

## **EAST AYRSHIRE COUNCIL**

**DEVELOPMENT SERVICES COMMITTEE: 18 DECEMBER 2001**

**99/0723/FL: CHANGE OF USE FROM VARIOUS USES TO AMUSEMENT  
PARK, INCLUDING ERECTION OF PLAY FORT  
AT LOUDOUN CASTLE PARK, GALSTON  
BY LOUDOUN CASTLE (THEME PARK) LTD**

**99/0708/FL: ERECTION OF DROP TOWER  
AT LOUDOUN CASTLE PARK, GALSTON  
BY LOUDOUN CASTLE (THEME PARK) LTD**

### **EXECUTIVE SUMMARY SHEET**

#### **1. DEVELOPMENT DESCRIPTION**

1.1 There is a full application for the change of use of various existing uses to an amusement park including the erection of a play fort. Such a designation would, if unrestricted, permit the applicant to erect unlimited numbers of rides within the site up to a maximum of 25 metres in height utilising the permitted development rights that would be conferred through any consent for an amusement park. The proposed play fort is located immediately north of the east-west internal road within the Garden Plantation. The fort measures 15.2 m x 15.2 m and is to be constructed from logs taking account of the location of existing trees. An Environmental Impact Assessment (EIA), including a Transport Impact Assessment (TIA) and an Ecology Assessment have been submitted in respect of this application. The EIA is required under the Environmental Impact Assessment (Scotland) Regulations 1999 as the application is for a theme park, the area of which exceeds 0.5 ha.

The application for the erection of a theme park ride, the Drop Tower, comprises a 30m lattice tower construction on a base measuring 13m x 15.5m approximately. Three sets of seats are located on the 4 sides of the tower which are raised to the top of the tower and then dropped downwards. The EIA, TIA and Ecology Assessment required in respect of the change of use application also take account of the application for the Drop Tower.

#### **2. RECOMMENDATION**

2.1 It is recommended that the applications be approved subject to notification to the Scottish Ministers under Article 15 of the Town and Country Planning (General Development Procedure)(Scotland) Order 1992.

### **3. SUMMARY OF ANALYSIS**

3.1 As indicated in Section 5 of this report, the Ayr County Development Plan is considerably out of date and the weight that should be attached to it in the determination of the applications is negligible. The Approved Ayrshire Joint Structure Plan contains policies supportive of a tourist facility of this type along the Irvine Valley. The Structure Plan also cautions against development detrimental to the natural and built heritage of the area, however permission suitably conditioned will be acceptable in that regard. In the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 the applications should be determined in accordance with the Ayrshire Joint Structure Plan but with considerable weight being given to the material considerations. It is not however considered that the consultation responses or the objections received are such as to warrant the refusal of the application.

3.2 The applicant has submitted a wide range of information in order to allow a full assessment of the proposals. The current change of use application aims to prevent the need for further individual 'piecemeal' applications throughout the Park. This holistic approach covers the core areas and allows the Council to direct future development to suitable sites identified within the Park.

3.3 For some seven years there have been leisure facilities at Loudoun Castle whose number has, with the benefit of planning consent, been increased over that time. In this way there has become established a tourist attraction compatible with policy goals in both the Ayrshire Joint Structure Plan and the East Ayrshire Local Plan Finalised Version with Modifications. Noting the benefits that arise from the operation of Loudoun Park and the enforcement appeal decision indicating a measure of support for the juxtaposition of amusement rides with the heritage structures, it is considered that conditional consents will allow for development which bolsters the long term management of the natural heritage resources.

**Stephen Chorley**  
**Director of Development Services**

**Note: This document combines key sections of the associated report for quick reference and should not in itself be considered as having been the basis for recommendation preparation or decision making by the Planning Authority.**

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#### **Report by Director of Development Services**

### **1. PURPOSE OF REPORT**

1.1 The purpose of this report is to present for determination two applications which are to be considered by the Development Services Committee under the scheme of delegation because the applications require notification to the Scottish Ministers.

### **2. APPLICATION DETAILS**

2.1 **Site Description:** The application site for the change of use includes approximately 20 ha of woodlands, parkland and agricultural land in addition to the former coach house building and stable block. This application site is located predominantly to the east of, but does include, the Walled Garden with areas to the north, south and south west also being included. This core area of Loudoun Castle Estate lies on the northerly slope of the River Irvine Valley and has a southerly aspect. The Estate is bounded to the south by Loudoun Gowf Club and also Loudoun Super Sevens and Golf Driving Range. Immediately north of the application site, outline planning permission has recently been granted on appeal for the erection of holiday lodges.

The application site for the Drop Tower lies within Loudoun Castle Park, but outwith the site boundary for the amusement park application. The proposed site of the ride is in a clearing in the Crow Wood, approximately 50m west of the Walled Garden.

Loudoun Castle Park is part of a designed landscape of Historic interest, being listed in the “Inventory of Historic Gardens and Designed Landscapes in Scotland”. Loudoun Castle itself is a category ‘A’ listed building. Much of the park is listed as a Scottish Wildlife Trust (SWT) Wildlife Site.

