

Agenda Item	5.2
Report No	PLS-039-20

HIGHLAND COUNCIL

Committee: South Planning Applications Committee
Date: 18 August 2020
Report Title: 20/01095/FUL : Fort William Marina & Shoreline Company Ltd
Site 160m SW of The Pier, Fort William
Report By: Area Planning Manager – South

Purpose/Executive Summary

Description: Extension to existing pontoons
Ward: 21 – Fort William and Ardnamurchan
Development category: N04B Business and Industry - Local
Reason referred to Committee: Community Council Objection

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

Recommendation

Members are asked to agree the recommendation to **Grant** planning permission, for a temporary period, as set out in section 11 of the report.

1. PROPOSED DEVELOPMENT

- 1.1 Planning permission is sought to extend the existing pontoons site Fort William. The new pontoons would be located along the seawall and extend out to the corner of the existing pier, with concrete breakwater sections anchored around the area of the pontoons. The floating pontoon would be secured by piled posts.
- 1.2 Existing infrastructure includes a floating pontoon secured by four H beams piled into the seabed next to the West End Car Park wall and a fixed walkway from the northern corner of the West End Car park
- 1.3 Pre Application Consultation: None
- 1.4 Supporting Information: Specification of pontoons and breakwater, statement of dredging, response to transport planning
- 1.5 Variations: None

2. SITE DESCRIPTION

- 2.1 The site is located to the north east side of the West End Car Park in Fort William. The new pontoons would be located along the seawall between the existing pontoons and the Puffer Pier, extending out to the corner of the existing pier.

3. PLANNING HISTORY

- 3.1 22.02.2016 15/03675/FUL: Install 2 pontoons and an access bridge Planning permission granted
- 3.2 23.09.2016 16/03712/FUL: Extension to existing pontoons Planning permission granted

4. PUBLIC PARTICIPATION

- 4.1 Advertised: Unknown Neighbour, Schedule 3 Development
Date Advertised: 02.04.2020
Representation deadline: 16.04.2020
Timeous representations: 0
Late representations: 0
- 4.2 Material considerations raised are summarised as follows:
 - a) None
- 4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam.

5. CONSULTATIONS

- 5.1 **Fort William, Inverlochy and Torlundy Community Council:** The Community Council has raised an objection to the proposal. The Community Council recognise the work of the applicant and agree that there is a need to develop marine tourism facilities. The Community Council are concerned that the proposal may fulfil a short term need and gain, however the long term and enhanced options for marine tourism facilities is needed including improved infrastructure (road crossings, toilets, shelter for small boats, berthing facilities for cruise ships etc. This is a desired objective for the long term prosperity of the town and wider area.

The entire area of shoreline from the West Highland College UHI to the West End Car Park is an integral part of the FW2040. The Community Council request a public consultation process and time to consider further options for extending shoreline facilities to allow the applicants, community, Highland Council and Planning Officials to produce a development plan.

- 5.2 **Development Plans:** Advise that FW2040 contains several relevant and current main projects including one for the enhancement of cruise ship reception, one for enhancement of the wider Town Centre Waterfront and another project for a Corpach (Caledonian Canal Entrance) Marina. The aim of FW2040 is to co-ordinate efforts to maximise the combined effect of both public and private investment. To that end, no main project should be taken forward in a way that may be prejudicial (functionally or physically) to any other main project.

The statutory local development plan (WestPlan) allocates the wider waterfront for business and tourism development and requires development proposals in this area to be subject to prior developer masterplanning of the area. Masterplanning is a requirement to ensure compatible designs and servicing arrangements are adopted so a future scheme doesn't face unreasonable, additional financial or technical issues working around or retro-fitting to previous development.

- 5.3 **Transport Planning Team:** Requested information to demonstrate whether an increase in the amount of traffic to the car park would result (if so what type of traffic and number of vehicles).

- 5.4 **Marine Scotland:** Advise there are several aquaculture sites registered with Marine Scotland in Loch Linnhe/Loch Eil area although none in the immediate vicinity of the proposed extension.

- 5.5 **SEPA:** No objection. Note development solely relates to the installation of breakwaters, pontoons, fresh water and electricity with no provision of ancillary services such as sewage pump out or shore based services such as refuelling or showers.

