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Planning Decisions



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Kyle of Sutherland Development Trust
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Our ref: NA-270-008
Planning Authority ref:22/00337/FUL

30 November 2022

Dear Ms Simco

DECISION NOTICE

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
THE TOWN AND COUNTRY PLANNING (NOTIFICATION OF APPLICATIONS)
(SCOTLAND) DIRECTION 2009
CONSTRUCTION OF SHELTER CONTAINING WC AND SHOWER FACILITIES,
PROVISION OF SERVICES TO PROVIDE SERVICED OVERNIGHT PARKING
AND CAMPING SITE, LAND 40 METRES EAST OF SOUTH BONAR PUBLIC
TOILETS, ARDGAY, IV24 3AN ('the proposed development')**

1. This letter contains Scottish Ministers' decision on the above planning application. On 3 May 2022, Highland Council notified the application to Scottish Ministers, because it was minded to grant planning permission against the advice of the Scottish Environment Protection Agency (SEPA).

2. On 28 June 2022, a Direction was issued requiring the council to refer the application to Scottish Ministers for determination. This direction was given in view of the proposed development's potential conflict with national policy on flood risk, and the need for further scrutiny by Ministers.

Consideration by the Reporter

3. The application has been considered by means of an unaccompanied inspection of the site and its surroundings on 09 August 2022, by Alison Kirkwood, a reporter appointed for that purpose. The reporter's overall conclusion and recommendation that planning permission should be refused is set out in Chapter 6 of the report. A copy of the reporter's report ('the report') is enclosed.

Scottish Minister's Decision

4. Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that this application is determined in accordance with the development plan, unless material considerations indicate otherwise.
5. Scottish Ministers have carefully considered all the evidence presented in the report. They agree with the reporter's conclusions that the proposed development overall would be contrary to the development plan and that there are no material considerations which would justify a departure from the development plan. Scottish Ministers agree with the reporter's recommendation that planning permission should be refused, and adopt the reporter's reasoning for the purpose of their own decision, which is summarised in this letter.
6. Ministers agree with the reporter's conclusions in Chapter 3 that the siting, scale and design of development would have no adverse impacts on the existing character of the site and surrounding area.
7. However, SEPA flood maps show that the site is located within the 1 in 200 coastal flood zone and the 1 in 200 fluvial flood zone. The site is therefore classed as being at medium to high risk of both coastal and river flooding. The reporter notes that the submitted flood risk assessment does not address fluvial flood risk. This omission is contrary to the council's Flood Risk and Drainage Impact Assessment Supplementary Guidance on flood risk, which requires the flood risk assessment to consider all sources of flooding. The reporter considers that in the absence of a fluvial flood risk assessment, it is not possible to understand the severity of the risk of flooding from the River Carron, or the potential for mitigation.
8. Ministers share the reporter's concerns that the provision of improved facilities would be likely to increase the attractiveness of the site and this could result in more people, than at present, staying overnight in an area of flood risk. Ministers agree with the reporter's conclusion that the proposal would result in a land use which is more vulnerable to the effects of flooding, than the existing car park and picnic area.
9. Scottish Planning Policy (SPP) includes a precautionary approach to flood risk from all sources, and flood avoidance by (among other things) locating development away from medium to high risk areas. Areas of medium to high flood risk are generally not suitable for new caravan and camping sites. Where development is permitted, measures to protect against or manage flood risk will be required.
10. Ministers note that no physical flood defence measures are proposed to protect the site from flooding. Instead, implementation of a flood risk strategy is intended to mitigate the effects. Ministers note the view of the community council which is that the Kyle of Sutherland community is familiar with flooding events in this area, and is well able to manage access to the site. However, Ministers agree with the reporter that such arrangements cannot be relied upon in perpetuity. Ministers agree with the reporter's conclusion that a planning condition, requiring the ongoing implementation of the proposed flood warning action plan, would not meet the tests for conditions set out in Planning Circular 4/1998. Such a condition would not be enforceable in planning terms, and the proposed mitigation measures could therefore not be relied upon to make the development acceptable. Data from SEPA

suggests that the potential frequency and severity of flooding on the site is likely to increase over time, as a result of climate change. This could place an increasing burden on community resilience measures.

