

MAB/LJC

12 July 2016

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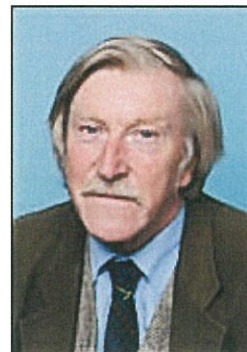
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**An Independent Councillor**



Dear Colleagues

### **Policy & Protection for the Environment of Lochleven and its catchment**

I am moved to write to yourselves regarding the above in a final attempt to obtain some structure and acknowledgement from yourselves to what I perceive is a current failure of your statutory duty to protect the environment of Lochleven from inappropriate and unregulated development.

It is my understanding that the Scottish Government encourage PKC to be acquiescent of retrospective planning applications and then seek to normalise same through the planning process. There are also no financial penalties for applicants who proceed in this manner; unless of course they are ultimately refused permission, which happens rarely, having incurred costs. This sends completely "the wrong message" to the wider public that the obtaining of planning permission is effectively of little consequence and there is no real benefit to doing things properly. PKC policy EP7 is predicated on connection to waste water treatment plants (WWTP) with exceptions only allowed where appropriate phosphate mitigation measures are met. It has been suggested to me, however, that "biodisk" septic tanks are perfectly acceptable within the catchment and there is no need to expand publicly maintained drainage and sewerage plants (currently at capacity in Drum). There is also evidence of site development without the promised necessary mitigation being provided or enforced.

This calls into serious question why we have the policy and I suggest it should be reviewed, and possibly enhanced, a call I made in submission to the Main Issues Report to PKC's second Local Development Plan.

The current protocol signed and agreed between PKC, SEPA and SNH in August 2013 repeatedly refers in conditions to drainage infrastructure being in place prior to development and occupation; in reality, on the ground, this sometimes is not happening where retrospective applications are involved. I suggest it is reviewed or enforced, the latter would be in accordance with PKC's 'Charter', emphasising environmental issues.

It would seem appropriate to me that all retrospective applications, where drainage is an issue within the Lochleven Catchment should not be allowed, if we are serious about its' environmental protection.

The retrospective nature of some planning applications is a particular feature of those relating to gypsy/traveller sites, covered by PKC Policy RD5. I regard this 'open-door' policy as 'not fit for purpose' as minuted within PKC's Member Officer Working Group on Planning

Policy and Practice. It appears to be a policy that outweighs others in relation to the environment and the residential amenity of the settled community.

In Kinross-shire we have 3 of these sites at Crook Moss, Greenacres and Mawcarse.

The applicants have been on the Crook Moss site since March 2012 without what I would regard as adequate longterm drainage and sewerage arrangements. A situation PKC planners appear happy to tolerate indefinitely. This site gained final approval in October 2013 against the wishes of SEPA , the overwhelming majority of local residents and Ward Councillors, subject to a raft of conditions which their agent said would be met within 3 months; with those relating to drainage and fencing still not met and SEPA licenses refused due to unsuitable ground conditions (a feature highlighted by PKC's landscape consultant advising that the site was not suitable for development but a fact omitted from all planning reports to Committee). The applicants appear now to be waiting for Scottish Water to expand the Drum WWTP (an environmental improvement scheme that both the community and I had lobbied for) but this requires 'a growth project' that takes another 2 to 2.5 years from application that I do not think has been made. The local community and SEPA are opposed to the growth of this site adjacent to the settlement, not proposed during the 8 years of discussion formulating our development strategy and which has resulted in a fall in some local property values. A recent application to expand it was refused, policies EP7 and RD5 being quoted, which I strongly suggest appertain still to the existing site.

At Greenacres, PKC Planning stated in May 2006 that the potential of the site had been achieved at 7 units, an on-site visit now (consistently rejected despite requests by myself and Cleish Community Council) would reveal about 5 times that present, in terms of capacity; I believe this site is not served by mains drainage and is within the catchment. My request that the current settlement boundary be fenced to prevent further expansion of a retrospective nature has not been addressed.

**In conclusion**, I suggest there is either a review of our policies and protocol aforementioned (a view I believe possibly shared by PKC's Legal Officer) or a serious attempt made to either disallow or severely limit retrospective applications within the Lochleven catchment and enforce planning conditions set on drainage, for justifiable environmental reasons.

Yours sincerely



Cllr Michael Barnacle  
Independent Member for Kinross-shire

PS I have information to support all the assertions made in the above letter, should it be required.

Background Papers:

- Policy EP7 Drainage within Lochleven Catchment Area
- Memo of Understanding for Planning Procedure for applications in Lochleven Catchment
- Policy RD5 Gypsy/Traveller Sites
- Email of 10/5/16 from Sean Caswell of SEPA re current arrangements at Crook Moss

Copies:

Steven Smith, Scottish Water  
Geoff Fogg, PKC Legal  
Nick Brian, PKC Development Management  
Councillor Dave Cuthbert  
Councillor Joe Giacomazzi  
Councillor Willie Robertson  
Cleish CC  
Fossoway CC  
Kinross CC  
Milnathort CC  
Portmoak CC  
Roseanna Cunningham MSP  
Willie Rennie MSP  
Liz Smith MSP  
Councillor Tom Gray, Convener of DMC  
Councillor Murray Lyle, Convener of Local Review Body