submit a new application.

The LLTNPA have not yet responded but if they accept this argument, it would mean Flamingo Land's application will fall but along with it all the objections that have been submitted to date. In other words the campaign against Flamingo Land might have to start all over again. In pressing this point, therefore, Ross Greer must be very confident about the degree of public opposition to the proposed development and that people will be prepared to lodge objections for a third time if a new application is

submitted.

The changed policy context

Ian Cowan's letter also provided further analysis of the extent to which Flamingo Land's proposals are compatible with the new National Planning Framework, NPF4, which supersedes existing policy ([see here](#) for some of the coverage on parkswatch). The issue for the planning application is not just that Flamingo Land appears to have its head in the sand about the climate and nature emergencies, it is that public agencies are now as a result of the changed policy context responding far more critically to development proposals.

The LLTNPA had already demonstrated this in their rejection of the Loch Long fishfarm proposal ([see here](#)) (now subject to appeal), but other public agencies are now re-discovering their purpose. For example, the Scottish Environment Protection Agency, having gone along with the first planning application, how now asked for a new flood risk assessment on the grounds that flooding is now predicted to be more severe. Flamingo Land's proposals for the Riverside Site are only just above the previous flood limit and on this grounds alone appear to be seriously at risk, setting aside the fact that much of the proposed development may well become uninsurable.

If TransportScotland and West Dunbartonshire Council, whose heads have been in the sand as much as Flamingo Land, also follow the example of other public authorities and shift their position, it is difficult to see how the development in its current form can possibly get through the planning system.

Scale

The central problem which underpins all the other issues with the Flamingo Land development is its scale. I submitted an objection to the LLTNPA about this on 31st March, which has been published on their planning portal, but which I hope is worth repeating here.

Objection to Planning Application 2022/0157/PPP Land At Pier Road, Ben Lomond Way And Old Luss Road, Known As West Riverside And Woodbank House (Lomond Banks) Balloch

I wish to object to the above application on grounds of its SCALE, a material consideration when it comes to determining planning applications and which is frequently referred to in NPF4 which supersedes/take precedence over the LLTNPA's current local development plan.

Scale is also a matter that is integral to the LLTNPA's four statutory objectives which should, as the then Tourism Minister Ivan McKee stated in his response to the recent debate on Flamingo Land in the Scottish Parliament, ultimately determine all planning applications in the National Park ([see here](#)). Under those statutory objectives the LLTNPA has a statutory duty to promote sustainable development but scale here is critical: if any development is too big, that impacts on the ability of the LLTNPA to deliver its other duties (conservation, sustainable use of resources and public enjoyment of the countryside).

The central issue that the LLTNPA therefore needs to consider in respect of this planning application is its scale, not just the scale of the development within the proposed site but the impact that a development of this size would have on the surrounding area, both in terms of the LLTNPA's statutory objectives (the impact on landscape, nature etc) but also in terms of the new policies in NPF4 (place, sustainable transport etc).

Before highlighting some specific issues relating to the scale of the proposed development, it is important the LLTNPA determines how considerations of scale should be applied to the land earmarked for Visitor Experience at Riverside (VE1) and Woodbank House (VE4) which are under control of the applicant and included in the planning application. In planning terms, while land is usually allocated for certain purposes according to land-ownership boundaries, that does not and should not mean that all the land within those boundaries should be developed.

Rather, the planning task is then to ensure any proposals are an appropriate scale for the area of land concerned within the overall context of the area. By allocating a larger area of land than was needed for development purposes at Riverside and Woodbank, the LLTNPA gave potential developers the flexibility to come up with different ideas about those sites. That, however, does not mean the whole of each site should be developed. This is illustrated by Flamingo Land's revised proposals for Woodbank House, where areas of woodland on the site which they previously hoped to develop are now to be protected. This should not be taken as implying that the scale of the proposed development at Woodbank House is now appropriate (for further issues see below), but it does highlight the central problem with the proposed development on the Riverside Site, its scale. The fact that Scottish Enterprise has signed an exclusivity agreement with Flamingo Land to develop the entire site, should not mean that the LLTNPA as planning authority should consent to the entire site being developed.

NPF4 reinforces that argument. As I understand it, the Riverside Site lies within the boundary of the Central Scotland Green Network, a national "development" subject to national policy. NPF4 states that the CSGN:

"restores nature at scale and acts as an exemplar of green infrastructure in placemaking that provides benefits for communities and supports a wellbeing economy. This will provide multiple benefits for health, biodiversity, and will help us to mitigate and adapt to climate change. Action should continue to focus on areas where community wellbeing and resilience would benefit most."

Restoring nature at scale clearly has important implications for the scale of Flamingo Land's proposed development at Balloch. You cannot have both development at scale and nature at scale. While Flamingo Land's revised application withdraws its proposals to develop Area 10, which included ancient woodland, in the absence of any reduction in the size of the development the requirement for service facilities must inevitably result in even more development being packed into the

Riverside and Woodbank Sites, increasing further the scale of the development there. The importance of considering nature at scale is further reflected in section on Natural Places in NPF4:

“Development proposals which by virtue of type, location or scale will have an unacceptable impact on the natural environment, will not be supported.”