**2.2 Proposed Development:** There is a full application for the change of use of various existing uses to an amusement park including the erection of a play fort. Such a designation would, if unrestricted, permit the applicant to erect unlimited numbers of rides within the site up to a maximum of 25 metres in height utilising the permitted development rights that would be conferred through any consent for an amusement park. The proposed play fort is located immediately north of the east-west internal road within the Garden Plantation. The fort measures 15.2 m x 15.2 m and is to be constructed from logs taking account of the location of existing trees. An Environmental Impact Assessment (EIA), including a Transport Impact Assessment (TIA) and an Ecology Assessment have been submitted in respect of this application. The EIA is required under the Environmental Impact Assessment (Scotland) Regulations 1999 as the application is for a theme park, the area of which exceeds 0.5 ha.

The application for the erection of a theme park ride, the Drop Tower, comprises a 30m lattice tower construction on a base measuring 13m x 15.5m approximately. Three sets of seats are located on the 4 sides of the tower which are raised to the top of the tower and then dropped downwards. The EIA, TIA and Ecology Assessment required in respect of the change of use application also take account of the application for the Drop Tower.

### **3. CONSULTATIONS AND ISSUES RAISED**

All consultees were consulted regarding both applications and the EIA.

3.1 East Ayrshire Roads and Transportation Division have confirmed that the details of the Transport Impact Assessment (TIA) submitted as part of the EIA are acceptable.

***Noted.***

3.2 The Scottish Environment Protection Agency have no objection to the proposals in principle. However, the applicant may wish to bear in mind that although the sewage system is working satisfactorily at present it is designed for a maximum population of 2000. The applicant should continue to use sustainable urban drainage systems (SUDS) where possible for the disposal of surface water from the site.

***Noted. A condition and notes requiring the applicant to use SUDS can be attached to any grant of planning permission.***

3.3 West of Scotland Water Authority have no comment to make regarding any sewerage issues. Developments of the type and size proposed can be serviced from an existing public water main located in the street adjacent to the site location.

***Noted.***

3.4 The Health and Safety Executive have no comments to make about the EIA.

***Noted.***

3.5 Galston Community Council has no objections to the EIA and the proposed developments.

***Noted.***

3.6 Moscow and Waterside Community Council have not responded at the time of writing.

***Noted.***

3.7 The Scottish Executive, Environment Group have no comments on the EIA other than to state that no details have been given of drainage provisions from the hardstanding car park. The Executive need to be assured that the developers take account of possible effects on water quality including groundwater.

***Noted. A condition requiring details of the surface water drainage can be attached to any grant of planning permission.***

3.8 The Scottish Wildlife Trust has no objections to the proposed developments. The Trust have made the following observations:-

- (i) Their response is based upon the Ecological Assessment and Recommendations produced by John Darbyshire Consultants; and
- (ii) The Trust hope that the recommendations for ecological improvements are carried out to mitigate the damage to habitats where indicated.

***Noted. A condition can be attached to any consent granted to secure the necessary improvements and mitigation.***

3.9 The Ayrshire Joint Structure Plan Team state that the siting of a theme park within a landscape that is as significant as found at Loudoun need not in itself be inappropriate if the investment by the developer can also over time be directed toward the consolidation and hopefully re-establishment of aspects of the original designed landscape.

The challenge clearly is to ensure an integration of the proposals within the landscape while ensuring that irreversible damage is prevented. In this respect a number of mitigation measures are put forward within the Environmental Statement which seek to minimise visual intrusion from buildings and structures, for example by use of colour.

No objections are raised provided it is in the view of East Ayrshire Council that the proposal(s) individually or cumulatively will not have adverse effect or create irreversible damage to the heritage resource at Loudoun and that the mitigation measures advocated are implemented.

***Noted. It is considered that consents suitably conditioned will result in development that is compatible with its location having no irreversible detriment to the estate.***

3.10 RSPB have confirmed that, following receipt of the Ecology Assessment, they would now be pleased to withdraw their previous objection, provided that approval is made conditional on the implementation of an appropriate wildlife management plan for the entire estate. The purpose of such a plan is to protect and enhance the important priority species and habitats that have been identified. RSPB would also wish to ensure that the plan's content, objectives and implementation were to the satisfaction of SNH. RSPB would be happy to advise on these aspects.

***A condition can be attached to any grant of planning permission regarding the implementation of the wildlife plan although it is not possible to extend this to the entire estate as this is not all in the ownership of the applicant.***

3.11 Historic Scotland has no comments to offer on the Ecology Assessment. Historic Scotland acknowledges the considerable research that has gone into the preparation of the EIA and welcome, in particular, the Woodland Management Plan. However, Historic Scotland state that it is regrettable that despite some very positive proposals for the restoration of lost or eroded features they remain of the informal opinion that the developments are unacceptable from the Designed Landscape viewpoint and should be resisted for the following reasons:-

- "The proposed change of use to a theme park is very alarming in that it could open the door for all manner of inappropriate development.

