

Rotten to its very core – the Loch Lomond and Trossachs National Park Authority and the Flamingo Land development

Description

On 10th June I wrote to Dr Heather Reid, the Convener of the Loch Lomond and Trossachs National Park Authority (LLTNPA) asking for a recording of the Board Meeting which took place that day. That request followed a discussion which, in my view, raises yet more serious concerns about the LLTNPA's handling of the Flamingo Land planning application and its ability to take an objective decision.

I hope that my email, which I copied to a number of MSPs and the Balloch and Haldane Community Council which represents the local community, is self-explanatory:

Dear Dr Reid,

I am writing to request under Freedom of Information the recording of the Board Meeting today, which was broadcast through microsoft teams, and that the LLTNPA retain a copy if this request is refused until some such as the Information Commissioner has had an opportunity to consider the issues. The Cairngorms National Park and many councils make recordings of meetings available now as a matter of course and of good practice but the LLTNPA has always refused to do so.

Unfortunately I missed the first part of the meeting today and half of the discussion on the proposed revisions to the Code of Conduct for Board Members (about which I have expressed serious concerns <https://parkswatchscotland.co.uk/2024/06/07/flamingo-land-and-the-corporate-take-over-of-the-planning-system-in-the-loch-lomond-trossachs-national-park/>) and therefore did not witness the earlier contributions from Sid Perrie, the local member for Balloch, and your response. That context is obviously important to come to a view on what happened.

However, in the part of the meeting I did listen to, if I heard you right, you stated to Mr Perrie he had been disruptive, disrespectful and refused to allow him to make a statement of his position saying he had had enough time already. You also said if he persisted you would have him leave the meeting. Then, when it came to recommendation from officers to approve the update to the Code of Conduct you invited by a show of hands members to show that they were in favour without asking if anyone dissented.

The Park's Standing Orders are rather strange, in that they don't require recommendations to be approved or by vote or every decision to record those in favour, against or abstaining the explicit assumption is that most recommendations will be agreed unanimously. However, the Standing Orders do explicitly provide that "A Member may have their dissent to a decision of the Board recorded, provided they have attended for the whole of the discussion and decision, and asked to record their dissent immediately after the decision is concluded." Having told Mr Perrie that if he spoke again he would have to leave the meeting, you effectively prevented him from registering his dissent.

While I appreciate you may have been flustered, as illustrated by Cllr Chris Kane having to intervene and correct you on a point of law in part of your response to Mr Perrie, as Convener you have a duty to conduct meetings fairly. In my view at the end of this item you fell well short of that. Before deciding on whether to make a complaint to the Standards Commission I would like to understand the whole context. While the interventions I saw from Mr Perrie were unexceptional, I appreciate that from what you were saying that you believed Mr Perrie's behaviour earlier in the meeting fell short of what is expected of board members. As a consequence I believe it would be in the public interest that the recording is kept and made public so that a) the Commissioner for Ethical Standards can see exactly what happened and assess any complaints about either party should they be submitted and, more importantly in my view b) so that people, who should be ultimate arbiters of standards, can judge for themselves what happened.

Dr Reid failed to respond to this email - she has never once acknowledged any correspondence from me - but, when LLTNPA staff failed to reply immediately, I guessed that they must have a copy of the recording. I was not surprised that those acting under the direction of the Chief Executive, Gordon Watson, then delayed their reply to the very end of the period allowed under the Freedom of Information Act. The reasons eventually given by an anonymous person at Information Management for refusing my request were ridiculous:

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FOI Ref: 2024-024
Date: 03 July 2024

Dear Mr Kempe

REQUEST UNDER FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

Thank you for your email of 10 June 2024 in which you have requested access to information held by Loch Lomond & The Trossachs National Park Authority.

Your Request

I am writing to request under Freedom of Information the recording of the Board Meeting today, which was broadcast through Microsoft Teams, and that the LLTNPA retain a copy if this request is refused until some such as the Information Commissioner has had an opportunity to consider the issues. The Cairngorms National Park and many councils make recordings of meetings available now as a matter of course and of good practice but the LLTNPA has always refused to do so.

Our Response

The Park Authority holds the information you have requested. However, as the video recording contains the personal information of multiple individuals who have not consented to their data being processed in this way (i.e. they have not consented to a permanent recording of their names, images and voices being made permanently available in video format), we believe disclosure would contravene the data protection principle that information must be processed lawfully, fairly and transparently and are therefore withholding the requested information in accordance with Section 38(1)(b) of the Freedom of Information (Scotland) Act 2002 (FOISA).

This exemption is not subject to the public interest test. However, we do recognise that there is a public interest in what was discussed at the meeting. Members of the public were able to attend the meeting, the meeting was broadcast live over the internet, and the meeting minutes will be published on our website in due course. In this same spirit, we would like to offer you the opportunity to come to our office and view the recording. If this would be of interest to you, please let us know (with at least five working days' notice) the time and date that you would

LOCH LOMOND & THE TROSSACHS NATIONAL PARK AUTHORITY

National Park Headquarters, Carrochan, Carrochan Road, Balloch, G83 8EG Long: 4°34'24"W Lat: 56°00'12"N

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The claim that the video recording contains "personal information" and is therefore exempt from Freedom of Information laws is complete and utter rubbish and I have written to Dr Reid to say so. All the recordings show is what people appointed to represent the public interest and take decisions on

behalf of the public/Scottish Ministers say at decision-making meetings which are legally required to take place in public. If Dr Reid doesn't want what she says or how she behaves in such circumstances to be recorded, she shouldn't be on the LLTNPA Board let alone chairing it.

