

## The story of Loch Lomond and Trossachs National Park Authority and the Flamingo Land development (2)

### Description

In the lead up to the Loch Lomond and Trossachs National Park Authority (LLTNPA) board meeting on 16th September which is due to decide the Flamingo Land Mark III Planning application ([see here](#)), I thought it would be worth trying to tell the whole story. It's a long one, so the first part was about the LLTNPA's direct involvement with Flamingo Land ([see here](#)): from working with Scottish Enterprise (SE) to sell off the West Riverside Site; through helping to appoint Flamingo Land; to how staff offered up the land the National Park owned for the development; and then the subsequent cover-up.

This second part takes a broader look at how the LLTNPA has managed the wider planning system to help deliver the Flamingo Land development which doesn't mean to say it will in two weeks time. It now depends on the political wind but whatever staff recommend and the board decides needs to be viewed in the light of the history.

### History of the site prior to the creation of the Loch Lomond and Trossachs National Park

In 1609 King James granted by Royal Charter to the Burgh of Dumbarton and its successors the whole of the River Leven, together with fishing and access rights, from Balloch to the Clyde. The original purpose of the charter was to stop flooding in Dumbarton, an issue that is still pertinent today with Flamingo Land wanting to erect chalets on part of the West Riverside site that has once again been classified as flood plain.

What happened subsequently has recently been described in a response from the Registers of Scotland to Marie McNair, the SNP MSP for Clydebank and Milngavie (she was asked by her of her constituents):

*“notwithstanding the fact that the 1609 Royal Charter to the predecessors of WDC [West Dunbartonshire Council] conveyed to them the River Leven, a separate route of title was created at some point in the 18-20<sup>th</sup> centuries as a result of the Colquhoun of Luss mistakenly believing the river to fall within the Luss Estate title. A number of titles to parts of the river were sold off from the Luss Estate and recorded in the Register of Sasines, and it is these titles from which the Scottish Enterprise title (and others) derive.”*

*“It is important to note that despite the titles deriving from the Luss Estate being founded on deeds from someone who was not the owner of the river, Scots law (under the doctrine of prescription) allows these deeds to form the basis of good title if the subjects are exclusively possessed for a defined period of time following recording of a deed. In addition, we also note that the title in question was previously owned by British Railways Board who subsequently conveyed to the Scottish Development Agency. It is therefore likely that regardless of the historical ownership position, the statutory powers associated with railways taking title to land would have put the position beyond doubt anyway”.*

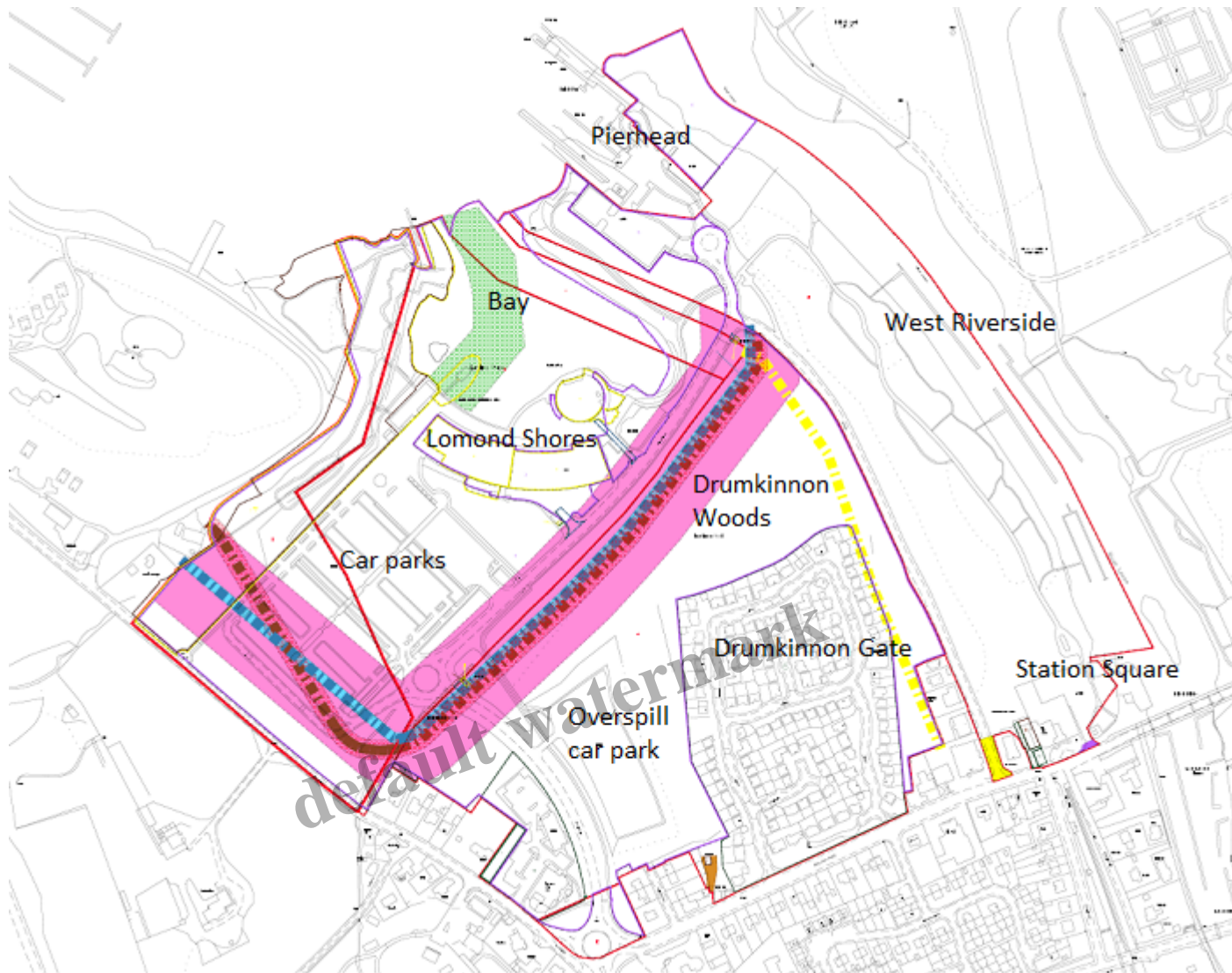
Whether you believe Colquhoun of Luss mistakenly thought the river was theirs or stole the land is immaterial. Under Scots Law they established title through possession (as they did for much of the land they used to own around the south west of Loch Lomond. There is no need to go through that history. The key events for the purposes of this story is that first in 1989 the Scottish Development Agency, Scottish Enterprise’s predecessor, purchased the “area of land immediately east of Pier Road to the River Leven (including the building that houses the Tourist Information Centre), and up to the roundabout adjacent to Pier Head (boat & trailer park)” from British Railways Board for £180,000. That land is now known as the West Riverside Site.