- The Drop Tower, although arguably a temporary structure would, at a height of some 30 m and, visually, be a very disturbing intrusion.
- The “Street” proposal is quite unacceptable for the main approach to the Castle, a Category A listed building. The construction of something rather “Wild West” in character, in such a situation, illustrates scant regard for and appreciation of the importance and integrity of the site.
- Whilst we appreciate that a wet weather facility might be desirable, we have serious concerns about the introduction of something which would certainly not be “temporary”. The proposed locations, along the west drive, and adjacent to the walled garden would be to the serious detriment of both.
- We have considered the mitigation proposals with interest, but do not see that they would reduce the impact of the developments to any great degree. New planting would, even if “rapid response” species were acceptable, take several years to reach a stage where it might have any effect.

Overall, Historic Scotland is firmly of the opinion that Loudoun Castle and its associated designed landscape deserves far more sympathetic and appropriate treatment than it has suffered so far. It is a significant heritage resource in itself and must be regarded accordingly. There may be sites within the Council’s area where such developments could be accommodated. We would suggest that Loudoun is not one of them”.

***The application for the change of use allows the council to direct new developments to areas which are less sensitive. Permitting developments in areas screened by existing mature woodland would be to the benefit of neighbouring uses in terms of visual impact and noise levels.***

***It is considered that the proposed Drop Tower is not visually intrusive within Crow Wood. The ride does extend slightly above the height of the tree canopy however the structure of the ride is such that the part which is visible is not to the detriment of the surrounding area.***

***The applications for the “Street” and the “Wet Weather Building” have been withdrawn by the applicant.***

***Loudoun Castle Park has a significant planning history (see para 6.4 below) and it is considered that Loudoun Castle has already become established, by reason of those applications previously approved, as a Theme Park.***

***In forming a view as to the acceptability of the proposals, the Division has noted the comments made by the Scottish Executive Reporter WHEN granting, on appeal, a temporary consent for a ride known as the Magic Carpet. He commented “Although some may find the juxtaposition of the castle ruins and the leisure park a little incongruous, the castle gives the theme park a theatrical Disney style ambience which probably enhances the enjoyment of visitors, especially young people. I therefore conclude that, in the context of the planning history of the property, the amusement park ride is an appropriate neighbour for the listed building and designed setting.”***

***It should be noted that in circumstances where a Category A Listed Building is involved, and where the Scottish Ministers (Historic Scotland) advise against the granting of planning permission or have recommended conditions which the Planning Authority do not propose to attach to the permission, the applications require to be notified to the Scottish Ministers prior to issuing any decision.***

3.12 The Architectural Heritage Society of Scotland (AHSS) find that adequate comment on the change of use application is not possible due to the fragmented submission. However, it appears that the play fort will be in full view from the South, presenting a toy-like image that can only be at odds with the concept of a designed landscape. The ongoing piecemeal nature of the leisure development at Loudoun Castle is still the Society’s most serious concern. Being led by commercial expediency the individual proposals give no picture of aims and policies. The Society are concerned that the EIA appears to encompass the whole historic estate, yet it only assesses the impact of the Theme Park on the estate.

The EIA appears to concentrate on the visual impact and is deficient in terms of the assessment of the physical effect of 150,000 plus visitors on the scheduled landscape and sites of wildlife and archaeological significance. These visitors require to be accommodated and have services provided, not just rides and car parking.

The Society ask that the EIA be submitted to the Institute of Environmental Assessment. Having qualified landscape and conservation staff, they may be able to advise on certain deficiencies.

The Society note that the measures proposed to mitigate adverse visual impacts are essentially:

- (i) To paint rides in less conspicuous colours. As rides are normally hired on a seasonal basis, this is often impractical. We must point out that it is not just the ride, but the associated flags, coloured lights, noise and music which may require mitigation.

- (ii) Screen Plant: As this would not be effective for some 15-20 years, this is not a satisfactory form of mitigation now. Furthermore, if the developer is only a lessee, we question the feasibility.

The Castle is central to this Estate yet appears neglected, unsafe and not part of the Grand Plan. This is surely an omission?

The EIA is deficient in assessing the effect of people walking through some of the planted areas where there has been a most inadequate ecological survey. The flora and fauna count was on one day in November and so excludes many of the summer birds, such as warblers, which breed at Loudoun. Winter is a poor time to assess flora. There is no reference to insect life, nor to fungi or mosses which are rich assets in Ancient Woodlands.

There is no assessment of noise impact on surrounding land-uses/users, other than a reference to such users being pre-occupied. Quiet activities such as fishing, golfing, exams at Loudoun Academy, may infer 'pre-occupation', but require little/no noise distraction from external sources. The information on noise included with the papers has been gathered by the Council, not the developer. We believe that this should be independently carried out.