11. Ministers therefore agree with the reporter's overall findings that the proposal would be contrary to the Highland Wide Local Development Plan policy 64 (Flood Risk), the associated Supplementary Guidance and Scottish Planning Policy, on the grounds of flood risk.

12. Ministers have taken into account Revised Draft NPF4 which was laid in Parliament on 8 November. Revised Draft NPF4 reinforces the position set out in Scottish Planning Policy by strengthening resilience to flood risk and reducing the vulnerability of existing and future development to flooding. This requires to be balanced against other material considerations such as sustainable tourism. NPF3 and SPP remain in force until such time as Revised Draft NPF4 is adopted and published.

13. Ministers agree with the reporter's findings that the proposal would be likely to deliver net economic benefits for the settlement of Bonar Bridge and the wider community, and make efficient use of the existing facilities on the site. It would provide better waste management arrangements than presently available, and would have no adverse impacts on the built and natural environment, or in terms of amenity considerations.

14. However, Ministers also agree with the reporter that the proposal does not adequately address the risk of coastal and fluvial flooding, or the implications of climate change. Ministers agree that the potential adverse impacts on people and property arising from the effects of flooding would significantly and demonstrably outweigh the benefits of the proposal. Ministers agree with the reporter's conclusion that the proposal would not contribute to sustainable development.

Conclusion

15. Accordingly, for the reasons set out in the reporter's report and as summarised in this letter, Scottish Ministers hereby refuse planning permission for the construction of a shelter containing WC and shower facilities, provision of services to provide serviced overnight parking and camping site at land 40 metres east of South Bonar Public Toilets, Ardgay, IV24 3AN.

16. The decision of Scottish Ministers is final, subject to the right conferred by Sections 237 and 239 of the Town and Country Planning (Scotland) Act 1997 of any person aggrieved by the decision to apply to the Court of Session within 6 weeks of the date of this letter. If an appeal is made, the Court may quash the decision if satisfied that it is not within the powers of the Act, or that the appellant's interests have been substantially prejudiced by a failure to comply with any requirements of the Act, or of the Tribunals and Inquiries Act 1992, or any orders, regulations or rules made under these Acts.

17. A copy of this letter and the reporter's report has been sent to Highland Council and SEPA.

Yours sincerely,

Elaine Ramsay

Planning Decisions Team
Scottish Government



Report to the Scottish Ministers

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Report by Alison Kirkwood, a reporter appointed by the Scottish Ministers

- Case reference: NA-270-008
- Site Address: Land 40 metres east of South Bonar Public Toilets, Ardgay, IV24 3AN
- Application by Kyle of Sutherland Development Trust
- Application for planning permission, reference 22/00337/FUL dated 26 January 2022, called-in by notice dated 28 June 2022.
- The development proposed: Construction of shelter containing WC and shower facilities, provision of services to provide serviced overnight parking and camping site.
- Date of site visit: 9 August 2022

Date of this report and recommendation: 29 September 2022

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Abbreviations used in this report

AOD	Above Ordnance Datum
HwLDP	Highland-wide Local Development Plan
SEPA	Scottish Environment Protection Agency



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DPEA case reference: NA-270-008

The Scottish Ministers
Edinburgh

Ministers

I have prepared a report with recommendations in connection with a proposal for tourist and campervan facilities on land currently forming South Bonar Public Toilets and Picnic Area, located to the west of the settlement of Bonar Bridge.

On 3 May 2022, Highland Council notified the application to Scottish Ministers, because it was minded to grant planning permission against the advice of the Scottish Environment Protection Agency (SEPA).

On 28 June 2022, a Direction was issued requiring the council to refer the application to Scottish Ministers for determination. This direction was given in view of the proposed development's potential conflict with national policy on flood risk, and the need for further scrutiny by Ministers.

I conducted an unaccompanied site inspection on 9 August 2022 and issued a procedure notice on 16 August 2022, seeking written submissions to clarify some aspects of the proposal.

