

T: [REDACTED]
E: [REDACTED]

Ms Lucy Prins
The Highland Council

By e-mail to: [REDACTED]

Your ref: 14/00357/FUL
Our ref: NA-HLD-081
13 April 2015

Dear Ms Prins

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
THE TOWN AND COUNTRY PLANNING (NOTIFICATION OF APPLICATIONS)
(SCOTLAND) DIRECTION 2009
SITING OF 8 CAMPING PODS AT DRAGONS TOOTH GOLF COURSE, BALLACHULISH**

I refer to your Council's letter of 6 March 2015 with which a copy of the planning application relating to the above development was notified to the Scottish Ministers in accordance with the above mentioned Direction.

It is not the Scottish Ministers' intention to intervene in this application by either issuing a direction restricting the granting of planning permission or by calling in the application for their own determination. Accordingly, your Council are hereby authorised to deal with the application in the manner it thinks fit.

A copy of our assessment report into this application can be found on our website after 48 hours of the decision at –

<http://www.scotland.gov.uk/Topics/Built-Environment/planning/Decisions>

Yours sincerely

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Case reference	NA-HLD-081
Application details	Siting of 8 camping pods
Site address	Dragons Tooth Golf Course, Ballachulish
Applicant	Ossian Development Limited
Planning authority	The Highland Council
Reason(s) for notification	Paragraph 2 (SEPA objection)
Objectors	SEPA and 5 letters of representation
Date notified to Ministers	6 March 2015
Date of recommendation	30 March 2015
Decision / recommendation	Clear

Description of Proposal and Site:

- Planning permission is sought for 8 "armadilla" camping pods 5.1m long by 3.4m wide by 2.98m high.
- They would be sited within woodland and along the bank of the Abhainn Greadhain on the Dragon's Tooth golf course at Ballachulish.
- The application site lies within the 1 in 200 year flood envelope and is at medium to high risk of flooding.
- The pods will be fixed to four concrete pads, at either corner of the Pod, which will be positioned on top of a berm constructed of boulders. This berm was erected following a flood event 30 years ago and is approximately 1.5m high.
- A private driveway leads into the site, and visitors to the pods would park in the car park by the club house and walk to the individual pods on paths leading to the wooded riverbank from the driveway.
- It is proposed to provide electricity, a water supply, foul drainage and data via a service trench which would run the length of the riverbank and pass underneath the pods.

EIA Development:

- The Council carried out a screening opinion and determined that EIA was not required on the basis that the impact on the receiving environment is not considered likely to be significant because of the relatively small scale of the development and localised nature of the impacts.

Consultations and Representations:

- SEPA objects to the proposed development, at this location, on the grounds that it may place buildings and persons at flood risk contrary to SPP and PAN 69. SEPA considers that the methodology used in the Flood Risk Assessment (FRA) is flawed and that further assessment shows that the bank opposite the proposed development is approximately 4m higher along its length, and as such the side of the river proposed for development forms the flood plain. SEPA are concerned that if the river were to burst its banks adjacent to the site, water would flow towards the proposed accommodation pods. SEPA also sets out that the proposed pods would be sited on boulders forming a flood embankment. Flood water would spill under the pods into the surrounding flood plain and goes against principles set out in SPP. SEPA considers that the flood embankment is not built to any verifiable standard or maintained on an on-going basis, and that the development would be vulnerable to embankment failure and/or overtopping.
- Objections were also received from the Council's Flood team on grounds that it would be unsafe to allow sleeping accommodation adjacent to such a burn and that the proposed pods should be re-sited outwith the flood plain and riparian strip.
- The Council's Forestry Officer objects to the proposal because of the loss of a significant number of trees. A Tree Preservation Order was made on 3 April 2014, covering the application site together with a wider area around it, because of concerns about tree felling in the area.
- Five letters of representation were received from third parties objecting to the proposal on the following grounds: flood risk, increased traffic, loss of trees, increased noise, privacy and impacts on cultural and natural heritage assets.
- Following notification, the Scottish Government's Managing Flood Risk Team was consulted and recommended that the application is not called in on basis that the proposed development is too small scale. However, the Unit does raise a number of concerns regarding the proposed development - *"the proposals run contrary to a number of relevant Scottish Planning Policy principles, as well as guidelines set out in Highland Council's Supplementary Planning Guidance, and that the objections raised by SEPA, and by the Council's own Flood Team, appear fundamentally sound. Furthermore, the Flood Risk Assessment (FRA) commissioned by the applicant is not considered to follow the most appropriate methodology, and by the consultant's own admission, it does not cover all of the site. Indeed the FRA acknowledges that the likely flood levels for the unassessed area of the site may be higher than for other sections. While the South Planning Applications Committee, in deciding to approve the application, have asked for conditions to be placed on the planning permission in relation to provision of a flood alarm system and training for staff, there is no evidence provided that these measures can adequately address the flood risks affecting the site."*

Assessment:

1. The Council is minded to grant planning consent for this proposal against the advice of SEPA and the application has been duly notified to Scottish Ministers as a result of that objection.

2. The application was recommended for refusal by officers, however this decision was overturned at Committee. The Committee recommended planning permission be granted on the grounds that the benefit of the proposal to developing tourism in the area justifies departing from policy and that flood risk and associated risk to buildings and persons can be mitigated by attaching appropriate conditions to the planning permission. The suggested conditions are the provision of a flood alarm system, and staff training. In practice these may be difficult to enforce over time, particularly staff training, as staff change and new staff arrive.
3. The officer report expresses concerns regarding the stability of the bouldery berm on which the pods would be sited. Whilst the pods would sit on fixed concrete pads or pillars, one at each corner, which would in theory allow flood water to run underneath them, the means of getting to and from the pods could still be affected, creating islands within the flood plain, and putting people at risk. In providing sleeping and living accommodation, the proposed development would be a highly vulnerable land use in this location. Concerns are also expressed over the structural stability of the proposed site and the proposals vulnerability to embankment failure and/or overtopping.
4. The officer report sets out that the applicant wishes to maximise the riverbank setting as an attractive feature, and the proximity to the club house. However it appears that there are alternative areas within the golf course which would be suitable for the proposed development and there is no overriding need for the pods to be sited on the riverbank.
5. The Scottish Government's Managing Flood Risk Team acknowledge that the location is in a flood prone area but, given the small scale of development, consider there to be no national interest in challenging the council's view.
6. Based on the information submitted, it is acknowledged that the proposal gives rise to concerns over flood risk. There are concerns about the FRA and the proposed conditions may be difficult to enforce. However, on balance, the issues raised are considered local to the Ballachulish area and do not raise issues of national interest that would warrant intervention by Scottish Ministers.

Recommendation:

7. It is recommended that the application is cleared back to Highland Council.