In coming to a conclusion about the current and future acceptability of an amusement park, we draw your attention to 6.32 of the EA:-

"The intangible and aesthetic landscape qualities ... have been eroded by the development. The temporary nature of the majority of construction and the finishes as well as the unfinished excavations do leave a lasting impression of a poor quality development in a high quality landscape ... the overall impression in general landscape terms is that of theme park development which detracts from the general character of the site".

Adding this to section 6 where: "The sensitivity of the Loudoun Estate designed landscape is considered to be generally high".

The assessment is that landscape impacts from the various existing/proposed developments are material, substantial and deleterious overall, eg 'moderately adverse' 6.9; 'significantly negative' 6.11; 'substantial adverse impact' 6.23 and 15: 16.17, etc.

We conclude that the change of use is unacceptable in that the impacts cannot easily be mitigated in the short term, and that even if structures are temporary, the impact of so many people in such a sensitive landscape is unacceptable. We therefore object to the change of use application.

With regard to the Drop Tower the Architectural Society of Scotland objects very strongly to this proposal. "No details of the base, nor the colour, weight, lighting or power source are supplied.

The proposed site is outside the area previously approved for a leisure park. The equipment exceeds the height limitations imposed on equipment in various locations in this park.

This is piecemeal development. By reason of its height and location the ride will detract from the Designed Landscape and the listed structures nearby.

The site is in Crow Wood which is designated in the Landscape Management Plan (which is still not approved after 6 years of the first planning consent) as the 'Core Landscape around the Castle' where there would be "Restoration to the structure of woodland gardens (to Alexander Nasmyth's designs around the Castle), and reinstatement of axial views where relevant". This proposal would alter visually and physically this part of the estate to its great detriment.

There is no indication of essential details such as ground levelling, paths and access. A proposal even to drive let alone park a 35 tonne load through a designed landscape is likely to have a detrimental effect on access roads/bridges.

The height is such that it would have an impact in the surrounding areas, not just visual, but noise and light would carry over the tree canopy. It is therefore a most inappropriate use near the central historic part of the estate and quite out of character with it.

The materials, colour and lighting would, by virtue of their artificiality, detract greatly from the Designed Landscape."

***The applications are accompanied by an Environmental Impact Assessment (EIA), a Transport Impact Assessment and an Ecology Assessment. It is considered that there is sufficient information available to enable a proper determination of the applications.***

***The EIA is required to assess the impact of the Theme Park. The EIA does extend to areas outwith the application site boundary however, there is no requirement to encompass the whole historic estate.***

***A wide variety of consultees were consulted on the EIA as stated in the Regulations. It is considered that these bodies are sufficiently qualified in their own fields to assess the adequacy of the EIA without requiring to submit the EIA to the Institute of Environmental Assessment.***

***In terms of mitigating adverse visual impacts the Council are in a position to direct rides to acceptable areas within the Park. This can be done by means of condition on any grant of planning permission.***

***It should be noted that since the submission of the applications, the applicant is now the owner of the Park.***

***There are no plans as part of these applications to carry out any works to the Castle.***

***The selective and incorrectly numbered references to the EIA in respect of Landscape and Visual Impacts are noted. The quotations offered omit the observation in the EIA that finishing the environs of the various amusements to a higher standard together with mitigation proposals could reduce or indeed reverse adverse effects.***

***The Ecology Assessment has been considered by SNH who are satisfied that the surveys have been carried out to an adequate standard and they broadly agree with the scale of impacts (see para 3.15). The noise monitoring was carried out in the area surrounding Loudoun Castle by East Ayrshire council's Environmental Health Department. It is therefore considered that this monitoring has indeed been carried out by a source independent from the applicant.***

3.13 The Scottish Civic Trust object to the application in the absence of an updated Management Plan, based on the Landscape Assessment and experience to date of the physical effect of the development on the historic landscape. If any information on traffic or management has been received the Trust would be glad to see it and to comment further.

With regard to the Drop Tower the Scottish Civic Trust object to the application as it is considered that the Tower is likely to both intrude on the landscape and to disrupt the intervisibility between Loudoun Castle and the walled garden. It is an inappropriate structure for this location, and if it is to be granted consent the Trust hope it will be re-located less conspicuously. The site is also outwith the boundary of the application for the larger change of use of the park and therefore any consent would be premature until after the change of use application has been determined. The structure would exist in isolation from the rest of the area of development.

Given that the renewal of consent would otherwise seem premature the Trust would expect the proposals for the Drop Tower and play fort to be deferred. The Trust note that the fort should however be less intrusive than the high rides and

that (unless brightly painted) it will appear as a more natural part of the landscape.

***The Scottish Civic Trust were consulted on the EIA and associated documents in December 2000 and have not responded. The Trust's conclusion that, if appropriately painted, the fort should be less intrusive than the high rides is noted.***

3.14 The Garden History Society is pleased to note that, some seven or eight years after the Society first voiced its concern, this document has at last begun to acknowledge the substantial negative impact which some elements of the development of the Loudoun Castle Theme Park have had on the character of the historic designed landscape at Loudoun. The honesty of some of the statements which it contains makes a refreshing change from the self-congratulatory tone of some parts of the earlier **Management Plan**.