Advise that any further development and provision of ancillary services will need to provide pump out facilities which connect to the public sewer. It may be challenging to connect to the Fort William Sewerage System and early engagement with Scottish Water to identify feasibility is advisable.

- 5.6 **Transport Scotland:** No objection.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland Wide Local Development Plan 2012

28 - Sustainable Design
29 - Design Quality & Place-making
34 - Settlement Development Areas
43 - Tourism
49 - Coastal Development
56 - Travel

6.2 West Highland and Islands Local Development Plan (2019)

FW21: Fort William Waterfront Allocated for Business/Tourism (water based or connected) Area extends to 35ha

Developer requirements: Developer to prepare a masterplan/developer brief which must address the following: Potential for enhanced marine connection facilities, breakwater, promenade, marina/harbour, seaplane, cruise liner berthing facilities, related development and/or expansion of the underwater training facilities; Flood Risk Assessment required to inform layout and design; An Energy Statement will be required which should include information on the anticipated heat demands of the development and consideration of options for heat supply including by district heating network (serving either the site alone or as part of a wider network). If district heating is not intended to be used then the Statement should demonstrate the reasons why and alternative, low and zero carbon, technologies should be considered. Only low vulnerability uses or operationally essential uses in areas shown to be at risk of flooding, to be accompanied by resilience measures; Protected species survey; Re-designed and improved parking provision including landscaping to reduce the visual impact of vehicles, improved green space/green infrastructure and increased pedestrian priority and active travel connections across the A82 from the waterfront to the High Street; Potential site access improvements and contributions towards wider Fort William transport network improvements; Adequate shore based facilities for disposal of waste from marine craft; Gateway tourist location demanding exceptional siting and design which complements the setting of the nearby Scheduled Monument (Cromwell's Fort) and works adjacent to the fort and on the loch bed may require a programme of archaeological works/mitigation; Assess potential breakwater and associated marine activity impact on the underwater training facilities.

6.4 FW2040 – A Masterplan and Delivery Programme for Fort William and Lochaber

Projects 9 and 10 Enhanced waterfront and reception for cruise ships. Area extends from the Yacht Club to the south west to the West Highland College UHI Campus to the north east.

6.5 Highland Council Supplementary Planning Policy Guidance

n/a

7. OTHER MATERIAL POLICY CONSIDERATIONS

7.1 Scottish Government Planning Policy and Guidance

Scottish Planning Policy (The Scottish Government, June 2014)

Planning Circular 4/1998: The Use of Conditions in Planning Permissions

Short-term buildings or uses Para 106. *“Where, therefore, a proposal relates to a building or use which the applicant is expected to retain or continue only for a limited period, whether because he has specifically volunteered that intention or because it is expected that the planning circumstances will change in a particular way at the end of that period, then a temporary permission may be justified. For example, permission might reasonably be granted on an application for erection of a temporary building to last seven years on land which will be required for road improvements eight or more years hence, although an application to erect a permanent building on the land would normally be refused.”*

Para 108. *“A second temporary permission should not normally be granted. A trial period should be set that is sufficiently long for it to be clear by the end of the permission whether permanent permission or a refusal is the right answer. Usually a second temporary permission will only be justified where road or redevelopment proposals have been postponed or in cases of hardship where temporary instead of personal permission has been granted for a change of use.”*

8. PLANNING APPRAISAL

8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

Determining Issues

8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

Planning Considerations

8.3 The key considerations in this case are:

- a) compliance with the development plan and other planning policy
- b) visual impact
- c) transport

Development plan/other planning policy

8.4 The site lies within a larger 35ha site allocated for business/tourism (water based or connected) use (FW21: Fort William Waterfront, WestPlan 2019). The principle of extension to the pontoons at this site would accord with policies 43: Tourism and 49: coastal development and the WestPlan allocation, subject to meeting the developer requirements outlined.

