

Issue 17b	Water Environment and Drainage	
Development plan reference:	EP3 - Water Environment and Drainage, page 54	Reporter: Hugh M Begg
Body or person(s) submitting a representation raising the issue (including reference number):		
Councillor Michael Barnacle (02633) Scottish Environment Protection Agency (03194) Scottish Natural Heritage (05211)		
Provision of the development plan to which the issue relates:	Water Environment and Drainage	
Planning authority's summary of the representation(s):		
<p><u>EP3A: Water Quality</u> Scottish Environment Protection Agency (03194/4/001): Perth and Kinross Council has duties as a responsible authority under the Water Environment and Water Services (Scotland) Act 2003 (WEWS) (Core_Doc_102) to exercise their designated functions so as to secure compliance with the requirements of the Water Framework Directive (WFD) (Core_Doc_163).</p> <p>To be in keeping with the duties and definition set out in the Water Environment and Water Services (Scotland) Act 2003, 'Water Environment' is considered to be a more appropriate title for Policy EP3A.</p> <p>The production of the River Basin Management Plan (RBMP) (Core_Doc_038) is one of the requirements of the Water Framework Directive and to achieve its aims, water bodies need to be protected from deterioration and action taken to enhance and restore those below good status. A revised policy wording is proposed which aims to clarify that development should be in accordance with the River Basin Management Plan (s) and specifically with the no deterioration and improvement objectives in order that the Council fulfils its duties as set out in the Water Environment and Water Services (Scotland) Act 2003.</p> <p>Derogation procedures are covered elsewhere (CAR licensing) (Core_Doc_168) so the latter part of the policy is recommended for deletion.</p> <p><u>EP3B: Foul Drainage</u> Scottish Environment Protection Agency (03194/5/001): We support this policy as it is in keeping with the duties that the Council has as a responsible authority under Water Environment and Water Services (Scotland) Act 2003 (WEWS) (Core_Doc_102) to exercise their designated functions so as to secure compliance with the requirements of the Water Framework Directive (WFD) (Core_Doc_163).</p> <p>Scottish Natural Heritage (05211/25/008): The Policy should be reworded to reflect the outcome of the Habitats Regulations Appraisal (Table 7.1, page 86) (S4_Doc_155).</p>		

EP3C: Surface Water Drainage

Scottish Environment Protection Agency (03194/6/001): Support this policy as it is in keeping with the duties that the Council has as a responsible authority under the Water Environment and Water Services (Scotland) Act 2003 (WEWS) (Core_Doc_102) to exercise their designated functions so as to secure compliance with the requirements of the Water Framework Directive (WFD) (Core_Doc_163).

EP3D: Reinstatement of Natural Watercourses

Councillor Michael Barnacle (02633/1/019): Considers this policy should support localised ditch and watercourse management schemes where no flood prevention scheme is in place. More assistance is needed for areas that are at risk from flooding but that don't have a flood prevention scheme. Communities ought to be able to set up a local scheme to manage local ditches and watercourses. Perth and Kinross Council, Environment Committee, 4 November 2009 Agenda item 7: Biennial report on flood prevention responsibilities 2009 (Core_Doc_169).

Scottish Environment Protection Agency (03194/7/001): Support this policy as it is in keeping with the duties that the Council has as a responsible authority under Water Environment and Water Services (Scotland) Act 2003 (WEWS) (Core_Doc_102) to exercise their designated functions so as to secure compliance with the requirements of the Water Framework Directive (WFD) (Core_Doc_163).