Then, in 1995, a second larger area of land between Drumkinnon Bay, Old Luss Road and Pier Road, which included Drumkinnon Wood, was purchased by Scottish Enterprise for £2,600,000 from the Drumkinnon Development Company Limited.

The response from the Registers of Scotland to Marie McNair MSP explains how Scottish Enterprise then secured title to the River Leven:

*In 1990, Scottish Enterprise registered title to part of the river, which had the effect of transferring the subjects from the older Register of Sasines to the more modern, map-based Land Register. Registration occurred under the previous legislative regime governing land registration in Scotland, the Land Registration (Scotland) Act 1979. Registration under this Act had the effect of making any title “good”, even where the underlying deeds were uncertain (the so-called “Keeper’s Midas Touch”). Rectification of such a title (to instate the true owner as registered proprietor) was only possible if it could be demonstrated that the registered proprietor was not in possession, which was often difficult to evidence, particularly in respect of bodies of water (this is what is alluded to in para 3.3 of the Council report).*

*Although the current legislation on Land Registration in Scotland, the Land Registration etc. (Scotland) Act 2012, removes the Midas Touch for new registrations, rectification of titles created under the 1979 Act fall to be handled under transitional provisions which effectively recreate the “proprietor in possession” test under and, in fact, create a statutory presumption that the registered proprietor (SE) is in possession, which must be rebutted in order to rectify. The Keeper can only rectify a title where the purported inaccuracy is clear and beyond reasonable doubt “she has no power to arbitrate in disputes and nor can she make decisions of a quasi-judicial nature where there is uncertainty in the title position. Given the nature of this particular issue (and in particular, that it seems likely that the SE title has been made good either by historical possession or by acquisition by the Railways Board).*



Title plan DMB35028 from Registers of Scotland showing land owned by Scottish Enterprise at Balloch. The purple band marks the Ineos pipeline.

SE has until now kept most of the land they acquired in Balloch. Their biggest disposal was in March 2001 when they sold Keir Homes a large parcel off Balloch Rd for housing for £2,075,000. That is now known as Drumkinnon Gate. They have previously sold a plot of land by Balloch Bridge to Sweeney's boatyard for £85,000 in 1998. A later attempt to seek planning permission for housing on the overspill car park, presumably with the intention of selling it, was withdrawn in 2008 ([see here](#)).

Other land SE owned at Balloch was developed through leases, most notably in the case of Loch Lomond Shores, the retail/leisure development on the south of Drumkinnon Bay which was granted a 150 year lease in 2001. It opened its doors in 2002, the same year as the National Park came into existence.

Apart from a few relatively minor planning applications, some of which were implemented and some not, most of the rest of the land remained undeveloped and the situation in Balloch in 2002 more or

less the same as it is today. While SE had made an attempt to in 1991 to build a hotel and marine/leisure facilities near the pierhead, this was refused in 1992 ([see here](#)) – that is 33 years they have now been trying!

## History of the West Riverside site following the creation of the National Park

While unable to change anything which preceded them, the creation of the LLTNPA offered a major opportunity to influence and determine how the undeveloped land SE owned at Balloch should be used in future. What sort of gateway was fitting for a National Park? With one of the primary intentions being that Scotland's two new National Parks would change how the planning system operated in their areas so it was brought into line with their four statutory aims (conservation of the natural and cultural heritage; public enjoyment of the special qualities of the area; sustainable development; and wise use of resources) hopes among some were high..

Unfortunately, the LLTNPA has removed from the internet all records of what it did or discussed in its early years and exactly why all new development on SE land came to a halt for a few years merits further investigation.

I have learned enough, however, to believe that many on the LLTNPA Board in its early years were not exactly supportive of SE's intentions, which were to cram as much development as possible onto the site. The board though faced significant constraints because the LLTNPA was dependant on SE for office accommodation at the Gateway Centre.

As importantly Lomond Shores soon got into difficulty: Drumkinnon Tower had to be re-purposed in 2005 ([see here](#)); concerns emerged about the amount of public money being handed to private business ([see here](#)); and like other property businesses it began to change hands – and has continued to do so ([see here](#)). There were possibly sufficient problems at Loch Lomond Shores to divert SE's attention from developing the West Riverside Site – but those problems also should have taught both SE and the LLTNPA some lessons.