- 8.5 The Fort William 2040 Masterplan and Delivery Programme is a material consideration of this planning application. This seeks to co-ordinate development and maximise public and private investment. Relevant and main projects identified within FW2040 within this area include the enhancement of cruise ship reception and the enhancement of the wider Town Centre Waterfront.
- 8.6 The application site is limited to a small area (less than 1 ha) immediately adjacent to the existing pontoon and walkway site, which is accessed from the West End Car Park. The proposed extension to the pontoons was previously considered and planning permission granted in 2016, prior to the adoption of WestPlan and FW2040 project. This permission lapsed in 2019. The current application is not supported by a masterplan and does not meet the developer requirements set within the WestPlan FW21 allocation. Given the scale of development and planning history, it is considered unreasonable to require full masterplanning for the wider 35ha site prior to the determination of this planning application. The work carried out and contributions to the Town made by the Fort William Marina & Shoreline Company Ltd, which is a Community Interest Company, is recognised. However, it is necessary to take into account the material change in policy since the granting of the previous consent.
- 8.7 The current adopted development plan and FW2040 masterplan seeks a co-ordinated approach to development. Individual projects must not be considered in isolation and it is necessary to ensure that the physical and functional development will not prejudice future development. At this early stage of the adopted development plan it is unclear what form the cruise ship reception and enhanced Town Centre Waterfront masterplan will take. It is necessary to ensure that this small development at a potentially key site will not prejudice future development.
- 8.8 The applicant has advised that the physical extension to the Fort William Pontoons is completely adaptable and changeable with only the six circular piles being fixed development. The applicant has advised the pontoons could easily be extended to the other side of the puffer pier and further pontoons installed to double the size of the extension towards the Town Pier, which is part of the applicant's business plan.
- 8.9 The principle of enhancement of the existing pontoon facilities would accord with the development plan. It is necessary however, to ensure that the grant of planning permission does not prejudice wider development over the longer term, recognising the early stage of the current adopted plan. To this end, it is recommended that planning permission is granted for a temporary (albeit extended) period of 10 years. Permission for a temporary period would enable the development and its use in the short to medium term and ensure that the development could be adapted over the longer term if required as the wider masterplan emerges. If at the end of the temporary period (2031) the proposal 'slots' into the masterplan, planning permission for this to be made permanent could be sought.
- 8.10 The applicant does not agree with the recommendation for a temporary permission, given the previous granting of permission without such restriction, despite the change in the adopted development plan. The applicant has advised that consent granted on a temporary basis may affect funding of the project. The applicant has been

invited to provide details of funding restrictions which might arise as a result of granting temporary consent however this information has not been submitted.

Visual Impact

- 8.11 The proposed extension would be relatively well contained, set adjacent to the sea wall, between the West End Car Park/existing pontoon and the Puffer Pier. The proposal, in this context, is not considered to have an adverse impact on the wider area.

Transport

- 8.12 The extension to the pontoons will primarily attract visitors by boat or yacht and as such there is unlikely to be significantly increase of vehicular traffic. The pontoons will be accessed via the existing walkway attached to the West End Car Park with good pedestrian links into the Town Centre. The applicant proposes to dedicate an area on the pontoons to the seaplane which can carry a maximum of 10 passengers, which may lead to a small increase in users of the West End public car park. The proposal raises no substantive concerns regarding transport/parking.

Other material considerations

- 8.13 The proposals include the installation of six piles and dredging the area around the pontoon extension to 2m in depth. It is proposed to deposit this material to the rear of the Puffer Pier. A ramp would be created to the side of the Puffer Pier to enable the movement of debris to the inside of the Puffer Pier. The ramp would then be used as an additional foot access to/front the pontoons. Works below mean high water springs would be subject to marine licensing and an informative note to the applicant is recommended.

Non-material considerations

- 8.14 None

Matters to be secured by Section 75 Agreement

- 8.15 None

9. CONCLUSION

- 9.1 There has been a recent material change in development plan policy with the adoption of WestPlan in 2019. Work undertaken in recent years for the FW2040 Masterplan is a material consideration. The principle of the proposal accords with adopted plan policy, however at this early stage in the development plan and in the absence of a masterplan for the wider Cruise Ship Reception and Town Centre Water Front, it is not possible to determine whether the proposal would be prejudicial to the delivery of the wider developments within the adopted development plan. In this context, support for the development is proposed for a temporary period of 10 years, to ensure the development of this small but potentially key site does not prejudice development of the FW21 development plan allocation.

- 9.2 All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained

within the Development Plan and is acceptable in terms of all other applicable material considerations.