Among the elements of the plan which are to be welcomed is the **Woodland Management Plan** compiled by Eammon Wall and Co. To say that it was compiled '*in consultation with the Garden History Society*' could be taken by some people to mean that the Society was the co-author of the plan. This is not the case. The Society did have a general input at an early stage in the preparation of the plan, but has not been involved in the sub-division of the site into management units, or in the formulation of the detailed management prescriptions for each of these. That said, we should like to endorse much of what is being proposed.

It is Section 7 of the Environmental Impact Assessment dealing with Mitigation Measures which is of most concern to the Society. This acknowledges the fundamental conflict which has existed from the beginning between the tranquil character of the designed landscape and the vibrant and disruptive character of the various structures within it, most of which have been deliberately designed to attract attention to themselves by virtue of their shape, size and colour. Although the use of muted colours may go some way to reducing the visual impact of new developments, this does not address the fundamental point. We are especially concerned that the presence of the existing structures is now being used as an argument for further development at or close to the heart of the landscape, and as a justification for new planting which will not only dilute the historic planning but will introduce what we would see as inappropriate 'rapid response' species to the landscape. No consideration seems to have been given within the Environmental Impact Assessment to the necessity for some of the structures, or to alternative locations for these. While we must accept that some structures may be temporary, they have been and are being used to justify the introduction of more permanent and highly intrusive features such as the car park. While welcoming the prescriptions contained in Woodland Management Plan, we are also unhappy

with the proposal to introduce new planting which will alter the character of the structure planting which is one of the features of the landscape at Loudoun”.

With regard to the proposed Drop Tower, the Society find the submitted plans to be inadequate to make a proper judgement. “While the location of the Tower within Crow Wood may be intended to reduce its visual impact on the Designed Landscape, the apparent height of around 30 m, and the lack of information on the actual appearance and colour of the structure give the Society further cause for concern”.

***The planning history of this site and the existence of rides currently on site are material planning considerations. On the basis of previous approvals it must therefore be accepted that Loudoun Castle has become established as a Theme Park. The use of rapid response species would provide an initial, temporary screen and could be supplemented by native species which would, in time, provide a more natural screen in the required areas.***

3.15 Scottish Natural Heritage objected to the original submission of the EIA as it was considered that issues raised by the proposals could have significant adverse effects on the nationally important Designed Landscape. SNH requested that further information be submitted in respect of an Ecological Appraisal and Landscape and Visual Impacts.

As a result of the deficiencies noted by SNH the applicant commissioned an Ecological Assessment. SNH were reconsulted and the following comments were then received from SNH:-

- “(ii) The field surveys contained within the ecological assessment have been carried out to an adequate standard and the data has been presented in a clear and understandable format.
- (iii) While we note that the assessment of impacts have been made by taking account of the presence of the existing developments (including the subjects of the current planning applications) rather than predicting the change that developments may have caused, we broadly agree with the scale of impacts, reported in table 9.1.
- (iv) SNH considers that the mitigation proposals discussed throughout the document and summarised in table 9.1 are essential steps that must be taken in order to achieve the predict impact levels.

We therefore recommend that these proposals should either be drafted into enforceable planning conditions or used as the basis for the development of an appropriate Section 75 Agreement”.

With regard to the issue of landscape impacts SNH have stated that they would require the planning history of the site, including clarification of developments which have conditions which are not being met, in order to allow a proper assessment of the impacts.

***Noted. Conditions relating to implementation of the works detailed in the EIA and Ecology Assessment can be attached to any grant of planning permission. With regard to the planning background of the site SNH have been consulted on all applications submitted and are therefore aware of the planning history. These current applications require to be considered on their merits but with regard being had to the previous consents issues. The relationship between the previous and the proposed applications is that the implementation of any new consent will affect the ability to implement earlier consents where there is an overlap of sites.***

3.16 The Department of Community Services, Outdoor Amenities have commented that the Ecology Assessment highlights the significance of the ancient woodland around the park with significant specimen and veteran trees. Most of the larger trees are over 250 years old and have dominated the local landscape. It is strongly recommended that these trees are given the protection they deserve from the threat of development. The report cites the lack of past woodland management causing the lowering of habitat diversity but the new positive woodland management should create better habitats with more bio diversity. Leaving some of the old trees standing where there are no safety concerns and creating wildlife corridors between habitats should go a long way to encouraging more wildlife in the area. The report indicates the impact of the present rides to be minimal which is good news, however, areas around the rides could be improved not only to give a more natural appearance but encourage wildlife when the park is not open.

The Department of Community Services, Outdoor Services Section noted their concerns regarding the positioning of the proposed tower. This concern related to the possibility of insufficient space either up in the tree canopy for the top of the tower, or around the base for the platform. Concern was also noted regarding potential access problems for the vehicle carrying the tower to enter the lime avenue.

