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Tongland and Ringford Community Council

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Our ref: EIA-170-003

7 June 2024

Dear Tongland and Ringford Community Council

TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2017: THIRD PARTY REQUEST FOR A SCREENING DIRECTION (REGULATION 7) (EIA-170-003) – CHANGE OF USE OF AGRICULTURAL LAND TO FORM A HOLIDAY PARK OF UP TO 425 LODGES WITH ASSOCIATED AMENITY, LEISURE AND RETAIL FACILITIES, FORMATION OF ACCESS, DRAINAGE, LANDSCAPING AND ASSOCIATED WORKS AT LAND AT BARNCROSH FARM CASTLE DOUGLAS DG7 1TX (23/2529/SCR)

Thank you for your emails dated 15 April and 8 May 2024 in relation to your request for Scottish Ministers to issue a screening direction to determine whether an Environmental Impact Assessment ('EIA') is required in connection with the above proposal.

The general principle under which the planning system operates in Scotland is that decisions should be taken at the most local administrative level unless there are compelling reasons for taking them at a higher level. Responsibility for dealing with planning applications and local planning matters rests, in the first instance, with Dumfries and Galloway Council, as planning authority. It is for the planning authority to interpret and implement relevant planning legislation and guidance as it deems appropriate given the circumstances in each case and to ensure that the provisions of the planning system are applied properly.

In the case of a third-party screening request, such as yours, Regulation 7(4) of the 2017 EIA Regulations provides that any person may, where they consider a proposed development requires EIA, even though neither the planning authority nor the applicant takes that view, write to the Scottish Ministers requesting a screening direction. These requests are considered on a case-by-case basis, however where a planning authority has previously issued a screening opinion, Scottish Ministers can consider whether the issues raised are sufficient to call into question the validity of that screening opinion, and whether therefore a direction is merited. There is no statutory duty on the Scottish Ministers to issue a screening direction.

In this particular case, Ministers are satisfied that the issues raised did not call into question the validity of the authority's screening opinion or their conclusion that an EIA was not required. A report from Scottish Government Planning, Architecture and Regeneration Division is attached as an annex.

A copy of this letter has been sent to Dumfries and Galloway Council and the applicant.

Yours sincerely

Jamie Barnes

JAMIE BARNES

PARD Summary Report

TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2017: THIRD PARTY REQUEST FOR A SCREENING DIRECTION (REGULATION 7) (EIA-170-003) – CHANGE OF USE OF AGRICULTURAL LAND TO FORM A HOLIDAY PARK OF UP TO 425 LODGES WITH ASSOCIATED AMENITY, LEISURE AND RETAIL FACILITIES, FORMATION OF ACCESS, DRAINAGE, LANDSCAPING AND ASSOCIATED WORKS AT LAND AT BARNCROSH FARM CASTLE DOUGLAS DG7 1TX (23/2529/SCR)

Background

1. A third-party screening direction request has been received from Tongland and Ringford Community Council on 15 April 2024 in relation to whether Environmental Impact Assessment ('EIA') is required for the above proposed development, as per regulation 7(4)(b) of Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 ('EIA Regulations'). The Community Council disagrees with Dumfries and Galloway Council's Screening Opinion of 15 January 2024 that EIA was not required for the proposed development.

Proposal and Site

2. VCL Developments Limited (via their agent Zerum Planning Limited) propose a development comprising a change of use from agricultural land to holiday park comprising up to 425 lodges and associated amenity/leisure/retail facilities, with access, drainage, landscaping and associated work. The site is located at land at Barncrosh Farm, Castle Douglas, Dumfries and Galloway, which is predominantly a greenfield site with a few extant buildings (see **Annex A** for a location plan and ZTV).
3. The site comprises approximately 31 hectares of land, is situated around Barncrosh Farm, and the buildings associated with the former steading are now understood to be demolished but were previously used as holiday accommodation and ancillary facilities. The landscape undulates and comprises fields defined by drystone walls, hedges and fences, open pastureland and woodlands, some of which are designated as Ancient Woodlands, with some rocky outcrops and sporadic trees.

Procedure

4. The proposal has been screened by Dumfries and Galloway Council as a Schedule 2 development per the EIA Regulations and is categorised as 12(c) 'Holiday villages and hotel complexes outside urban areas and associated developments' as it exceeds 0.5 hectares.
5. The Council issued a Screening Opinion on 15 January 2024 determining that EIA is not required for the proposal. The Screening Opinion was supported by an

EIA screening assessment matrix which sets out the basis for how the opinion was reached.