CHAPTER 1: BACKGROUND

The application site

- 1.1 The application site consists of an area of hardstanding used for parking purposes with an existing toilet block and picnic tables. It is situated to the west of the settlement of Bonar Bridge and is accessed from the A836 road, which lies to the north. The site is bordered by the Kyle of Sutherland estuary to the east, with the River Carron flowing into this estuary, north of the site. The Dornoch Firth lies to the south of the site, beyond a narrow, rectangular area of land which has not been included in the site boundary. The site, and the land to the south, are currently used informally for wild camping purposes.
- 1.2 The site is owned by Highland Council. However, following a successful application for community asset transfer, Kyle of Sutherland Development Trust would own and manage the site on behalf of the community, should planning permission be granted.

The proposed development

- 1.3 The application seeks consent for the erection of a new shelter containing toilet and shower facilities, washing-up facilities, e-bike charging points and a covered eating space. The shelter would be finished in natural larch cladding with a metal roof. Electric hook-ups and a new chemical waste disposal point would be provided for campervan use. The existing public toilet block would be retained and upgraded, with land also retained for public car parking.
- 1.4 There are currently 23 public parking spaces on the site. The proposal would provide 14 public parking spaces on the part of the site closest to the road. Four serviced campervan pitches would be provided in the south-eastern part of the site, with a barrier to control vehicular access.
- 1.5 Two trees would require to be removed to accommodate the new shelter, with these to be replaced by two new trees elsewhere on the site.
- 1.6 The planning application is supported by a design statement, operational demand report, drainage impact assessment, stage 1 coastal flood risk assessment, and other documents relating to flood risk management.

The applicant's position

- 1.7 Kyle of Sutherland Development Trust is applying for planning permission to provide facilities for tourists and regulate the use of the site for campervans. The site is already established as a popular wild camping and fishing spot. The intention is to maintain the existing character of the area and add key facilities, which will enable the issues of waste disposal and hygiene to be addressed.
- 1.8 Evidence dating back to 2014 demonstrates that there is a need and demand for an overnight serviced parking site at South Bonar. The site is located close to the North Coast 500 route and would help support the regeneration of Bonar Bridge. A survey undertaken in August 2020 shows that 48 campervans used the site over a five day period on an informal basis. The proposal has the support of the local community and tourists.

- 1.9 A high level assessment of coastal flood risk conditions was undertaken in December 2020. This assessment involved extreme sea level analysis to determine the coastal flood extents during a 1 in 200 year return period, and when climate change is taken into account. It includes plans which shows the predicted extent of coastal flooding in each scenario.
- 1.10 Ground levels across the site vary between approximately two metres AOD, along much of the eastern boundary, and approximately five metres AOD at the site access onto the A836 road. Whilst the 1 in 200 year coastal flood extent (3.27 metres AOD) would affect the lower lying land to the south of the site, the majority of the application site itself would not be flooded.
- 1.11 SEPA's latest climate change guidance advises applying a sea level rise of 0.89 metres to account for climate change up to the year 2100. The majority of the site would fall within the 1 in 200 year plus climate change coastal flood extent (4.16 metres AOD).
- 1.12 However, the effects of flooding could be mitigated by ensuring the finished floor level of the new shelter is set at 4.76 metres AOD, and using water resilient materials. SEPA's Flood Risk and Land Use Vulnerability Guidance classifies camping sites in the most vulnerable use category, and indicates that these are generally not suitable within 1 to 200 year flood extents. However, an exception is made for the redevelopment of previously developed sites, where the proposed land use is equal or less vulnerable than the existing use.
- 1.13 In this case, the proposal entails redevelopment of an existing site for the same use. Furthermore, coastal flooding is readily forecastable, such that there would be adequate time to evacuate the site, in the event of an extreme tide warning.
- 1.14 The applicant's flood risk strategy sets out the measures already taken to mitigate the risk of flooding. Land to the south of the site, which was initially proposed for informal pitches, has been excluded from the site boundary, and the applicant has signed up to receive text alerts to ensure advance warning of impending floods. In addition, the site would be visually monitored on a daily basis by maintenance and cleaning operatives.
- 1.15 The flood warning action document summarises the steps that the applicant would take following receipt of a flood warning notice for the site. This would include closure of the site, and an instruction to all users to relocate to an alternative serviced site located six miles away. The applicant would utilise the existing Kyle of Sutherland Community Resilience Plan 2021 to ensure appropriate support is in place to safely relocate users of the site.
- 1.16 As measures can be put in place to manage the use of the site for overnight parking in the event of flooding, the application should be supported.

