



Case reference	NA-LNP-010
Application details	Erection of office accommodation and formation of car parking area
Site address	Former Sawmill, Balliemanoach, Strachur
Applicant	Peter McKerral & Co. Ltd
Determining Authority	Loch Lomond and the Trossachs National Park Authority (LLTNPA)
Local Authority Area	Argyll and Bute
Reason(s) for notification	Category 2 (Objection by SEPA)
Representations	Nil
Date notified to Ministers	6 October 2017 but not fully documented until 10 October 2017
Date of recommendation	28 November 2017
Decision / recommendation	Clear

Description of Proposal and Site:

- Planning permission is being sought for the erection of single storey office accommodation and associated parking on land at Balliemanoach sawmill, adjacent to the A815, about half a mile south from the village of Strachur. The River Cur runs along the Northern boundary of the site and mature trees screen the site from the road (see **Annex A**).
- The 1.45ha irregular shaped site is rural in nature but contains a yard and building for the repair and maintenance of timber haulage lorries while temporary portacabins provide office space for the businesses which occupy the site.

EIA Development:

- The site is within a national park which is identified as a 'sensitive area' in the EIA (Scotland) Regulations 2011. The National Park Authority (NPA) considers EIA is not required as the proposal is not identified within Schedule 2 and a formal screening opinion was not undertaken. Site constraints were checked and the NPA considered there was no trigger for the proposal being EIA development due to the small scale of the development, lack of any designations in the vicinity and no anticipated significant environmental impacts in terms of ecology, landscape etc. It is for an authority to interpret the EIA regulations, however given the wide scope and broad purpose of the EIA Directive, it may fit within "Infrastructure projects" as per paragraph 10 of Schedule 2. Thresholds would not be a consideration in this case as the proposal is located within a 'sensitive area'. EU guidance indicates "providing a comprehensive list of project types that might be relevant under this particular heading is almost impossible. In general, this category could include projects that are intended for high-tech companies, storage, warehousing, trading and distribution/transport companies."

Consultations and Representations:

- SEPA objects to the proposal on the grounds that it may place buildings and persons at flood risk contrary to Scottish Planning Policy (SPP). It is recognised by SEPA and the National Park Authority that the site lies within the medium likelihood (0.5% annual probability or 1:200 year) flood extent (as shown on SEPA's River and Coastal Flood Maps) and may be at medium to high risk of flooding. SEPA's objection would be reviewed if the development was located outwith the functional floodplain in line with Scottish Planning Policy. In ongoing discussions, SEPA suggested an alternative site – see **Annex A**). They also considered there may still be the need for adequate flood mitigation measures, which may include compensatory storage and further information on the access and egress arrangements.
- Argyll and Bute Council's Flood Prevention Team did not object on the basis that conditions were imposed regarding the implementation of a local flood alarm system, detail of final floor levels and implementation of a swale [which slows and captures runoff by spreading it horizontally across the landscape easing runoff infiltration into the soil].
- No representations or objections from other statutory consultees were received.
- Following notification, the Scottish Government Flood Risk Management Team were consulted. After discussions, they confirmed that they remained concerned about allowing piecemeal development on the functional floodplain, contrary to SPP, and the precedent this could set. However, they did not consider this particular case of such national interest to warrant call-in for Ministers scrutiny.

Assessment:

1. The National Park Authority are minded to grant planning consent for the proposal against the advice of SEPA and the application has been notified to Scottish Ministers as a result of their objection.
2. A previous application (2015/0305/DET) was refused by the NPA on flood risk grounds in July 2016. The current application is similar to the previous but with more flood mitigation measures proposed, in particular the addition of a raised timber walkway erected for safe escape to the A815 in the event of a flood.
3. The current application was refused by the LLTNPA on 1 May 2017 as the proposal was contrary to SPP and Policy NEP13 of the Local Development Plan and the applicant had failed to satisfy SEPA or the authority that flooding on the application site and resultant risk to property and life can be adequately addressed or mitigated by acceptable solutions.
4. The applicant appealed the delegated decision to the Local Review Body (LRB). With regards to the alternative site suggested by SEPA, the applicant stated that their view is not pragmatic as it takes no account of the continuing use of the lorry park and timber storage facility which separates the main entrance to the site from the alternative location proposed. The location of the current temporary office accommodation lacks separate safe parking provision and requires visitors to negotiate through the busy HGV lorry park.

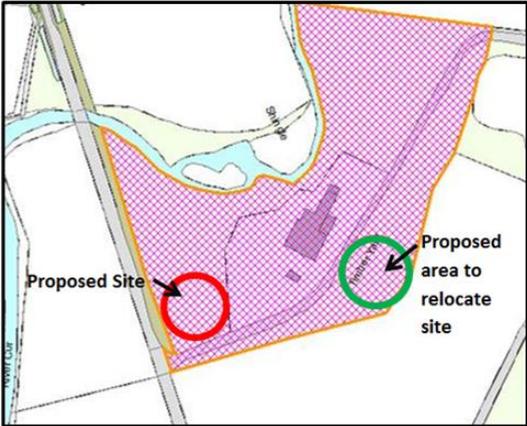
5. The applicant considers if the new office was built at the alternative site, pedestrians and vehicles would still have to negotiate their way through lorry park HGV manoeuvring and this was disproportionate to the 1:200 year flood risk. They consider that there are no viable alternative locations for the office accommodation on the site and no other premises to rent in the area. If they can't improve the current situation for staff, the applicant may have to relocate out of Cowal with the loss of 9 managerial and 40 subcontractor posts.
6. After consideration of all factors, members of the LRB agreed to **reverse** the officer's decision and grant planning permission subject to conditions on 25 September 2017. This was on the basis that members:
 - i), acknowledged the proposal was not fully compliant with SPP and the Local Development Plan (LDP) and noted the conditions provided to seek to mitigate the potential flood risk at the site;
 - ii), concluded that the economic benefit of the site at this rural location was a material consideration and compliant with policy EDP2 of the LDP;
 - iii), concluded that the economic benefit of the site being retained in its current use was a material consideration of such sufficient weight as to justify granting planning permission subject to the proposed conditions relating to flood mitigation measures and agreement of materials and specifications.
7. The key consideration in this case is therefore whether this application is considered to raise issues of national importance which warrant call-in by Ministers based on the flood risk objections from SEPA.
8. With regards to the proposal and the principle of development, the policy principles of managing flood risk and drainage within SPP highlight that the planning system should promote flood avoidance by safeguarding flood storage and conveying capacity and locating development away from functional flood plains and medium to high risk areas. Paragraph 256 of SPP sets out that the planning system should prevent development that would have a significant probability of flooding or would increase the probability of flooding elsewhere and that piecemeal reduction of the functional floodplain should be avoided given the cumulative effects of reducing water storage capacity.
9. The view of SEPA and the Scottish Government Flood Risk Team are noted on the principal of piecemeal development and reduction in the floodplain, however each planning application should be assessed on its own merits. When taking into account the relatively small area of floodplain affected, the lack of alternative locations for the office development, and the wider economic and health and safety benefits of the small scale development, it is considered that this particular proposal does not raise issues of national importance to warrant intervention by Scottish Ministers.

Recommendation:

10. It is recommended that the application be cleared back to the Loch Lomond and the Trossachs National Park Authority to issue consent.

Annex A - Balliemeanoch Sawmill, Strachur

Location map



[The green circle is SEPA's preferred site for a building as it is not located on the floodplain.]