6. In coming to their opinion, the Council noted that the developer had not included any specific mitigation measures as part of their screening request letter. However, the Council also noted that the developer had provided a description of the key environmental issues likely to be associated with the development in their screening request letter, and advised of further reports that will be required to accompany a future application for planning permission in order to avoid or prevent significant adverse effects on the environment. These include:
 - 1) Trees (a Woodland/Tree Survey and Arboricultural Impact Assessment in accordance with BS5837 (2012));
 - 2) Flooding (a Flood Risk Assessment produced in accordance with NPF4);
 - 3) Drainage (a Drainage Strategy Report);
 - 4) Ecology (Further Species surveys and Wintering Bird surveys);
 - 5) Ecology (Geo-Environmental Phase 1 Investigation);
 - 6) Ecology (Preliminary Ecological Appraisal Report and Biodiversity Net Gain Metric);
 - 7) Landscape and visual impacts (Landscape and Visual Impact Assessment – LVIA);
 - 8) Landscape and visual impacts (Landscaping proposals);
 - 9) Noise (a Noise Impact Assessment);
 - 10) Traffic and transport (a Construction Traffic Management Plan – CTMP);
 - 11) Traffic and transport (Transport Statement); and
 - 12) Air Quality (Air Quality Assessment).
7. Regulation 7(4) of the EIA Regulations provides that any person may, where they consider a proposed development requires EIA, even though neither the planning authority nor the applicant takes that view, write to the Scottish Ministers requesting a screening direction. Any such requests will be considered on a case-by-case basis. Where a planning authority has previously issued a screening opinion, the Scottish Ministers will consider whether the issues raised are sufficient to call into question the validity of that screening opinion, and whether therefore a direction should be issued. There is no statutory duty on the Scottish Ministers to issue a screening direction.
8. The Community Council's screening request was forwarded by PARD to the Council for comment, who responded with the following, which is all publicly available via their online planning portal:
 - 1) Screening request letter from the applicant
 - 2) Timeline of their screening of the proposal
 - 3) Screening Opinion for this proposal (including screening assessment matrix)
 - 4) Correspondence with the applicant
 - 5) Correspondence with the Community Council on their Screening Opinion
 - 6) Screening Opinion for a previous proposal on the same site (12/E/2/0034)

Grounds of the Third-Party Screening Direction Request

9. The Community Council's screening request sent to Ministers comprises a substantial letter outlining their concerns and numerous attachments, although the majority of these are not considerations under the EIA Regulations.
10. The EIA Regulations outline that when determining whether a particular development is likely to have significant environmental effects, authorities must take account of the selection criteria outlined in Schedule 3 to the EIA Regulations. Three categories of criteria are listed:
 - 1) Characteristics of the development
 - 2) Location of the development
 - 3) Characteristics of the potential impact
11. Before sending this screening request to Ministers, the Community Council directly responded to Council's Screening Opinion by challenging much of their screening assessment matrix, to which the Council has responded.
12. With reference to the Community Council's annotated version of the Council's screening assessment matrix, with the latter taking account of the selection criteria outlined in Schedule 3 to the EIA Regulations, a summary of the Community Council's main grounds for disputing the Council's Screening Opinion and the Council's responses to these are outline in table form below (see **Annex B**).

The Council's Screening Opinion

13. PARD note that the Council has screened the proposal against the selection criteria outlined in Schedule 3 to the EIA regulations. The Council has taken into account the characteristics of the development, the location of the development, the characteristics of the potential impact of the development and has concluded that it is unlikely that the development would have a significant effect on the environment and that an EIA is therefore not required.
14. The Council is satisfied that the submission of further reports (to accompany a future planning application) addressing the environmental matters listed in its Screening Opinion will be sufficient to ensure that the proposed development, as considered under the screening request, will not have significant adverse effects on the environment.