The council's position

- 1.17 The application was considered by the council on 26 April 2022. Officers recommended refusal on the grounds that there would be an unacceptable risk of flooding. The proposal was considered to be contrary to policy 64 (Flood Risk) in the Highland-wide Local Development Plan (HwLDP), which states that development at risk from flooding should be avoided.

- 1.18 However, the committee resolved to grant planning permission for the following reasons:

“Contrary to the advice received from SEPA, the committee does not accept the level of risk associated with coastal and fluvial flooding at the application site. Given the informal existing use of the site for the use applied for, the committee is of the view that it should be granted planning permission.”

- 1.19 As a result, the application was referred to Scottish Ministers in accordance with the provisions of the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009.

Consultation responses

- 1.20 **Scottish Environment Protection Agency (SEPA)** objects in principle on the grounds of flood risk to people and property, contrary to the flood risk principles of Scottish Planning Policy and HwLDP policy 64.
- 1.21 SEPA flood maps show all of the site within the 1 in 200 year coastal floodplain, and most of the site within the 1 in 200 year fluvial floodplain. This indicates that there is medium to high risk of flooding from the sea and the River Carron. In line with SEPA’s Flood Risk and Land Use Vulnerability Guidance, the proposed use for a campsite / overnight accommodation would fall into the most vulnerable category. When flooding occurs, it is likely that the site access and egress would be compromised.
- 1.22 The 1 in 200 year flood level used in the applicant’s flood risk assessment (3.27 metres AOD) is out of date. The correct figure is 3.6 metres AOD. Using this figure, together with the predicted sea level rise (0.89 metres), and a freeboard allowance to account for uncertainties and the effects of wave action (0.6 metres), overnight accommodation should only be permitted on land higher than 5.09 metres AOD. As no part of the site would be above this level, it would be unsuitable for the proposed development.
- 1.23 Furthermore, the flood risk assessment does not take account of fluvial food risk. The sections of the site, which the flood risk assessment indicates are not at risk of coastal flooding, are within the fluvial functional floodplain.
- 1.24 **Highland Council’s Flood Risk Management Team** has reviewed the information provided by the applicant and objects to the proposals on the grounds of flood risk. It states that the proposed flood risk mitigation scheme cannot be guaranteed to function as intended in perpetuity. Furthermore, the Scottish Planning Policy principle of flood risk avoidance should be adhered to in this location.
- 1.25 The applicant has not provided a new flood risk assessment using the latest available data, as requested. As the proposed use is in the most vulnerable category, the overnight camping aspects of the proposal should be demonstrated to be free from flood risk during a 1 in 1,000-year return period storm event. The areas of the site which would support overnight camping would require a minimum ground level of 4.69 metre AOD. The flood risk management team recommends a further 0.6 metres freeboard allowance, which would result in a required ground level of 5.29 metres AOD.

- 1.26 The applicant's drawing shows that the majority of the site lies below the minimum ground level which would be acceptable for formalised overnight camping. The flood risk management team therefore objects to the proposals on the grounds of flood risk.
- 1.27 **Scottish Water** has no objection to the proposal. It indicates that there is currently sufficient water and waste water capacity to service the development.
- 1.28 **The council's contaminated land team** notes that the site was previously used as a timber yard. It indicates that the proposed development would not materially change the risk of potential contamination.
- 1.29 **Ardgay and District Community Council** supports the proposal. It indicates that the proposal represents a major improvement to the current unregulated use for overnight stays and would bring benefits to the local community and visitors. The local community is familiar with the flooding that occurs here, and is able to manage access to the site, with the help of SEPA's flood alert system.

Representations received by the council

- 1.30 The council did not received any representations, supporting or objecting to the application.