If the LLTNPA's claim was true, no debate of the Scottish Parliament or public meeting of any other public authority could be recorded. The fact is that both the Scottish Parliament and other public authorities make recordings of their meetings freely available on the internet. The LLTNPA could do so too but having tried to cover up how they take decisions for years ([e.g see here](#)), that is the last thing most Board Members want.

The offer in the letter for me to visit the LLTNPA HQ to view the recording after giving five days notice! undermines the whole basis of their refusal. If the information in the recording is exempt because of Data Protection laws, then they should not be inviting me to their offices to view it! While part of the purpose of the offer was to inconvenience me, by taking it up I would be accepting the LLTNPA's right not to make the information more widely available. What is more, should they then destroy it, that would mean there would be no information available to support a potential complaint to the Standards Commission.

The best illustration of the LLTNPA's indefensible position is that following their public meeting on setting up a Community Development Trust ([see here](#)), the Balloch and Haldane Community Council published a recording of the discussion ([see here](#)) so that everyone in the local community and the wider public could see what was said. The contrast between the open and democratic community council and the secretive and undemocratic LLTNPA could not be greater.

(I am pleased to report that those at the BHCC meeting, who included local board member Sid Perrie, agreed without dissent to set up a Community Development Trust and a significant number of people volunteered to form the Steering Group. The BHCC is inviting anyone who wants to get involved in supporting the Trust to record their interest in doing so [here](#)).

The recording of the last Board Meeting is important not just because of how Dr Reid may, or may not, have chaired the meeting or what Sid Perrie may, or may not, have said but because of the contributions of other board members. In the part I heard certain board members appeared to argue that they could not get involved in any aspect of planning applications because that might prejudice the quasi-judicial decision-making process and that local board members were there to protect the interests of Scottish Ministers, not local constituents.

First, while being involved in quasi-judicial decisions clearly makes some board members feel important, their role is different to that of judge or jury because they are also responsible for the governance surrounding the process that leads up to a decision being taken about planning applications. The old board code of conduct, approved in 2015, clearly allowed board members to make representations about planning applications, whether directly or on behalf of others, so long as they did not not prejudge the final decision ([see here](#)). In my view that facilitated good governance.

With LLTNPA staff having been on the interview panel that appointed Flamingo Land and with senior staff having offered no objection to the inclusion of National Park land in their first planning application, it should surprise no-one that they are now trying to prevent board members from asking any questions about the process.

Second, the argument that local board members are not there to represent the interests of local areas denies the very reason why the Scottish Parliament created National Park Boards a third of whose members would be directly elected by local communities. The whole point of those local members is they were put there to represent local interests and that should mean doing things like ensuring proper account is taken of concerns being expressed by planning applications and the whole development plan process.

When Sid Perrie, the local member for Balloch, tried to clarify what he could and could not say/do under the revised code of conduct adopted at the last board meeting no other board member appeared to support him or make the case that board members have a rightful role in ensuring proper scrutiny takes place of planning applications prior to decision-making meetings. It is not surprising in these circumstances that Mr Perrie said nothing at the BHCC meeting about setting up a Community Development Trust: had he said anything one of the Park's spies could have tried to use this to have him excluded from the whole Flamingo Land decision-making process.

Parkswatch is intending to produce one long post that brings together all the evidence of LLTNPA staff involvement in promoting the Flamingo Land development, how they have tried to cover this up and why this needs to be properly investigated. For now, one further snippet of evidence which I have not published before, an email sent shortly after the interview panel had recommended Flamingo Land be appointed as preferred developer for the Riverside Site:

[REDACTED]

From: [REDACTED]@scotent.co.uk>
Sent: 03 September 2015 17:16
To: Pearson, Malcolm
Cc: Mairi Bell
Subject: RE: West Riverside, Loch Lomond

Hi Mairi,

[REDACTED]

I remember initially you had mentioned the afternoon of the 30th September as being a time that both y Stuart could attend? Is that still the case? If so, I will schedule a meeting in AC and circulate a meeting in

Best Regards,

[REDACTED]

[REDACTED]
Project Manager
Business Infrastructure
SCOTTISH ENTERPRISE

Direct line : [REDACTED]
Email: [REDACTED]@scotent.co.uk

 Please consider the environment - do you really need to print this email?

Mairi Bell was the head of visitor experience at the LLTNPA who sat on the interview panel and made the recommendation to appoint Flamingo Land. The significance of the email is the reference to Stuart, who appears to be Stuart Mearns head of planning at the LLTNPA. Why would he be attending a meeting with Scottish Enterprise, a year before Flamingo Land's appointment was made public, if he was not involved in the whole appointment process? Amazingly, while the LLTNPA accept this meeting took place, in response to an FOI request they stated they had no record of what was said, only an agenda.

The idea that LLTNPA staff like Mr Mearns, who is now Director of Development and Chief Planner for the LLTNPA, can produce an objective report for consideration by board members without the board having addressed their involvement in selecting Flamingo Land as preferred developer for Balloch is laughable. It also risks opening the LLTNPA to the sort of legal challenge that board members at the meeting stated they wished to avoid. I am afraid that on her record to date Dr Reid will never voluntarily address these issues and it will be up to the local community and wider public to force her and other members to do so.

Category

1. Loch Lomond and Trossachs

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July 10, 2024

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