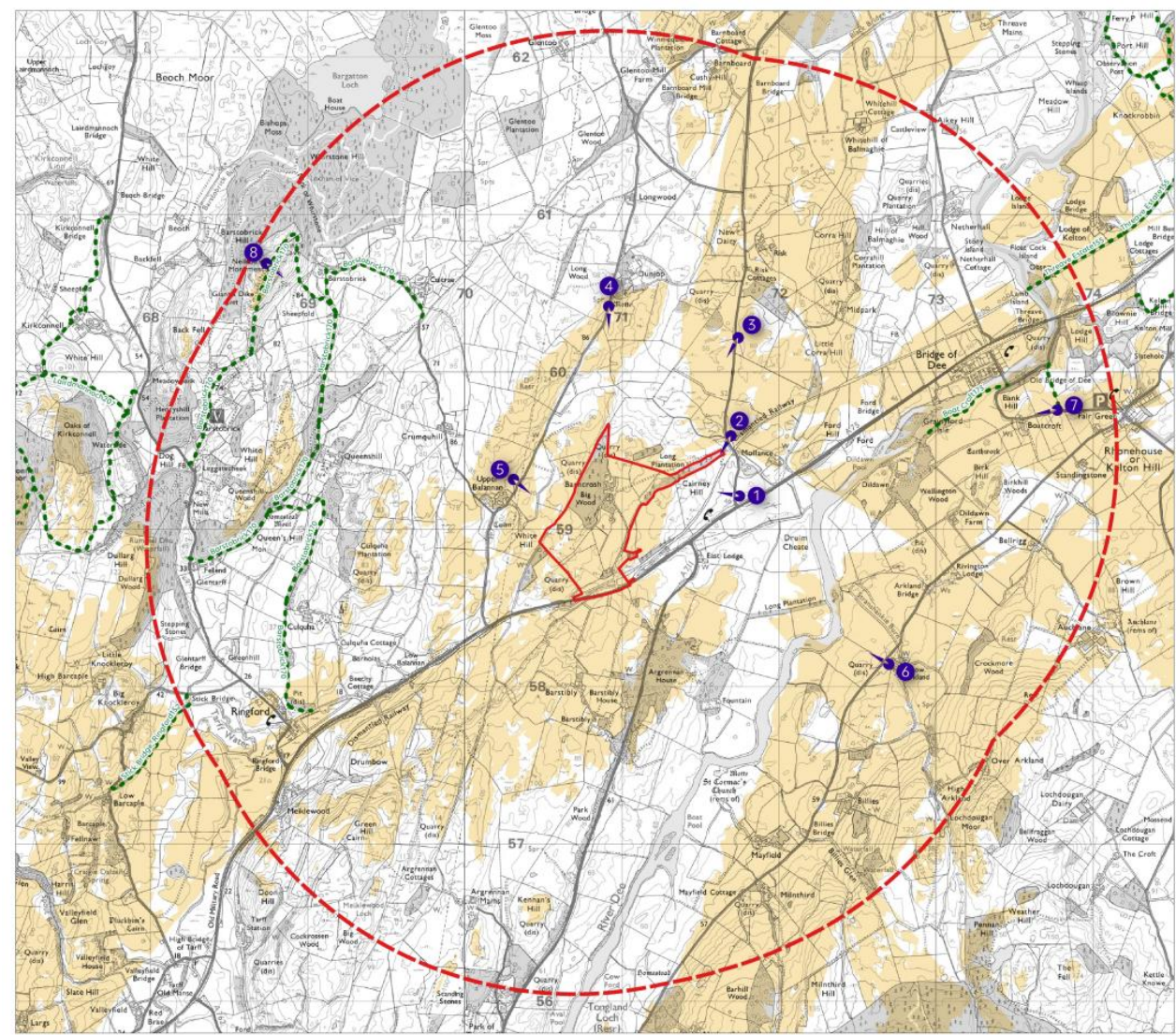
Conclusion

15. PARD do not consider that the issues raised by the Community Council call into question the validity of the Council's Screening Opinion or their conclusion that an EIA is not required.

Location Plan



Zone of Theoretical Visibility



Tyler Grange Group Ltd. All base rights 2023 Ordnance Survey 000031673

LEGEND

- Site Boundary
- 2.5 km Study Area
- Core Paths
- Zone of Theoretical Visibility (ZTV)
 - Development not visible
 - Development theoretically visible
- Photoviewpoint Locations
 - 1-8

Notes:
The Zone of Theoretical Visibility (ZTV) illustrates the extent to which the development is potentially visible within a 2.5km radius (1.6m high receptor). This is prepared to be as accurate as possible: the development cluster proposed within the northern part of the Site at a maximum 9m ridge height (to the east of Big Wood), with the remainder of the Site (excluding any development within Big Wood) at a 3m ridge height, representative of the single storey Lodges. The ZTV has been modelled using GIS computer software (QGIS) and Ordnance Survey Terrain 5 data, and as such does not take into account built form or vegetation present within the landscape. Field verification is required to refine the accuracy of the ZTV.

Revision

-

Description

First Issue

0 0.2 0.4 km

Project

Barncross Farm

Title

ZTV+Photoviewpoint Location Plan

Scale

1:25,000 @ A3

Drawing No.