CHAPTER 2: POLICY CONTEXT

Development plan policies and guidance

- 2.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that this application is determined in accordance with the development plan, unless material considerations indicate otherwise.
- 2.2 The adopted local development plan comprises the Highland-wide Local Development Plan (HwLDP) 2012, the Caithness and Sutherland Local Development Plan 2018 and associated Supplementary Guidance.
- 2.3 The following policies in the HwLDP are of most relevance to the determination of this application:
- Policy 36 Development in the Wider Countryside
 - Policy 44 Tourist Accommodation
 - Policy 64 Flood Risk
- 2.4 The site lies outwith the Bonar Bridge Settlement Development Area, as defined in the Caithness and Sutherland Local Development Plan. HwLDP policy 36, which sets out criteria for assessing development proposals in the countryside, therefore applies. Relevant considerations include siting and design matters, landscape capacity and infrastructure.
- 2.5 HwLDP policy 44 provides general support for tourist accommodation within the countryside, where a demand exists for the type of accommodation proposed and it would not have an adverse effect on landscape character, or natural, built and cultural heritage features of the area.
- 2.6 HwLDP policy 64 states that development proposals should avoid areas susceptible to flooding. Development proposals within medium to high flood risk areas, will need to demonstrate compliance with Scottish Planning Policy, through the submission of suitable information, such as a flood risk assessment.
- 2.7 Other policies in the HwLDP, which are also of relevance to the proposed development, include:
- Policy 28 Sustainable Design
 - Policy 51 Trees and Development
 - Policy 56 Travel
 - Policy 57 Natural, Built and Cultural Heritage
 - Policy 66 Surface Water Drainage
- 2.8 The adopted Flood Risk and Drainage Impact Assessment Supplementary Guidance (January 2013) provides further information on the requirement for a flood risk assessment.
- 2.9 The council has indicated there are no specific policies in the Caithness and Sutherland Local Development Plan which would apply to this proposal.

National planning policy

- 2.10 Paragraph 255 in Scottish Planning Policy 2014 provides a set of policy principles which the planning system should promote in relation to managing flood risk. These include a precautionary approach to flood risk from all sources, and flood avoidance by locating development away from medium to high risk areas.
- 2.11 Areas of medium to high flood risk are generally not suitable for new caravan and camping sites. Where development is permitted, measures to protect against or manage flood risk will be required. Paragraph 264 sets out a list of criteria to be taken into account in development management decisions.
- 2.12 Scottish Planning Policy introduces a presumption in favour of development that contributes to sustainable development. Where a development plan is more than five years old, the presumption in favour of development that contributes to sustainable development is a significant material consideration.
- 2.13 An additional document, which is referred to by various parties, and I consider to be relevant to the consideration of this proposal, is SEPA's Flood Risk and Land Use Vulnerability Guidance.

CHAPTER 3: THE PRINCIPLE OF DEVELOPMENT

- 3.1 The principle of a camping / campervan site at this location, would not raise any planning issues in relation to the criteria for proposals outwith settlement development areas, set out in HwLDP policy 36 (Development in the Wider Countryside).
- 3.2 The preamble to HwLDP policy 44 (Tourist Accommodation) points out that, if the council wishes to support proposals for increasing tourism development throughout Highland, it will need places for tourists to stay. I find that the supporting information submitted by the applicant demonstrates that there is a demand for serviced campervan pitches in the Bonar Bridge area.
- 3.3 Whilst a small portion of the site, along its eastern boundary, adjoins a designated Special Area of Conservation (selected for Atlantic salt meadows), no physical development is proposed in this area. I agree with the council that the proposal would not have any adverse impacts on this designation, and would accord with HwLDP policy 57 (Natural, Built and Cultural Heritage).
- 3.4 The site is conveniently located in relation to the settlements of Bonar Bridge and Ardgay, which would allow overnight guests to walk or cycle to local facilities and services. In this regard, the proposal would be consistent with HwLDP policies 56 (Travel) and 28 (Sustainable Design). The council's committee report also points out that the development would help to attract additional tourists to the area, potentially enhancing social and economic opportunities. I agree that the proposal would be likely to bring economic and social benefits.
- 3.5 I consider that the principle of development would accord overall with HwLDP policy 44 and the other policies referred to above. Furthermore, the siting, scale and design of development would have no adverse impacts on the existing character of the site and surrounding area.