***Noted. Policy ENV 15 of the EALP seeks to preserve and supplement existing broadleaf and native species. In particular the Council will strongly encourage the protection and positive Management of remaining areas of ancient and semi-natural woodland and protect those individual, groups and areas of trees which contribute significantly to the landscape quality through the serving of Tree Preservation Orders (TPO). The serving of a TPO on***

***various trees is an option available to the Council. Since the consultation response the ride has been located on site for a period of time with sufficient clearance being available for the ride to operate.***

3.17 Strathclyde Police were consulted in relation to the TIA and have confirmed through liaison with the Roads Division that the revised document is acceptable.

***Noted.***

#### **4. REPRESENTATIONS**

One letter of objection, with 2 signatories, has been received in addition to the objections noted above from 4 consultees (Scottish Civic Trust, AHSS, Garden History Society, SNH).

4.1 Yet another expansion of the park will create increased noise levels, the present level already being unacceptable. The Council is asked for consideration for those living in the surrounding area who have a right to enjoy the outdoors without being subjected to noise from Loudoun Castle Park.

***Noise readings were obtained between November 1999 and August 2000 by East Ayrshire Council. This noise monitoring concluded that there was no excessive noise produced at the Theme Park over this period. The comments of the 4 consultees are discussed in Section 3 above.***

#### **5. ASSESSMENT AGAINST DEVELOPMENT PLAN**

5.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of these applications the development plan comprises the Approved Ayrshire Joint Structure Plan and the Ayr County Development Plan (1953).

5.2 However, the Adopted Ayr County Development Plan is now almost 50 years out of date. Given the age of this plan, its relevance to the applications is negligible. Nevertheless, within this Plan the site is designated as an Area of Great Landscape Value and particular care should be taken to avoid any development likely to reduce its attractiveness.

5.3 With regard to the Approved Ayrshire Joint Structure Plan the following Policies are of relevance:-

- E19 Development having an adverse effect on heritage resources shall not conform to the Structure Plan
- E9 The Council shall have regard to the need to manage features of the natural heritage which are of importance for habitats and species
- E5 Provision shall be made for leisure, recreation and sporting facilities which amongst other things achieve co-ordinated tourism, environmental and access initiatives along the Irvine Valley
- E1 The quality of Ayrshire's landscape shall be maintained and enhanced through conservation of, amongst other things, historic landscapes
- W5 The three Ayrshire Councils shall encourage improvement of the range and quality of facilities, attractions and experiences for tourist and day visitors, subject to other relevant policies.

***The proposals have been considered against the above policies and it is considered that they are in compliance with and supportive of the terms of the Structure Plan.***

## **6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS**

6.1 The other principal material considerations relevant to the determination of these applications are the East Ayrshire Local Plan Finalised Version with Modifications, consultations, objections detailed above and the planning history.

6.2 The Adopted Local Plan is considerably out of date and therefore it is considered appropriate that greater weight should be attached to more recent expressions of policy. The Council has agreed that the East Ayrshire Local Plan Finalised Version with Modifications (EALP) should be considered a prime material consideration.

### East Ayrshire Local Plan

6.3 The relevant policies within the EALP are:

- ENV 1 - protect, preserve and enhance all heritage resources;
- ENV 4 – development affecting the appearance or setting of a Listed Building to be sympathetic to that building;
- ENV 5 – the Council will seek to protect, preserve and enhance Historic Gardens and Designed Landscapes;
- ENV 12 - development proposals in rural areas shall respect the local landscape characteristics and conserve, enhance, reinstate or replace features contributing to landscape value and quality;
- ENV 14 – general presumption against any development which would have a permanent adverse impact or cause irreparable damage to built heritage

resources requiring conservation including historic gardens and designed landscapes and to existing habitats;

- ENV 15 - preserve and supplement existing broadleaf and native tree species;
- TLR 10 – commercial leisure developments specifically geared towards rural leisure and recreation may be considered acceptable where they can be justified against a number of criteria.

***It is considered that the change of use application will allow the Council to direct new developments to areas within the estate which are less sensitive. Permitting developments in areas screened by existing mature woodland would be to the benefit of neighbouring uses in terms of visual impact and noise levels. It is considered that it would be more advantageous to locate developments within areas of the Park which already have screening in addition to providing those mitigation measures identified in the EIA for further areas of development. The proposed siting of the Drop Tower within the Crow Wood is an example of locating a ride in an area which already provides natural screening.***

***In addition to conditioning areas suitable for developments, a condition could also be attached to any grant of planning permission which limits the total number of adult seats on rides that could be provided within the site. The application for the change of use need not therefore increase the facilities to an inappropriate level. Consequently, it is considered that it would be possible to accommodate the proposal with little detriment to the Designed Landscape by means of restricting areas and numbers of development by conditions. The proposal is therefore compatible with the policies of the EALP.***

#### 6.4 Planning History

In July 1994 an outline application was approved at Loudoun Castle Park comprising only of “leisure facilities, walled garden, animal display, archery, children’s golf, equestrian centre and dwelling”. In May 1995 an application was approved which introduced a fairground into the Walled Garden and included the Helter Skelter (20m) and Carousel (6m). Since then the following rides have been approved:

December 1995	- Log Flume (11.5m)
May 1996	- Go Kart Track
May 1996	- Wallace Sword Ride
February 1997	- Looping Star Ride (24m)
February 1997	- Waveswinger (14m)
February 1997	- Rodeo Rider (5m)
March 1999	- Wild Mouse

November 2001 - Magic Carpet Ride (temporary consent granted on appeal)

It can therefore be accepted that Loudoun Castle has become established, by reason of these decisions as a Theme Park. Nevertheless, as noted above, individual applications have been required for each ride proposed.