15980_P01

Date

November 2023

Checked

CC/CD

Tyler Grange

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Annex B

Screening Assessment Matrix	Council's Assessment	Third Party Comments	Council's Response
Project Information and Application			
Is the proposed development to be located within a 'sensitive area' per the EIA Regulations?	No	Queried why the Council responded 'No' to this question as they maintain that the site is in an area of traditional cottage, steading and farmhouse properties with limited more modern properties.	The definition of a 'sensitive area' is set out within Circular 1/2017 'Environmental Impact Assessment Regulations' at paragraph 37.
Does the proposed development change or extend development described in Column 1 of Schedule 2 of the EIA Regulations?	N/A	Queried this point in relation to their understanding of the changing site history as the Council responded with 'N/A'.	The proposal is not a multi-stage consent, and that it is understood that a single planning application will be submitted in due course.
Characteristics of Development			
Will the proposed development be out of scale with the existing environment?	No	The proposed development is the size of a large village or town estate, and they asked to Council to explain why it is not out of scale compared to all the other settlements in the area.	The size and design of the development itself is not considered to be out of scale with the existing environment.
Will the proposed development lead to further consequential development or works?	No	Under the previous plans for any development of this site a condition was set that there would need to be an alteration of the entrance to the site where it meets the A75.	These are matters for consideration when a planning application is submitted.
Are there potential cumulative impacts with other existing development or development not yet begun but for which planning permission exists?	No	There are other much smaller lodge sites in the area, and that there could be an impact on these small businesses	These are matters for consideration when a planning application is submitted.

Should the application for this development be regarded as an integral part of a more substantial project?	No	Given the proposed plan includes all year- round use of 425 lodges, they query how will this impact on already stretched services provided by Dumfries and Galloway Council.	These are matters for consideration when a planning application is submitted.
Will construction or operation of the development use natural resources such as land, water, materials or energy, especially any resources which are non-renewable or in short supply?	Yes to impact; No to significant effect.	The Council should see their comments regarding burdens under title relating to minerals, gas and water.	These are matters for consideration when a planning application is submitted.
Will the proposed development produce wastes during construction or operation or decommissioning?	Yes to impact; Low probability of significant effect arising.	Queried how flooding can be avoided as the land mass where it adjoins the A75 is marshy and has a number of ponds. If the land sloping up from these areas does not absorb water due to hard core/concrete beneath the lodges will this see extra flow towards the A75?	The applicant has advised that further reports including a Drainage Strategy Report and a Flood Risk Assessment produced in accordance with NPF4 will accompany the planning application
Will the development release pollutants or any hazardous, toxic or noxious substances to air?	Yes to impact; No to significant effect arising due to Pollution Prevention Plan	Queried the increased traffic emissions with increased vehicles in the area of a permanent nature. They stated that two cars per lodge could equal 850 additional cars within the county. What will be the pressure on parking at nearby towns of Castle Douglas and Kirkcudbright?	These are matters for consideration when a planning application is submitted.
Will the construction, operation or decommissioning of the proposed development lead to risk of	Yes; No to significant effect arising	Pollution Prevention Plan would be helpful as there are a number of ponds on site which could have	These are matters for consideration when a planning application is submitted.

contamination of land or water from releases of pollutants?	due to Pollution Prevention Plan.	disturbed wildlife and become contaminated. Parts of the site are also marshy.	
Will there be any risk of accidents during construction, operation or decommissioning of the proposed development which could have effects on people or the environment?	No	There would be a risk of accidents if the access to the A75 is not the first change to take place and a safe island provided for crossing the A75 from the Castle Douglas direction. The junction without alteration and even with is very similar in approach to the one at Haugh of Urr is a cause of concern regarding accidents. The mix of traffic is also of concern with a pull out on a road that is a main arterial route for transport.	These are matters for consideration when a planning application is submitted.
Will the development involve use, storage, transport, handling or production of substances or materials which could be harmful to people or the environment (flora, fauna, water supplies)?	No	There will be an effect on vulnerable groups.	These are matters for consideration when a planning application is submitted.
Will the construction, operation or decommissioning phases of the proposed development involve the use, storage, transport, handling or production of substances or materials which could be harmful to human health?	No	Under the disability equalities acts due regard will need to be made for the already permanent household of which a member suffers from Chronic Obstruction Pulmonary Disease (COPD). Dust, noise and stress can exacerbate	These are matters for consideration when a planning application is submitted and the Council's Environmental Health Service will be consulted.