CHAPTER 4: FLOOD RISK

- 4.1 The site is located within the 1 in 200 coastal flood zone and the 1 in 200 fluvial flood zone on the SEPA flood maps. The site is therefore classed as being at medium to high risk of both coastal and river flooding.
- 4.2 SEPA's objection to the proposal, on the basis that development should not be permitted in locations which are known to be a risk of flooding, is consistent with the flood risk principles set out in HwLDP policy 64 and Scottish Planning Policy. Scottish Planning Policy also highlights the need to take account of rising sea levels and the effects of climate change in managing flood risk.
- 4.3 SEPA and the council's flood risk management team have pointed out that the coastal flood risk assessment undertaken on behalf of the applicant uses out of date sea level data. The current figure is 0.3 metres higher, and as a result more of the site would be expected to fall within the 1 in 200 year coastal flood extent, than shown in the applicant's assessment. Whilst SEPA and the council have recommended slightly different minimum ground levels, both agree that the site would be unacceptable for the proposed use. The plan below (taken from the flood risk assessment) shows that, even with incorrect sea level data being used, almost all of the site would be at risk of coastal flooding, once climate change is taken into account.

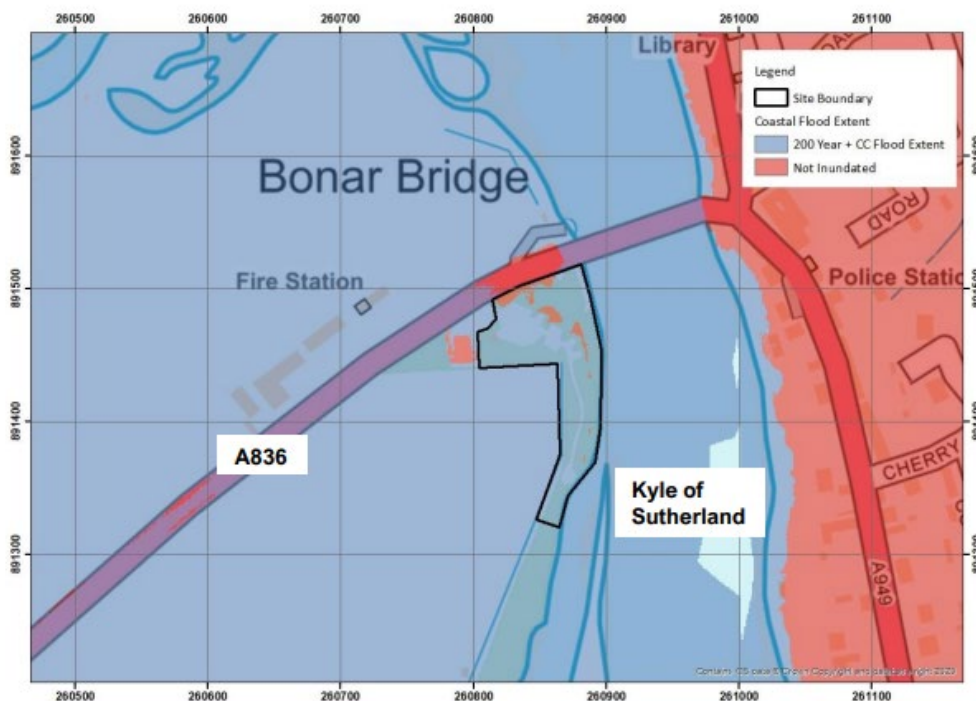


Figure 2: 1 in 200 year plus climate change coastal flood extent

- 4.4 The applicant's flood risk assessment does not address fluvial flood risk. This omission is contrary to the council's Flood Risk and Drainage Impact Assessment Supplementary Guidance on flood risk, which requires the flood risk assessment to consider all sources of flooding. SEPA points out that the parts of the site coloured red in the above plan (that which are not at risk of coastal flooding), are located within the 1 in 200 fluvial flood zone associated with the River Carron. In the absence of a fluvial flood risk assessment, it is not possible to understand the severity of the risk of flooding from the River Carron, or the potential for mitigation.