In 2008 Fiona Logan became Chief Executive and, as I explained in the first part of this post, re-oriented the LLTNPA into a far more commercial direction. This was in time to influence the LLTNPA's first Local Plan, which took seven years to develop and was approved in 2010. That plan is one of the many LLTNPA documents that has been completely removed from the internet but there is some information about, in the Main Issues Report (MIR) for the subsequent Local Development Plan:





Extract from the MIR for Balloch, which was issued for public consultation after being approved by the LLTNPA board in March 2014: ST = Sustainable tourism

The MIR map for Balloch shows that most of SE's West Riverside Site, along with land the LLTNPA owned at the pierhead, had been allocated for Sustainable Tourism in the Local Plan. The brown tab suggested that the pierhead area should be for "small retail//service or activity businesses" – quite a contrast to the proposed "£40m" Flamingo Land development.

## BALLOCH

### Summary of review of existing Development Strategy (Local Plan Page 99)

There has been little development overall in Balloch on existing sites. Construction has commenced on the former garage site – however, planning permission has been issued for a hotel on the former site compound (H6).

The boundary of ST6 which included Loch Lomond Shores and West Riverside has been amended to reflect the main area available for development. The Old Station area is identified as a Placemaking Priority.

### ISSUES

- **There are a number of opportunities which need to be realised through both public and private investment**
- **Key sites remain to be implemented, in order to improve the tourism offer on the waterfront at Loch Lomond and on the River Leven and to develop links with Balloch Castle Country Park**

The brief explanation and key accompanying the map also explained that the LLTNPA were proposing to amalgamate what had been classified as four separate tourism and recreation sites in the local plan (ST 5,6,7 and 8) into one site (ST6). The significance of the change was not explained but it followed a scoping request ([see here](#)) for a masterplan to cover the whole site that was submitted to the LLTNPA in 2012:

**From:** Diane MacNicol [REDACTED]  
**Sent:** 02 May 2012 16:30  
**To:** Catherine Stewart; Gordon Watson  
**Subject:** 2400 - Lomond Shores PRE/2012/0074 West Riverside Masterplan  
**Attachments:** MP 04 West Riverside Master Plan as Proposed.pdf; 2400\_SK 001 Location Plan\_A3.pdf; 2400\_SK 002 Context Plan\_A3.pdf; 2400\_SK 003 Conceptual Images\_2\_A3.pdf; 2400\_SK 100 Lomond Shores Hotel \_ Proposed Floor Plans.pdf; 2400\_SK 101 Lomond Shores Hotel \_ Proposed Elevations.pdf; 2400\_SK 102 Lomond Shores Hotel \_ Artist Impression.pdf; 2400\_SK 103 Lomond Shores Hotel \_ View From NorthWest.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Catherine,

We refer to your email below, and feel the time is now right to formally request a screening opinion and scoping in respect of any EIA which may be required. Your formal response would be useful in providing a list of further field studies and/or technical reports which may be necessary, and would be timeous as this is an ideal time of year to undertake certain ecology studies.

The sketch design proposals have not progressed significantly since our last meeting, and in support of this request, I now attach a current set of sketch proposals for the Lomond Shores 2 hotel development and a copy of the draft masterplan for West Riverside.

I trust this is in order, and look forward to hearing from you.

Bruce Baird

Gordon Watson became Chief Executive of the National Park in 2015 so has now been involved in talking to or managing talks with SE about how to develop the West Riverside Site for 15 years

The email from the application suggests LLTNPA staff had had several meetings with SE's agents.Â The plans included a large hotel on Drumkinnon Bay:



West Elevation as Proposed

Why would SE agents submit such a proposal until they had been led to believe it might be possible?

and an outline plan for the land:

default watermark



- |   |  |                                       |  |  |                   |
|---|--|---------------------------------------|--|--|-------------------|
| 1. Village square - high quality pubs/cafes.  | 7. Office, clipway enclosure & boat house for Sweeney's Cruises. | 14. Micro brewery - restaurant.       | 22. Existing children's play area.                           | 28. Residential development - 3 storeys, 28 apartments & 4 townhouses. | <b>Legend</b><br> |
| 2. Existing Tourist Information center.   | 8. Youth hostel - 3 storeys, 110 beds.                           | 15. Refitted boat trailer park.       | 23. Drumkinnon Tower.  | 29. 100 berth marina with public pontoon & boat cruise stop.           |                   |
| 3. Convenience retail - 2 storeys may include cafe/restaurant, newsagent, post office, & baker, butcher & general store with residential above. | 9. Log cabins - 800 pods for short hire.                         | 16. Car park.                         | 24. 100 berth marina with public pontoon & boat cruise stop. | 30. Existing Lomond Shores retail and leisure complex.                 |                   |
| 4. Arts and crafts kiosks.  | 10. Riverside lodges - self catering holiday lets.               | 17. LL&T&PA public clipway retained.  | 25. Mald of the Looch.                                       | 31. Existing bus and car park.   |                   |
| 5. Sports pavilion & cycle hire.  | 11. Existing sailing club pontoon.                               | 18. Pub/restaurant & water taxi stop. | 26. 4 Star hotel & leisure complex.                          | 32. Outdoor adventure park.  |                   |
| 6. Tennis courts.   | 12. Proposed new pontoon.  | 19. Multi railway station.            | 27. Reallocated roundabout.                                  | 33. Start Accommodation - 2 storey blocks.                             |                   |



gd lodge architects

LOMOND SHORES & WEST RIVERSIDE PROPOSED MASTERPLAN

1:2000 approx. @ A1

Proposed masterplan 2012

I have been unable to find out if there was ANY consultation on this masterplan locally but from reading the MIR one would have no idea that a development of this size and character was what was meant by "Sustainable Tourism". The then Balloch and Haldane Community Council (BHCC), a statutory consultee, certainly didn't know what was meant:

Chapter Commented on:	5 Placemaking - What sites should be considered for development? >> 5.5 Balloch >> 5.5.1 Balloch Question 1: o you agree with the preferred option? Why?				
Customer Reference:	00038	Organisation:	Balloch and Haldane (if applicable) Community Council		
Customer Name:					
Comment Reference:	LDP01/MIR/CONS/00038/1/006	Comment Method:	LETTER	Customer Type:	Local Public Body
Verbatim Comment:	Areas ST6 are not problematic as far the B&HCC is concerned, being 'reserved' for tourism and recreation but most of these areas are presently bereft of any development now and possibly into the distant future. The plan should reflect this in comment and <u>perhaps outline what could go on these sites even if based on previous failed development plans.</u>				

BHCC response to MIR 2014 – The BHCC was supportive of the land “being reserved for tourism and recreation” because they were opposed to housing being built on green space and wanted more facilities in the area

The BHCC response helps explain why there were almost no other responses to the MIR consultation from the general public in Balloch – no-one knew what it meant!

In October 2014 a report was presented to the LLTNPA Board on the MIR consultation, branded “Live Park”, by Gordon Watson ([see here](#)). After stating the MIR “*is the principal opportunity to consult with stakeholders on the Plan’s proposed content and involve the wider public*” the report went on to claim:

*“The investment of significant time and resources in early engagement to help inform the preparation and content of the Main Issues Report, through our programme of charrette [planning consultation] events and workshops, has delivered several demonstrable benefits, most notably fewer responses when compared to the past Local Plan consultation and a smaller number of contentious issues or sites.”*

The fewer responses in Balloch certainly weren’t down to greater engagement – there was no charrette – and the report went on to contradict this: “*Callander, Arrochar/Succoth/Tarbet areas were proposed as the main areas for change in the new Local Development Plan very much reflecting the recommendations from the charrette events in these areas*”. Despite being known as the gateway to the National Park there was no mention of Balloch in the entire report. – Strange!

In April 2015, at the special board meeting which also approved the camping byelaws, the LLTNPA approved the draft Local Development Plan (LDP) which had arisen out of the MIR for public consultation ([see here](#)). It was in March and April 2015 ([see here](#)) that planning staff from the LLTNPA had been working with SE on the marketing of the West Riverside Site for sale – there was no mention of this in the board papers.

The main changes in the LDP from the proposals in the MIR for the West Riverside Site were that the term “Sustainable Tourism”, which at least could be related to the statutory aims of the National Park, had been changed to Visitor Experience and the West Riverside Site, instead of being labelled ST4 had become VE1. The term Visitor Experience was extremely vague and the draft LDP contained no further information on what was being proposed. Transport Scotland expressed the problem succinctly in their response:

---

Part of Plan Commented On	Topic	Section commented on
<b>Place - Balloch</b>	<b>Balloch VE1</b>	<b>3.7.5</b>
Responder Name/Organisation	Customer Reference	
Strathclyde Partnership for Transport	00694	

Verbatim Comment

Change Requested : The Transport Assessment Icon Should Potentially Be Added To The Map For This Site, (See Below)

Reason : It is not clear from the proposed plan what the development of this area is likely to entail, if the proposals for this site are for a new vehicular link between Balloch and Loch Lomond Shores or for any other proposal which will see increased traffic in the area then a transport assessment should be required.

We also note that Pier Road is currently a private road.

The lack of any information about what was being proposed would explain why Transport Scotland's was one of ONLY three responses to the VE1 proposal. One of the others was from SE proposing to extend the VE area into Drumkinnon Wood – luckily a local person spotted this and forcefully objected..

By the time the LLTNPA Board was asked to approve the LDP in October 2015, staff clearly knew what was likely to be “entailed” by VE because they were on the interview panel which recommended Flamingo Land's appointment as preferred developer in August 2015 and someone called “Stuart”, who appears to be Stuart Mearns head of planning, had attended a meeting with SE on 30th September 2015 to discuss how to progress the development. There was nothing in the board reports about what was clearly being planned behind the scenes.

Although planning staff did recommend their board reject SE's proposal to extend the land allocated for development into Drumkinnon Woods, had they not there would have been uproar. More significant is the fact the Flamingo Land included Drumkinnon Woods in their first planning application in 2018 and clearly has been led to believe that staff would not reject development there out of hand whatever the LDP said.

The draft LDP then went to the Scottish Government's reporters for consideration. It took from between January to September 2016 for them to complete their inquiry and their final report, which is very thorough, was published on 4th October 2016:



## VE1 West Riverside

12. The proposed allocation of this large parcel of land immediately alongside the Leven near the centre of Balloch has resulted in a number of issues – principally concerning woodlands, wildlife and access - being raised by those making representations. The park authority has acknowledged those concerns but contend all of them can be satisfactorily addressed. In summary, for the following reasons I am persuaded by the arguments set out by the park authority in their responses and furthermore on this basis I agree with their overall conclusions.