There is no doubt that it is preferable to consider the park as a whole instead of dealing with individual applications for single rides. The holistic approach proposed by the current change of use application allows the council to identify sites within a wider area where it would be acceptable to locate rides.

This approach was agreed as the best way forward and in March 1999 consent was granted for a change of use to an amusement park for a temporary 8 months period.

This temporary consent allowed the Council to assess the impacts of the development and provided a basis for determining future applications. With regard to the current proposal a significant level of information has been submitted in order to allow a full assessment of the proposal (EIA, TIA, Ecology Assessment).

***Decisions made in the past are material considerations, although, in terms of this current application the Council can now determine locations for future rides whilst allowing the applicant the flexibility to move rides within these areas.***

#### 6.5 Consultations and Objections

The consultation responses and objections have been detailed in Sections 3 and 4 above. It is considered that these are not such as to indicate that a conditional approval would be inappropriate.

### **7. FINANCIAL AND LEGAL IMPLICATIONS**

7.1 There are no financial or legal implications for the Council in determining this application.

### **8. CONCLUSIONS**

8.1 As indicated in Section 5 of this report, the Ayr County Development Plan is considerably out of date and the weight that should be attached to it in the determination of the applications is negligible. The Approved Ayrshire Joint Structure Plan contains policies supportive of a tourist facility of this type along

the Irvine Valley. The Structure Plan also cautions against development detrimental to the natural and built heritage of the area, however permission suitably conditioned will be acceptable in that regard. In the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 the applications should be determined in accordance with the Ayrshire Joint Structure Plan but with considerable weight being given to the material considerations. It is not however considered that the consultation responses or the objections received are such as to warrant the refusal of the application.

8.2 The applicant has submitted a wide range of information in order to allow a full assessment of the proposals. The current change of use application aims to prevent the need for further individual 'piecemeal' applications throughout the Park. This holistic approach covers the core areas and allows the Council to direct future development to suitable sites identified within the Park.

8.3 For some seven years there have been leisure facilities at Loudoun Castle whose number has, with the benefit of planning consent, been increased over that time. In this way there has become established a tourist attraction compatible with policy goals in both the Ayrshire Joint Structure Plan and the East Ayrshire Local Plan Finalised Version with Modifications. Noting the benefits that arise from the operation of Loudoun Park and the enforcement appeal decision indicating a measure of support for the juxtaposition of amusement rides with the heritage structures, it is considered that conditional consents will allow for development which bolsters the long term management of the natural heritage resources.

## **9. RECOMMENDATION**

**9.1 It is recommended that the applications be approved subject to notification to the Scottish Ministers under Article 15 of the Town and Country Planning (General Development Procedure)(Scotland) Order 1992.**

**Stephen Chorley**  
**Director of Development Services**

10 December 2001  
(YN/MMM)  
FV/DVM

## LIST OF BACKGROUND PAPERS

1. Application Form and Plan.
2. Statutory Notices and Certificates.
3. Consultation Responses.
4. East Ayrshire Local Plan (Finalised Version with Modifications).
5. Ayr County Development Plan.
6. Approved Strathclyde Structure Plan.
7. Approved Ayrshire Joint Structure Plan.
8. Previous Applications: 96/0624/FL  
98/0445/FL  
98/0461/FL
9. Objections.

Anyone wishing to inspect the above papers please contact Yvonne Nisbet on 01563 576771.

***Implementation Officer: Dave Morris***

990723FL&990708FL

## EAST AYRSHIRE COUNCIL

## TOWN &amp; COUNTRY PLANNING (SCOTLAND) ACT 1997

99/0723/FL

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Site of Proposal:	Loudoun Castle Park GALSTON
Nature of Proposal:	Proposed Change of Use from Various Uses to Amusement Park Including Erection of Play Fort
Name & Address of Applicant:	Loudoun Castle (Theme Park) Ltd Loudoun Castle Park GALSTON
Name & Address of Agent:	W I Munro chartered Architects 1 Seaford Street KILMARNOCK

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DPOs Reference: YN/MMM

Subject to Notification to Scottish Ministers. The above FULL application should be granted subject to the following conditions:-

1. Notwithstanding the plans hereby approved, the applicant shall implement in full the recommendations and mitigation measures contained in the Environmental Impact Assessment received on 27 December 2000, the Traffic Impact Analysis received on 25 February 2000 and the Ecology Assessment received on 07 September 2001. The applicant shall prepare and submit for the approval of the Head of Planning and Building Control a Mitigation Plan covering all aspects of the proposed mitigation measures as detailed in the above Assessments and Analysis and including timescales for their implementation. This shall be lodged within 3 months of the date of this comment with the Planning and Building Control Division. Thereafter the measures as approved shall be implemented within the approved timescales.