		this condition and possibly lead in some cases to death. The irremissible conditions under the title burdens also apply to this household as 24-hour access needs to be ensured should emergency services need to be used.	
Are there any other risks to human health?	No	Maintain that there would be.	These are matters for consideration when a planning application is submitted and the Council's Environmental Health Service will be consulted.
Location of Development			
Are there any existing and/or approved land uses on or around the location which could be affected by the development, e.g. homes, gardens, other private property, industry, commerce, recreation, public open space, community facilities, agriculture, forestry, tourism, water catchments, functional floodplains, mining or quarrying?	Yes to impact; No, although there could be a low probability of a significant effect.	A track up to the old steading/farmhouse site is used by residents already on site and is the only means of access to their properties. It is a single track of driveway size with no passing places as locals know.	The location of the homes has been noted.
Are there any areas on or around the location which are occupied by sensitive land uses e.g. hospitals, schools, places of worship, community facilities, which could be affected?	No	There is recorded an old church adjacent to the farmstead of St Michaels in 1896 maps.	The question about sensitive land uses relates to the existing situation.
Is the development located in a	Yes to	Queried whether future food	Food security has not been taken

previously undeveloped area where there will be a loss of greenfield land?	agricultural land; No, although there could be a low probability of a significant effect.	security been taken into account.	into account in the screening assessment matrix as it does not require to be under the EIA Regulations.
Are there any areas on or around the location which contain important, high quality or scarce resources which could be affected by the development?	No	Woodlands and a local river. They noted that mineral rights have been retained under the title burdens for the property. On tourism, they queried at what point will local town(s) parking, tourist attractions etc be unable to accommodate increased usage.	It is not considered that these resources could be affected by the development within the concept of environmental impact.
Are there any European sites and other areas classified or protected under national legislation which could be affected by the construction, operation or decommissioning of the proposed development?	No	The site is within certain transition/buffer zones according to LDP2 regarding UNESCO/Dark Skies. It would also be incorporated in a similar manner if National Park status was gained. It is a Geese migration area and the fields are used as resting feeding points for the flocks. The site is also near to various bird protection areas with breeding sites for the reintroduction/support of birds at risk.	Did not offer any further comment on this point or to their original assessment.
Are there any areas on or around the location in which there has already been a failure to meet the	No	The current owner of the site has failed over some years to manage the site appropriately. For	Did not offer any further comment on this point or to their original assessment.

environmental quality standards, laid down in Community legislation and relevant to the project, or in which it is considered that there is such a failure?		example, a fuel tank near the Dairy Cottage is upending, the on-site well has been disturbed, and the historical/traditional steading has been demolished without due regard.	
Are there any areas or features of high landscape or scenic value on or around the location which could be affected?	No	Reiterated their response regarding UNESCO and National Geographic identification of the area.	Did not offer any further comment on this point or to their original assessment.
Are there any routes or facilities on or around the location which are used by the public for access to recreation or other facilities, which could be affected?	No	Reiterated their point here about access to two private properties.	Did not offer any further comment on this point or to their original assessment.
Are there any transport routes on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected?	No; the A75 is close	Reiterated their point here about the A75.	Did not offer any further comment on this point or to their original assessment.
Are there any inland, coastal, marine or underground waters on or around the location which could be affected?	No	Highlighted the presence of the River Dee and the Tarff, as well as ponds, marshy land, and a well on the site.	Did not offer any further comment on this point or to their original assessment.
Is the location of the development susceptible to earthquakes, subsidence, landslides, erosion, flooding or extreme or adverse climatic conditions e.g. temperature inversions, fogs, severe winds, which could cause the development to present	No	It is in an area which sustains high winds.	Did not offer any further comment on this point or to their original assessment.

environmental problems?			
Characteristics of the Potential Impact			
Will the effect extend over a large geographical area, affecting many people and resulting in social changes, e.g. in demography, traditional lifestyles, employment?	No	Reiterated their point here on services and access to resources for the current population.	Did not offer any further comment on this point or to their original assessment.
Is the development located within or close to any other areas which are protected under international, EU, or national or local legislation for their ecological, landscape, cultural or other value, which would be significantly affected by the development?	No	Reiterated their point here that the LDP2 maps reference UNESCO and Biosphere elements.	Did not offer any further comment on this point or to their original assessment.
Will there be any potential for transboundary impact?	No	Reiterated their point here on impact to residential properties.	Did not offer any further comment on this point or to their original assessment.