13. The VE1 site is allocated in the proposed plan for visitor experience initiatives in principle I find this to be highly appropriate given its strategic location at the entrance to Loch Lomond. Any detailed proposals for the site coming forward as a planning application would be fully assessed by the planning authority through the Development Management process - at which time there would be statutory consultations, including with the Roads authority, as well as an opportunity for anyone to lodge representations in response to those proposals. At that stage and before determination of the application detailed consideration would be given by the planning authority to ensure that the proposals accord not only with the VE1 allocation but also with the relevant policies in the development plan. I would expect that to include reference to its natural environment policies, which are intended to protect trees and wildlife from inappropriate development.

14. Nevertheless, I agree with the park authority that it would be appropriate to add to the site map for VE1 on page 57 of the proposed plan an icon for transport assessment in order to ensure that any planning application for the site in question is accompanied by a Transport Assessment.

15. Amongst the representations there is a suggestion that the VE1 site should be extended to include more of Drumkinnon Wood – but I do not find the case for this compelling. Most importantly no such possible further incursion into this woodland put forward for detailed investigation and consultation earlier in the plan process with options could be examined in more depth – and at which time there would also have been an opportunity for public comment. As that was not done, I conclude that it is now too late in the plan process to introduce for the first time such considerations when the new defined boundary put forward in the representations and in any event insufficient opportunity to adequately assess or to seek public views on such possible options.

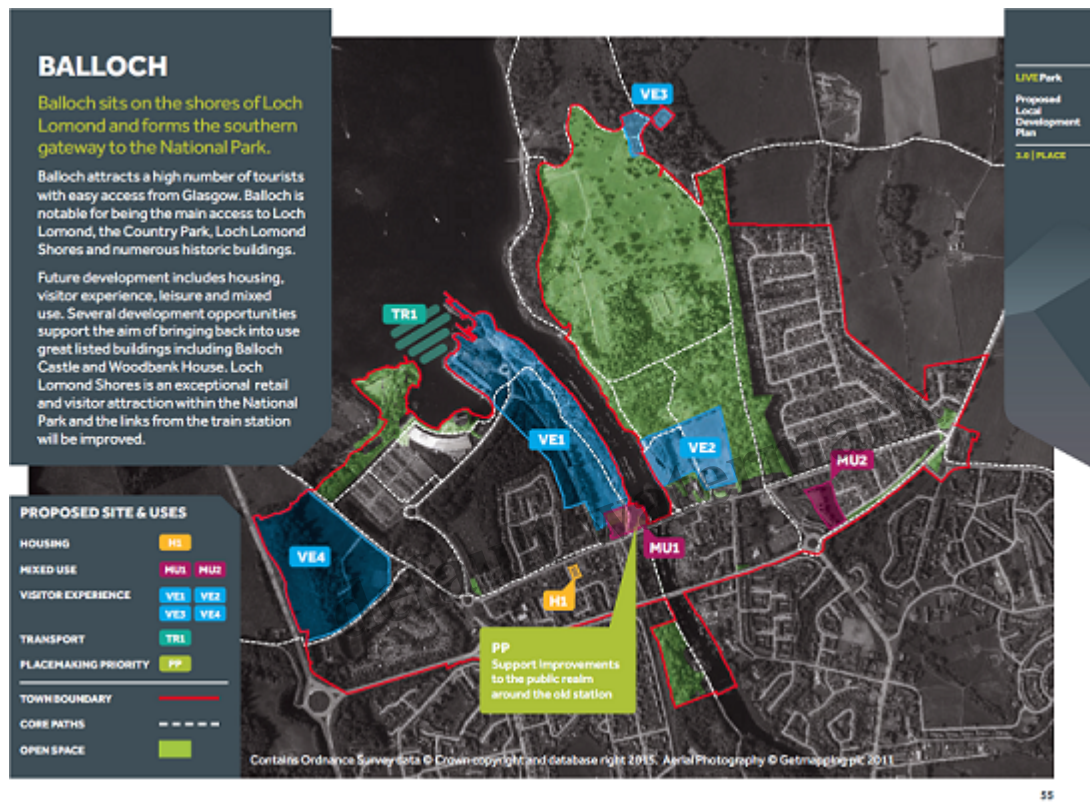
Extract from final report on LDP

It appears from this that the Reporter had only the vaguest idea of what sort of development might be proposed for the West Riverside site too! The reporter's reasons for rejecting SE's last minute



suggestion that VEI should be extended to include Drumkinnon Woods could, in retrospect, be judged equally applicable to the rest of the West Riverside site! The public had been given no opportunity to examine “in more depth” the option which the LLTNPA and SE had been developing behind the scenes

What this part of the story shows is that LLTNPA staff managed the whole LDP process so that people knew as little as possible about what was being planned for Balloch. Having got the land allocated for meaningless visitor experience, it opened the door to Flamingo Land.



The final allocation in the LDP, meaningless to the public but not without meaning for the LLTNPA’s planners who had been discussing plans for the site with SE for years

The LDP was originally intended to cover the period from 2015-2020, following on from the Local Place Plan 2010-15, but was only approved by Scottish Ministers at the end of 2016 and for the period 2017-21. Covid and the adoption of National Planning Framework 4 then intervened but the LLTNPA only started worked on a Main Issues Report for its next LDP this year. So far there has been no public consultation.

Had public consultation started, thousands of those who have objected against the Flamingo Land planning application (objections have now topped 150,000 (see here)) might have challenged the allocation of the whole of the West Riverside Site for Visitor Experience or demanded the LLTNPA be much clearer about what this might entail and what was acceptable and what not..