**REASON** In order to protect the visual amenity of the area and in the interests of road safety.

2. Notwithstanding the provisions of Class 69 of the Town and Country Planning (Use Classes)(Scotland) Order 1997, the number of adult seats on the various rides within the boundaries of Loudoun Castle Theme Park, including the Walled Garden, and which rides have a height in excess of 4 metres, shall be limited to 420 in number at any one time.

REASON In order to protect the visual amenity of the area and in the interests of road safety.

3. Notwithstanding the provisions of Class 69 of the Town and Country Planning (Use Classes)(Scotland) Order 1997, details of the colours and illumination of all rides shall be submitted to and approved in writing by the Planning Authority prior to their erection on site.

REASON In order to ensure that the application of colour or illumination does not result in an undue intrusion into the landscape.

4. Notwithstanding the provisions of Class 69 of the Town and Country Planning (Use Classes)(Scotland) Order 1997, rides shall only be permitted within those areas marked on the “development areas” map (Appendix One to this planning consent 99/0723FL) and shall be no higher than the following height limits within the identified areas.

- Area A – 20m
- Area B – 25m
- Area C – 15m
- Area D – 15m

REASON In order to protect the visual amenity.

5. Notwithstanding the provisions of Class 69 of the Town and Country Planning (Use Classes)(Scotland) Order 1997, the number of rides located within the Walled Garden and exceeding the height of the Garden’s wall shall be limited to 5 in number at any time.

REASON In order to protect the visual amenity of the area and protect the views into the designed landscape of Loudoun Castle.

6. Notwithstanding the provisions of Class 69 of the Town and Country Planning (Use Classes)(Scotland) Order 1997 no ride located in the area south of the wall of the Walled Garden (identified as Area 1 on the enclosed plan) shall extend above the height of the Garden’s wall.

REASON In order to protect the visual amenity of the area and protect the view into the designed landscape of Loudoun Castle.

7. Notwithstanding the provisions of Class 69 of the Town and Country Planning (Use Classes)(Scotland) Order 1997 no more than 2 no. rides exceeding the height of the garden's wall up to a maximum of 20 metres shall be permitted at one time in the area identified as Area 2 on the enclosed plan. In Area 3 on the enclosed plan there shall be no more than 3 no. rides exceeding the height of the garden's wall up to a maximum height of 10 metres at any time.

REASON In order to protect the visual amenity of the area and protect the view into the designed landscape of Loudoun Castle taking into account the difference in ground levels within the Walled Garden.

8. Notwithstanding the plans hereby approved details of the drainage provision from the hardstanding car park shall be submitted to and approved by the Planning Authority and thereafter implemented prior to the change of use commencing.

REASON In the interests of public safety.

9. Before any work commences on site, details of a Sustainable Urban Drainage System and its maintenance following installation shall be submitted to and approved by the Planning Authority. The Sustainable Urban Drainage System shall thereafter be installed on site, prior to the commencement of the change of use.

REASON To ensure that adequate drainage is provided.

10. Notwithstanding the plans hereby approved, consent is not granted for "The Street", "wet weather building" or raft ride.

REASON To ensure that the development is carried out in accordance with the approved details.

#### Notes to Applicants

1. The Developer shall make early contact with the Scottish Environment Protection Agency and West of Scotland Water to confirm their request to utilise a Sustainable Urban Drainage System (SUDS), with regard to surface water. These Authorities require this development to be drained in accordance with the recommendations contained in the CIRIA manual on SUDS.
2. The Council does not currently have a general agreement with WoSWA in relation to the maintenance of public SUDS. Proposals for site specific agreements which may require to involve the developer or other third parties

will be considered within the overall framework recommended in the design manual for SUDS published by CIRIA.

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

99/0708/FL

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Site of Proposal:	Loudoun Castle Park GALSTON
Nature of Proposal:	Proposed Erection of Drop Tower
Name & Address of Applicant:	Loudoun Castle (Theme Park) Ltd Loudoun Castle Park GALSTON
Name & Address of Agent:	W I Munro Chartered Architects 1 Seaford Street KILMARNOCK

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DPOs Reference: YN/MMM

The above FULL application should be granted subject to the following conditions:-

1. Notwithstanding the submitted plans details of the colours and any illumination of the ride shall be submitted to and approved by the Planning Authority prior to the erection of the ride hereby approved. The ride shall be of the approved colour and level of illumination prior to erection on site.

REASON In order to ensure that the application of colour or illumination does not unduly impact on the amenity of the area.

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT  
THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S  
PLANNING OFFICE IN KILMARNOCK. FOR INFORMATION ON  
VIEWING PLEASE CONTACT (01563) 576790.**

**AGENDA**