10. IMPLICATIONS

- 10.1 Resource: Not applicable
- 10.2 Legal: Not applicable
- 10.3 Community (Equality, Poverty and Rural): Not applicable
- 10.4 Climate Change/Carbon Clever: Not applicable
- 10.5 Risk: Not applicable
- 10.6 Gaelic: Not applicable

11. RECOMMENDATION

Action required before decision issued

Notification to Scottish Ministers	N
Conclusion of Section 75 Obligation	N
Revocation of previous permission	N

Subject to the above, it is recommended that planning permission be **GRANTED**, subject to the following:

Conditions and Reasons

1. Prior to the deposition of any material at the rear of the Puffer Pier, full details of the proposed ramp at the side of the pier shall be submitted to, and approved in writing by, the Planning Authority in consultation with Transport Scotland. Such details shall show the location, gradient, width, finish and means of controlling access. Thereafter the development shall be undertaken in accordance with the approved details.

Reason: In the interests of visual amenity and pedestrian safety; in accordance with policies 28, 29 and 56 of the Highland wide Local Development Plan, 2019.

2. Planning permission is hereby granted for a temporary period only and shall cease to have effect on 1 September 2031 (the 'cessation date'). Prior to the cessation date, the application site shall be cleared of all development approved under the terms of this permission (including any subsequent ancillary works, infrastructure, fixtures, fittings and any temporary developments permitted under Class 14 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended)).

Reason: In order to enable the Planning Authority to retain effective control over future development within the application site so that it is not prejudicial

to the development of the wider FW21 allocated site, within the West Highland and Islands Local Development Plan, 2019.

REASON FOR DECISION

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

FOOTNOTE TO APPLICANT

Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

Accordance with Approved Plans & Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action

Flood Risk

It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (paragraph 259), planning permission does not remove the liability position of developers or owners in relation to flood risk.

Local Roads Authority Consent

Early contact is recommended with the Road Operations Manager for Lochaber, Nairn, Badenoch and Strathspey to secure any necessary permissions with regards to potential use and operation of the West End car park during the construction phase.

Transport Scotland

When considering the detailed scheme to satisfy Condition 1, early contact is recommended with Transport Scotland to secure the necessary consents for works adjacent to or affecting the trunk road.

Mud & Debris on Road

Please note that it is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

Construction Hours and Noise-Generating Activities

You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact env.health@highland.gov.uk for more information.

Marine Scotland

The appropriate permissions from Marine Scotland should be secured before any works are undertaken on this development.