The fact that public consultation on the new MIR will only take place after the Flamingo Land planning application has been determined in principle is another bit of timing which needs to be explained.

While the LLTNPA board have no choice under planning law but to treat the allocation of the West Riverside Site for Visitor Experience as a “material reason” for supporting the application, they should be mindful of how the staff who will likely be presenting the report to the meeting, Gordon Watson and Stuart Mearns, got the National Park into this position.

## Sidelining the local community

### COMMUNITY INVOLVEMENT

#### Loch Lomond and The Trossachs National Park Authority - LIVE Park: Main Issues Report Engagement



06

#### Reason for an Award

This has been adjudged the Overall Winner for the dynamic and refreshing approach taken towards creating a development plan. The Judges were impressed with not only the level of ambition showed by the team but how they applied a range of new and innovative techniques tailored to the Park's circumstances and local development issues. While some of these elements have been applied elsewhere, the Judges considered that LIVE Park had gone further by combining mainstream consultation with marketing, digital and social media, along with clear graphic design and more traditional plan-making skills. As a result they felt the team had delivered a better consultation process for their key audience. All in all the Judges felt that the comprehensive consultation approach, combined with the modern approach to engaging local communities, exceeded expectations. The team were considered great advocates for the profession. It was felt that that the project had, without doubt, set a new pioneering benchmark which others could follow.



#### Who made it happen

Loch Lomond and The Trossachs National Park with 7N Architects, SNOOK and PAS as key partners

#### Contact

Stuart Mearns - [stuart.mearns@lochlomond-trossachs.org](mailto:stuart.mearns@lochlomond-trossachs.org)

Sarah Drummond, now a LLTNPA board member, was the founder of SNOOK.

I have explained previously how, after its Board approved the LDP in October 2015, LLTNPA staff organised a planning charrette for Balloch ([see here](#)). While other local communities in the National Park got their charrettes BEFORE the LDP was agreed, Balloch got their charrette afterwards.

The Balloch charrette took place between January and May 2016, in the year between LLTNPA and SE deciding to appoint Flamingo Land as preferred developer for the West Riverside Site and when they made this public. The dates are important because much of the charrette, financed by the Scottish Government, was concerned with engaging the local community about the West Riverside Site who were kept in the dark about what had been agreed.

The charrette final report ([see here](#)) contained a list of actions:

Project	Short Term (Years 1-2)	Medium Term (Years 2-5)	Long Term (Years 5+)	Lead	Support	Opportunities for others
New riverside walkway connecting village centre, Balloch Pier and Loch Lomond Shores	PP <ul style="list-style-type: none"> <li>Work up scheme design (to be integrated with West riverside proposals), agree funding package in conjunction with wider riverside proposals</li> </ul>	<ul style="list-style-type: none"> <li>Implement as early phase of wider West riverside proposals.</li> </ul>		<ul style="list-style-type: none"> <li>Scottish Enterprise</li> </ul>	<ul style="list-style-type: none"> <li>Preferred bidder for West riverside</li> <li>National Park Authority</li> </ul>	<ul style="list-style-type: none"> <li>Sustrans</li> </ul>
Secure a viable use for Balloch Castle that is compatible with long term sustainability, funding potential and ownership constraints; include café/toilets for public use. Maximise local skills/employability benefits.	PP <ul style="list-style-type: none"> <li>Options appraisal to find appropriate use of Castle building.</li> </ul>	<ul style="list-style-type: none"> <li>Appoint delivery partner to develop and implement viable proposal, business plan and funding package, maximising local skills/employability benefits.</li> </ul>		<ul style="list-style-type: none"> <li>WDC</li> </ul>	<ul style="list-style-type: none"> <li>National Park Authority</li> <li>Community Council</li> <li>Glasgow City Council</li> </ul>	<ul style="list-style-type: none"> <li>New business opportunities</li> </ul>
Develop West Riverside site	PP <ul style="list-style-type: none"> <li>Prepare development proposals for land owned by Scottish Enterprise.</li> <li>Agree local employability package as part of development delivery</li> </ul>	<ul style="list-style-type: none"> <li>Implement development proposals and local employability package</li> </ul>		<ul style="list-style-type: none"> <li>Scottish Enterprise</li> </ul>	<ul style="list-style-type: none"> <li>Preferred developer for West riverside</li> <li>Community Council</li> <li>WDC Economic Development</li> <li>Sustrans</li> </ul>	<ul style="list-style-type: none"> <li>New business opportunities</li> </ul>

PP - Priority Project

Perhaps when the consultants who conducted the charrette suggested the project “prepare development proposals for land owned by Scottish Enterprise” they too were unaware that SE and LLTNPA staff had already been doing this?

While the Community Council was listed under the support column for several actions (developing proposals for Station Square, Parking Strategy) it is unclear how many of these were actioned by Flamingo Land before they submitted their first planning application in 2018 ([see here](#)).

As importantly many of the ideas that had been suggested at the charrette – the longstanding wish for a pedestrian bridge over the River Leven at the pierhead to connect with Balloch Country Park and the Riverside walkway – were either never included in the list of projects or never actioned ([see here](#)).

SE signed a legal agreement with Flamingo Land on the 13<sup>th</sup> September 2016 (information obtained through an FOI request) which appear to have included the Exclusivity Agreement. Under this SE undertook to sell the West Riverside Site to Flamingo Land should they obtain planning permission. It was designed to make it very difficult for the local community to propose any alternatives for the site or to make use of the new rights created by the Community Empowerment (Scotland) Act 2015.