- 4.5 Scottish Planning Policy expects the planning system to implement flood avoidance by (among other things) locating development away from medium to high risk areas. The proposal is inconsistent with the avoidance principle.
- 4.6 However, as the applicant points out, the site is already being used for camping purposes on an informal basis. It considers that the proposal would be consistent with SEPA's Flood Risk and Land Use Vulnerability Guidance, as this supports the redevelopment of a previously developed site, if the proposed land use is equal or less vulnerable than the existing use.
- 4.7 The survey information and photographs submitted by the applicant, and the consultation response from the community council, provide clear evidence that the site has previously been used for camping purposes. However, no information has been submitted to suggest that this use of the site is lawful in planning terms.
- 4.8 The proposal would provide serviced pitches for four campervans, which with the introduction of a vehicle access barrier, could potentially result in a lower level of usage than at present. In order to better understand the implications of granting planning permission, for the use of the site and the land to the south, I sought further information from the applicant and the council.
- 4.9 The land to the south, which is currently also used for wild camping purposes, is accessed through the application site. The applicant has confirmed that the introduction of a vehicle access barrier would still allow the continued use of this land for informal camping. Campervans are also likely to use the general car parking spaces at the western end of the site, and the new services shelter would be accessible to people staying in informal pitches. The applicant intends to manage the use of the site through signage, regular attendance by a maintenance operative, and working with the council's ranger service.
- 4.10 I consider that the provision of improved facilities would be likely to increase the attractiveness of the site, and the land to the south, for those seeking informal camping and campervan pitches. Together with the four serviced pitches, this could result in more people, than at present, staying overnight in an area of flood risk. I am not convinced that the applicant would be able to control the use of the wider site for overnight accommodation purposes. As the site does not currently have planning permission to be used for camping purposes, I conclude that the proposal would result in a land use which is more vulnerable to the effects of flooding, than the existing car park and picnic area.
- 4.11 The applicant is not proposing any physical flood defence measures to protect the site from flooding. Instead, it intends to mitigate the effects through the implementation of a flood risk strategy. This would involve closing the site on receipt of flood alert information, and moving people to an alternative location.
- 4.12 I find that the proposed flood warning action plan would be consistent with the Kyle of Sutherland Community Resilience Plan (April 2021) which sets out how the local community would respond to emergency situations. I note the views of the community council, that the Kyle of Sutherland community is familiar with flooding events in this area, and is well able to manage access to the site. However, the council's flood risk management team is concerned that such arrangements cannot be relied upon in perpetuity.
- 4.13 I do not consider that a planning condition, requiring the ongoing implementation of the proposed flood warning action plan, would meet the tests for conditions set out

in Planning Circular 4/1998. Such a condition would not be enforceable in planning terms, and the proposed mitigation measures could therefore not be relied upon to make the development acceptable. Data from SEPA suggests that the potential frequency and severity of flooding on the site is likely to increase over time, as a result of climate change. This could place an increasing burden on community resilience measures.

- 4.14** Taking all considerations into account, I conclude that the proposal would be contrary to HwLDP policy 64 (Flood Risk), the associated Supplementary Guidance and Scottish Planning Policy, on the grounds of flood risk.