Scottish Environment Protection Agency

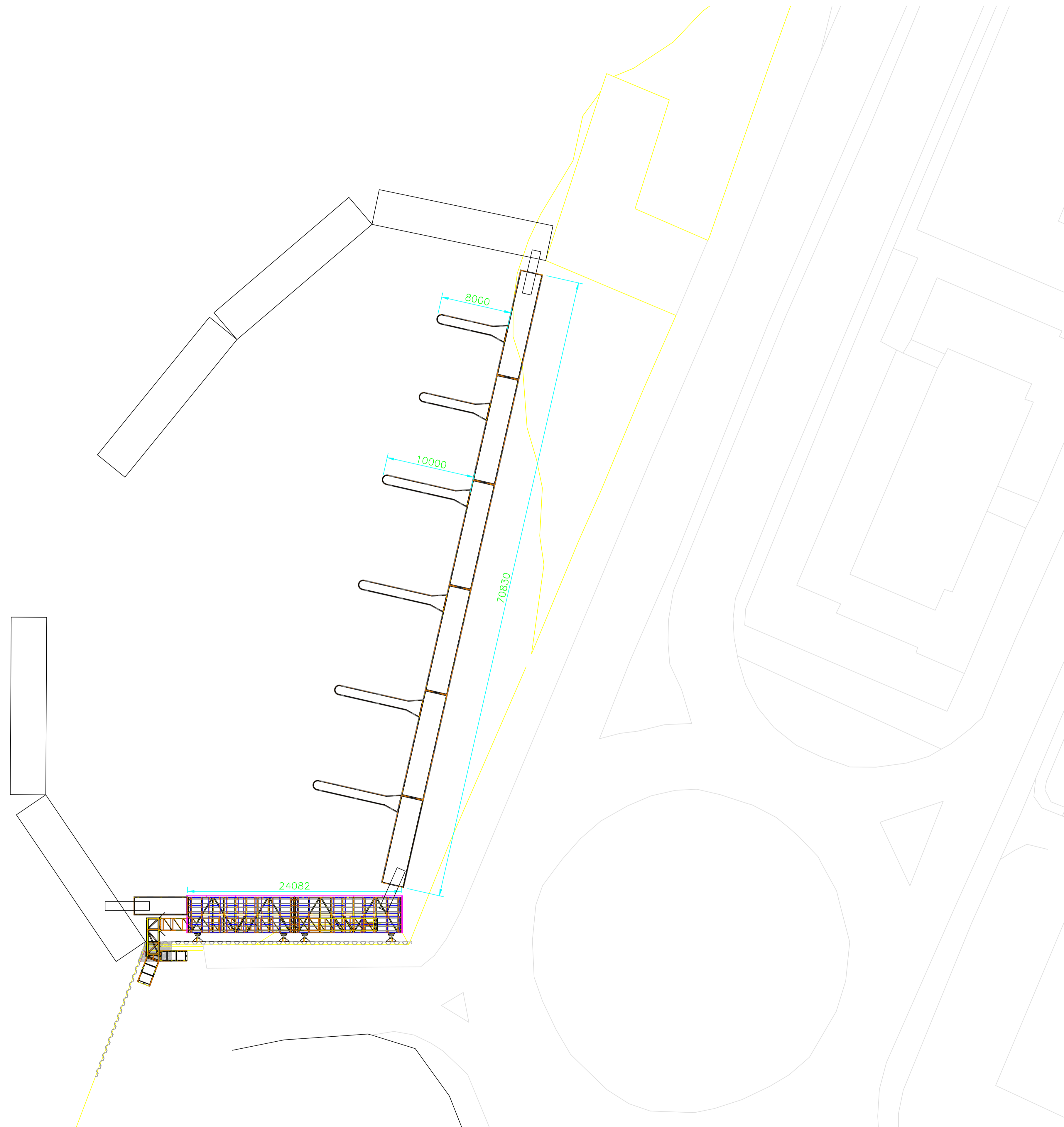
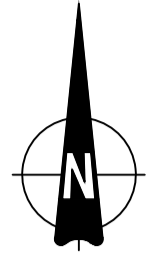
SEPA have raised no objection to these proposals on the basis that the development solely relates to installation of breakwaters, pontoons, fresh water and electricity with no provision of ancillary services such as sewage pump out or shore based services such as refuelling or showers.

It should be noted that any further development and provision of ancillary services will need to provide pump out facilities which connect to the public sewer. It may be challenging to connect to the Fort William Sewerage System therefore early engagement with Scottish Water to identify feasibility is advisable.

Protected Species – Halting of Work

You are advised that work on site must stop immediately, and Scottish Natural Heritage must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the time of discovery. Further information regarding protected species and developer responsibilities is available from SNH: www.snh.gov.uk/protecting-scotlands-nature/protected-species

Designation: Area Planning Manager – South
Author: Christine Millard
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 - Site Plan 000001
Plan 2 - Location Plan/General Arrangement E-4709-001 Rev A2



PROPOSED PONTOON LAYOUT


SCALE
1:250

REV.	DATE	DESCRIPTION	BY	CHK'D	DATE
A1	21.09.15	ISSUED FOR COMMENT	K.R.		
A2	16.08.16	PONTOON ALIGNMENT REVISED	K.R.		

PAINT / FINISH SPECIFICATION
 STEELWORK GALVANISED TO BS EN ISO 1461:2009

GENERAL NOTES *(Unless Noted Otherwise)*

1. ALL DIMENSIONS IN MILLIMETERS
2. ALL MATERIAL TO BE CARBON STEEL GRADE S275
3. ALL WELDING TO BE 6MM FILLET UNO
4. IF IN DOUBT ASK



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DRAWING TITLE: FORT WILLIAM GENERAL ARRANGEMENT		CLIENT: FORT WILLIAM MARINA AND SHORELINE ASSOCIATION
DRAWN BY: K.REID		CONTRACT DESCRIPTION: PONTOONS
CHECKED: -	DATE: 21.07.16	CONTRACT DWG. No: E-4709-001
SCALE: 1:250 @ A1	DATE: -	STANDARD DWG. REF: -
		REVISION: -

PRODUCED ON AUTOCAD BY WARRS ENGINEERING

A2

FORT WILLIAM MARINA & SHORELINE COMPANY LIMITED

BOUNDARY OF SITE – RED LINE