When Flamingo Land withdrew their first planning application in 2020, after public pressure had forced LLTNPA staff to (narrowly) recommend its refusal, instead of engaging with the local community – as intended by the Scottish Parliament under the new legislation – SE renewed its EA with Flamingo Land ([see here](#)). The LLTNPA kept silent, despite its legal duty to promote sustainable development of local communities.. The Scottish Government, despite the many soundbites by Ministers about supporting and empowering local communities, has since allowed SE to convert that EA into conditional missives. The appear to have been designed to shut out the local community even further (Ross Greer MSP obtained a copy through an FOI request and the only sections that are not heavily redacted concern those that are about excluding the local community!)

Since 2020 the LLTNPA has, in response to Scottish Government policy, undertaken a number of initiatives designed to increase community involvement in planning. In June 2023 ([see here](#)), the LLTNPA Board considered two papers about tourism infrastructure in the National Park. Despite



Stuart Mearns, Director of Place, having described Balloch as “the main visitor and transport interchange for the National Park” and despite the LLTNPA having identified the need to address transport and parking issues and for a masterplan for the pierhead area, work on projects was described as “deferred”. While no explanation was given, the delay has allowed the Flamingo Land Planning Application to be decided first.

More recently the Board Meeting on 24th June 2024 considered an update to their Place Investment Strategy ([see here](#)):

7.9. In Balloch, following on from the Charette in 2016 and the improvements implemented by West Dunbartonshire Council at the village square at Moss of Balloch of 2019, further rounds of community engagement are planned. We are committed to masterplan the pierhead area around Duncan Mills Memorial Slipway with partners, including West Dunbartonshire Council, to better meet user needs and will engage with the public on that this year. At Balloch Station and Balloch Castle Country Park we are reliant on commitment from West Dunbartonshire Council to take engagement forward.

Suddenly, with the Flamingo Land determining hearing about to be announced, there is action! Appendix 3 to the report describes Balloch as “a Priority Area” and, out of the three priorities for investment identified, two have considerable significance for the West Riverside site:

Key Opportunities/Highest priority investments

4.4. The highest priorities for investment are as follows:

- 4.3.1 **Pierhead Masterplan:** establish a partnership to oversee the preparation of a masterplan for the Balloch Pierhead area, which will also consider wider linkages to public transport and co-ordinated actions.
- 4.3.2 **Sustainable transport, public realm and connectivity:** including a renewed 'Station Square' arrival point and public space and improved path connectivity and experience between main public sites.

The board paper also stated that £2.4m would be needed to finance the masterplan at the pierhead:



Scale of investment required.

4.5. Balloch costs are a placeholder as these are as yet not developed. The funding required in Balloch, within the National Park Partnership Plan period, for the Pierhead Masterplan actions is **estimated** at £2.4million Inflation is not accounted for as a nominal allowance only has been made for costs in Balloch as within the period of the Route Map investment needs will become clearer in Balloch, and, where resourcing permits, they can be included in the programming.

Balloch	2024-25	2025-26	2026-27	2027-28	2028-29	2029-2034
Average required investment (without inflation)	£0	£0	£800,000	£800,000	£800,000	to be confirmed

Note 1. Investment costs are works only, which may be subject to both professional fees and VAT, together potentially an additional 42.5 %.

This masterplan presumably includes the area at the pierhead where Flamingo Land is wanting to build an aparthotel and leisure complex.Â If so, is part of the Â£2.4m another public subsidy for private development on land currently owned by the public?Â Is this a repeat of what happened at Loch Lomond Shores?Â Even more importantly, how does the LLTNPA know delivering a masterplan at the pierhead will cost Â£2.4m when work on it has not started?Â Or has everything, as per the rest of the West Riverside Site,Â already been decided behind the scenes by staff?

What this tells you is that the LLTNPA has not changed iand is still trying to exclude the local community from plans.Â The LLTNPA's commitment to find Â£2.4m to invest in the area, however, at last offers an opportunity from a community perspective.Â If the new South Loch Lomond Community Development Trust now registers an interest in taking over or managing the land which the LLTNPA owns and leases at the pierhead, they should now be able to call on the LLTNPA to secure the Â£2.4m to fund any proposals they develop!Â Together with any new funding stream for outdoor education ([see here](#)) that could make a community watersports hub financially viable and offer a real alternative to Flamingo Land

## The current LLTNPA Board and the Flamingo Land planning application

There is a line between what a planning authority needs to do to enable sustainable development to take place (setting the parameters for development, engaging local communities, advising potential developments etc) and backing a particular developer or development.Â Scottish planning policy requires that after setting the framework for developers, planning authorities need to decide individual planning applications objectively according the spatial allocations in their LDP and planning policy (both local and national).

Throughout the Flamingo Land saga the LLTNPA Board has shown almost no awareness of this line as I showed in part 1 of this post.Â Not only have they failed to ask, but they have also refused to investigate their staff's involvement in the appointment of Flamingo Land and subsequent cover-up or how land owned by the National Park was included in Flamingo Land's first planning application.Â Nor

has the Board considered how other decisions they have made, such as trying to hand the Gateway Centre back to Scottish Enterprise or agreeing in principle to find £2.4m for the pierhead, might play into Scottish Enterprise's and Flamingo Land's interests.