CHAPTER 5: OTHER MATTERS

Other development plan matters

- 5.1 The development would require the removal of two trees to accommodate the new services shelter. It is proposed that these would be replaced elsewhere on the site, in line with HwLDP policy 51 (Trees and Development). I consider this to be an acceptable approach.
- 5.2 The preamble to HwLDP policy 66 (Surface Water Drainage) notes that localised flooding can be caused or worsened by inadequate surface water drainage. The committee report indicates that the surface water drainage arrangements would need to be confirmed, once flood risk matters have been addressed.
- 5.3 The committee report also notes that there is some ambiguity regarding foul drainage arrangements, as the plans refer to the installation of septic tanks, but the application form notes a connection to the public sewer. The council indicates that, if planning permission is granted, the applicant should be encouraged to use a connection to the public sewer, in accordance with HwLDP policy 56 (Waste Water Treatment).
- 5.4 It would appear, from the drainage impact assessment, that foul drainage from the existing toilet block and new services building is to be connected to the existing municipal water tank, located to the west of the site. However, a new septic tank is shown on the proposed site plan, as part of the new chemical waste disposal point.
- 5.5 I find that, whilst matters relating to surface water drainage and waste water treatment have not been fully resolved, this would not justify the refusal of planning permission. A condition could be attached to require approval of these details, prior to the commencement of development.

Other material considerations

- 5.6 Scottish Planning Policy introduces a presumption in favour of development that contributes to sustainable development. Where the development plan is more than five years old, as is the case with the Highland-wide Local Development Plan, this “presumption in favour” is a significant material consideration.
- 5.7 Paragraph 33 of Scottish Planning Policy requires the decision maker to consider whether any adverse impacts of the development would “significantly and demonstrably” outweigh the benefits of the proposal. Paragraph 29 sets out a list of sustainable development principles to guide this assessment.
- 5.8 I find that the proposal would be likely to deliver net economic benefits for the settlement of Bonar Bridge and the wider community, and make efficient use of the existing facilities on the site. It would provide better waste management arrangements than presently available, and would have no adverse impacts on the built and natural environment, or in terms of amenity considerations.
- 5.9 However, the proposal does not adequately address the risk of coastal and fluvial flooding, or the implications of climate change. I consider that the potential adverse impacts on people and property arising from the effects of flooding would significantly and demonstrably outweigh the benefits of the proposal. Overall, I conclude that the proposal would not contribute to sustainable development.

CHAPTER 6: REPORTER'S CONCLUSIONS AND RECOMMENDATION

- 6.1 Given the location of the site within an area of medium to high flood risk, and my conclusions above regarding the proposed mitigation measures, I consider that the development overall would be contrary to the development plan.
- 6.2 I have taken account of the benefits that the development would bring, and that the proposal has the support of the community council. However, Scottish Planning Policy states that the aim of the planning system is to achieve the right development in the right place. I do not consider that a development, where the risk of flooding is likely to increase over time as a result of climate change, and which would rely on the ongoing goodwill of the local community to provide mitigation, would be consistent with this aim.
- 6.3 I conclude that there are no material considerations which would justify a departure from the development plan. Accordingly, I recommend that planning permission be refused.
- 6.4 Should Ministers disagree, I have set out in Appendix 1 of this report, a list of planning conditions that I recommend be attached to any planning permission. The first two conditions were suggested by the council. I have added a third to address surface water drainage and waste water management matters.

Alison Kirkwood

Reporter

Appendix 1 : Suggested conditions should Ministers be minded to grant planning permission

1. Prior to the first occupation of the development hereby approved, the new shelter containing WC and shower facilities detailed on approved plan ref. Proposed Site Plan 101 REV D shall be completed in full and made available for use. Thereafter, all facilities shall be maintained for this use in perpetuity.

Reason: To ensure that an adequate level of toilets and washing facilities are timeously provided for the development; in the interests of amenity.

2. The communal wheelie/kerbside recycling bin storage area(s) shown on the approved plans shall be constructed prior to the first occupation of the development and thereafter maintained in perpetuity

Reason: To ensure that waste on the site is managed in a sustainable manner.

3. No development shall commence until details of surface water drainage infrastructure and arrangements for waste water treatment have been submitted and approved in writing by the Planning Authority. Thereafter, development shall progress in accordance with the approved details.

Reason: To ensure that suitable foul and surface water drainage infrastructure is provided, in the interest of public health and environmental protection.

Appendix 2 : Application drawings

2590-(0-)101-B Location Plan

2590-(1-)101-D Proposed Site Plan

2590-(1-)102-D Proposed Site Elevations

2590-(1-)103-C Floor Plan and Sections

2590-(1-)104-C Elevations

2590-(1-)107-C Landscape Plan