I will now highlight some specific issues about the scale of the development which I believe the LLTNPA needs to address:

- **Place.** The village of Balloch is already dominated in many respects by Loch Lomond Shores but if all the land at Riverside is developed on the scale proposed it will be completely overwhelmed. In evaluating the impact of Flamingo Land's proposals the LLTNPA should consider the needs of the existing village as a place in respect of local businesses, local parking requirements (e.g. how many places might be needed in future for park and ride), green space (where can children play or people walk?) and other community infrastructure and then direct the developer to ensure their proposals are of an appropriate scale to ensure that these other needs either continue to be met or can be met in future (that might mean the developer making some land available for the development of local community infrastructure).
- **Greenspace.** Balloch is often described as the gateway of the National Park but if it is to fulfill that function it needs to have plenty of areas that look and feel like a National Park, not a holiday resort. That will not be possible if all the land on the Riverside Site is developed on the scale proposed. In this respect the major issue in terms of scale is the proposal to turn ALL the remaining green space on the Riverside Site, once the other developments are completed, into a chalet park. The scale of the proposals will have an unacceptable impact on both local residents and visitors. Policy 30 of NPF4 is relevant here:
 - a) Development proposals for new or extended tourist facilities or accommodation, including caravan and camping sites, in locations identified in the LDP, will be supported.*
 - b) Proposals for tourism related development will take into account:*
 - *The contribution made to the local economy;*
 - *Compatibility with the surrounding area in terms of the nature and scale of the activity and impacts of increased visitor*
- **Landscape.** There have been some reductions in the size of the proposed development at the Pierhead (e.g. the removal of the viewing tower from the original proposals) and Flamingo Land is now trying to match the scale of the existing development of Loch Lomond shores. The problem, however, which the LLTNPA needs to address is the cumulative impacts of developments of this scale on the landscape around Drumkinnon Bay and on the shores of Loch Lomond. It also needs to take account of the section in NPF4 on Qualities of successful places: “Designing for: scale including density, building heights, massing, orientation, building lines and legibility”
- **Traffic and parking.** A further problem associated with the scale of the development is its assumption that, for it to succeed as a business, it requires people to arrive by car. Balloch is already affected by gridlock at popular times and dominated by car parks. Adding more traffic and more parking places will further destroy its qualities as a place. In terms of the Scottish Government's agenda for nature and climate and the National Park's statutory objectives, the

LLTNPA as Planning Authority needs to consider the needs of Balloch as a whole, set a limit to the number of parking places and require the developer to find solutions with Scottish Enterprise. Considerations about the need to limit parking should be used to determine should be used to further inform what scale of development is appropriate and this reflected in planning conditions as reflected in NPF4:

“Development proposals for significant travel generating uses, or smaller-scale developments where it is important to monitor travel patterns resulting from the development, will only be supported if they are accompanied by a Travel Plan with supporting planning conditions/obligations.”

- **Impact on other infrastructure.** A recent objection from a local resident has highlighted that the number of “bedrooms” served by the sewerage infrastructure on Old Luss Rd was 34 in the 1980s and had increased to 477 by 2022 with another 68 in the pipeline at Cameron House. Flamingo Land’s development at Woodbank House would add another 124 bedrooms to that. This illustrates the scale of the development that has been taking place on the south west corner of Loch Lomond over the last forty years and is not just an issue for the capacity of the sewerage system but also of local roads (since the LLTNPA allowed Cameron House to open up Old Luss Rd) and general amenity in the area. The LLTNPA needs to give further consideration to the scale of Flamingo Land’s proposed development within the context of the cumulative scale of these other developments and its statutory objectives. There is a limit as to what is sustainable in terms of cumulative impacts.

As an application for Planning Permission in Principle, arguably the most important thing the LLTNPA needs to determine within the current policy context, is what scale of development is appropriate for these two sites (and the area at the “boathouse” by Drumkinnon Bay) within the context of Balloch as a place and as the gateway to the National Park. That means that decisions about the number and size of buildings, their exact location, the number of parking places and the proportion of built development to land dedicated to nature and enjoyment by the general public should not be left to a later stage but needs to be fully considered now. So far the applicant has failed to provide clear documentation which shows they have addressed the issues I have highlighted here and, unless they do so, the application should be rejected.

What next?

The statutory end date for objecting to Flamingo Land’s revised application was reported in the Herald last week as being 30th March but my objection, lodged on 31st, has been published and to their credit the normal practice of the LLTNPA (in contrast to that of the Cairngorms National Park Authority) is to accept comments until they are ready to make a decision. They have stated this publicly in their update on the Flamingo Land application dated 23rd February ([see here](#)) : “public comments can continue to be submitted after this date until a short time before the Planning Officer’s Report to the Planning Committee is published”.

This is right as it allows, for example, the public to respond to any new documentation that might be submitted by Flamingo Land, for example a new flood risk assessment. (Incidentally, the original

statutory deadline for comments on this application was 7th July 2022 so if LLTNPA set a new one – and I can find nothing on the planning portal to substantiate what the Herald article reported – that would reinforce Ian Cowan’s argument that Flamingo Land should have submitted a new application).

It now appears likely that because of the changed policy and political context, Flamingo Land’s proposal is now far less likely to be approved than the previous one, which LLTNPA officers had recommended be rejected on a limited number of grounds. Had Flamingo Land quickly amended their proposals to take account of those points, it is likely as I argued at the time that the LLTNPA would have had little option but to approve the application. The changed policy context means Flamingo Land appears to have lost that opportunity but it is important the public keeps up the pressure (you can comment [here](#)). The key point here, in terms of both the current application and any future applications, the future, seems to me to that any development on the Riverside and Woodbank House sites needs to be of an appropriate scale to allow both nature and people, whether residents or visitors, to flourish.

Category

1. Loch Lomond and Trossachs

Tags

1. Development Plan
2. flamingo land
3. LLTNPA
4. outdoor recreation
5. planning
6. SEPA

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