Given this lack of awareness it is hardly surprising that the LLTNPA board has never once questioned how the whole development planning process in Balloch has been managed. Despite Gordon Watson's recent claims that the LLTNPA have been following planning rules to the letter, last year he once again led the LLTNPA board completely over the line in its new National Park Partnership Plan (NPPP). The draft NPPP approved at the board meeting on 13<sup>th</sup> March 2023 ([see here](#) for papers) included this paragraph:

*•Significant new development is not envisaged to be required beyond that already identified in the current National Park and already in the pipeline for delivery. Development that will meet the strategic needs of the National Park and adjoining areas at Balloch and Callander is still considered necessary, as well as a focus on addressing vacant and derelict sites at Arrochar and Tarbet.*

This committed board members to the development in the pipeline at Balloch, i.e the Flamingo Land planning application, as being "consider necessary". No board members raised questions or concerns about how this might prejudice their ability to take an objective view on the planning application. How can anyone take an objective decision on the merits of an application which they have already decided is necessary?

In the final draft of the NPPP considered by the Board on 11<sup>th</sup> December 2023 ([see here](#)) the paragraph had been amended by staff – there had been no objections to the NPPP on this point – to read as follows:

*••There continues to be considerable development interest in the Park, mainly for housing and tourism-related developments, however some places do not have capacity for more development due to environmental constraints or lack of rural infrastructure. Beyond what has already been identified in the current National Park Local Development Plan and is already in the pipeline for delivery, it is not envisaged that any significant new sites for development will be needed in the period of this Plan.*

It appears some had realised the phrase "consider necessary" had stepped over the line. At the same time they removed four out of the five references to Balloch that had appeared in the draft NPPP. While this helped obscure the meaning of the reference to developments "already in the pipeline for delivery", that could only be a reference to those at Callander and Flamingo Land. Having approved a plan that endorses the Flamingo Land application as being in the pipeline for delivery, it is impossible for board members to take an objective decision about it – at least without a public apology and mea culpa.

Its worth comparing the new NPPP with what was said in the 2018-23 NPPP. In respect of Balloch it stated "Support village centre and station square public realm improvements; Encourage charrette vision; Support Balloch Castle and Country Park regeneration/improvement". It was far less specific and there is not commitment in that plan to delivering developments "in the pipeline".

The BHCC has written to individual members of the LLTNPA drawing attention to this, so they cannot say that they don't know, and has called for the board meeting scheduled for 16th September to be deferred.,

## **Development rights over the River Leven**

I will end this story by considering another matter that is extremely pertinent to the Flamingo Land planning application and of particular interest to boating interests and watersports.

While Scottish Enterprise's title to the land at Balloch has never been challenged, that is not the case with the River Leven. Since acquiring the title to the Riverside Site SE had never shown much interest in the river and left it to West Dunbartonshire Council to manage, including dealing with problems such as sunk and abandoned boats. That led to negotiations to transfer the title to the River Leven back to WDC. However, as the subsequent Committee Report to WDC in 2007 ([see here](#)) explained, those negotiations fell through – almost certainly because SE realised they were sitting on a potential goldmine which would significantly increase the value of the West Riverside site.

WDC considered legal action but, for the reasons explained above by the Registers of Scotland, decided that was unlikely to be successful and would be extremely costly. They therefore abandoned the legal challenge. That should have been the time for the Scottish Government to step in and tell SE to transfer the land back voluntarily to the people of West Dunbartonshire. But the Scottish Government failed to act and SE, after appointing Flamingo Land as preferred developer, included the rights to the River Leven in their Exclusivity Agreement.

Ownership of the rights to the River Leven is extremely attractive from a private developers perspective. At present, the boat clubs pay relatively little and, with no other public moorings around Loch Lomond, Flamingo Land is potentially acquiring a lucrative. While they have been forced to allay public concerns, "promising" to maintain current arrangements, their promise has no legal basis. If they were serious about it they could now enter their own exclusivity agreement legally binding them to transfer those rights back to WDC once they acquire them from SE – the fact that they haven't should tell all the boat clubs what will happen if the Flamingo Land development goes ahead.

The rights to the River Leven are crucial for outdoor recreation purposes and the LLTNPA has both a statutory duty to promote public enjoyment of rivers and lochs and a duty protect access rights. Had it called on SE to transfer the river back to the people of West Dunbartonshire that might have made a real difference, but it didn't.

Instead, the LLTNPA has allowed the rights that were granted under the Royal Charter to be further eroded. As the WDC Committee report points out, there had been considerable public concern about SE selling part of the land along the River Leven to Sweeney's boatyard. The subsequent blocking of the right of crossing by Balloch Bridge – a right which could not be extinguished by the title to the land being transferred – has never been challenged by the LLTNPA.

## A final thought

Its over ten years since I set up Parkswatch, in response to the corrupt processes that led to the camping byelaws. In retrospect it didn't really matter what I or others such as Chief Inspector Kevin Findlater uncovered or said, the LLTNPA simply brazened it out. They were accountable to no-one.

There are in my view many similarities between how the LLTNPA handled those processes back and how they have been trying to handle the Flamingo Land development. Little has changed in ten years. But suddenly things feel different: 150,000 objections; politicians from all political parties speaking out; and above all a local community that is not just upset but getting organised.

This is about more than the Flamingo Land planning application, its about a National Park Authority that is starting to unravel and that presents major opportunities to reform not just the planning system in our National Parks but the whole way they operate.

### Category

1. Loch Lomond and Trossachs

### Tags

1. flamingo land
2. Governance
3. LLTNPA
4. planning
5. Scottish Enterprise
6. Tourism

### Date Created

August 31, 2024

### Author

nickkempe

default watermark