Modifications sought by those submitting representations:**EP3A: Water Quality**

Scottish Environment Protection Agency (03194/4/001): New wording proposed: *'Policy EP3A Water Environment: Proposals must accord with the Scotland River Basin Management Plan and any associated Area Management Plans. Specifically, development must accord with the protection and improvement objectives of the River Basin Management Plan to ensure that there is no deterioration of water body status and where possible secure long term enhancements to water body status.'*

Deletion of wording: *'...Unless the activity proposed is of significant specified benefit to society or the wider environment.'*

EP3B: Foul Drainage

Scottish Natural Heritage (05211/25/008): In line with the outcome of the HRA process, recommend the deletion of paragraph 2 from the policy EP3B *'Private drainage provision such as septic tanks will only be considered in settlements as a temporary measure if there are capacity constraints prior to connection to the public sewerage system. In such cases the drainage system must be designed and built so that it allows easy connection to the public sewer and adoption by Scottish Water.'*

EP3D: Reinstatement of Natural Watercourses

Councillor Michael Barnacle (02633/1/019): Policy EP3D Propose support for local ditch and watercourse management schemes in areas not covered by a flood prevention scheme.

Summary of responses (including reasons) by planning authority:**EP3A: Water Quality**

Scottish Environment Protection Agency (03194/4/001): The Scottish Environment Protection Agency seek to amend the title of the first part of the policy from *'Water*

Quality to *Water Environment* to reflect the Water Environment and Water Services (Scotland) Act 2003 (Core_Doc_102), and in exercise of the Council's designated functions in compliance with the Water Framework Directive; this proposed title is seen as more in keeping with the overall title of Policy EP3 which is Water Environment and Drainage.

They also wish to amend the wording of this part of the policy as they state it would clarify that development should be in accordance with the River Basin Management Plan(s) (Core_Doc_038) and specifically with the no deterioration and improvement objectives in order that the Council fulfils the duties set out in Water Environment and Water Services (Scotland) Act 2003 (Core_Doc_102), and to delete the latter part of the policy as they consider derogation procedures are covered elsewhere (CAR licensing) (Core_Doc_168) it is therefore unnecessary.

No modification is proposed to the Plan. However, if the Reporter is so minded as to take the suggested policy sub-heading change, and sub-policy re-wording, the Council would be comfortable with this position as it has no implications for any other aspect of the Plan.

EP3B: Foul Drainage

Scottish Natural Heritage (05211/25/008): It is considered that amending the policy wording to incorporate mitigation measures as set out in the Habitats Regulations Appraisal (Including Appropriate Assessment) (Table 7.1, page 86) (S4_Doc_155) would provide greater clarity and transparency for applicants, and also consistency across the Plan in terms of the application of the provisions under the Plan's Policy NE1: International Nature Conservation Sites (S4_Doc_389).

If the Reporter is so minded, the deletion of paragraph 2 of Policy EP3B as suggested by the respondent could be implemented, and the Council would be comfortable with this position.

EP3D: Reinstatement of Natural Watercourses

Councillor Barnacle (02633/1/019): Would like to see an inclusion in Policy EP3D a statement giving support for local ditch and watercourse management schemes in areas not covered by a flood prevention scheme.

It may be that local ditch and watercourse management schemes involve an element of re-instatement of Natural Watercourses, (and this is supported by SEPA) which would automatically mean they were supported by Policy EP3D. Councillor Barnacle states that communities ought to be able to set up a local scheme to manage local ditches and watercourses. Whilst this is a laudable aim, the Council does not consider the Local Development Plan to be an appropriate mechanism for delivery of such schemes.

No modification is proposed to the Plan

Reporter's conclusions:

Policy EP3A: Water Quality

1. Scottish Environment Protection Agency (SEPA) has explained that the council has duties as a responsible authority under the Water Environment and Water Services (Scotland) Act 2003 to exercise designated functions in order to comply with the requirements of the Water Framework Directive. The production of the River Basin Management Plan is one of the requirements of the Directive. That explanation and the associated evidence carry sufficient weight that modifications are required to the title of

Policy EP3A for clarity and to the following text to ensure that the council's statutory obligations are met.

2. A balancing of the impacts of a development on the water environment against the socio-economic benefits of a proposal is a matter which the council must undertake in its role as planning authority in assessing the merits of a planning application. In the event that the proposal is recommended for approval, SEPA will undertake a licensing process under The Water Environment (Controlled Activities) (Scotland) Regulations 2001.

Policy EP3B: Foul Drainage

3. Reading Policy EP3B in the round and bearing in mind not only the reasoning presented by Scottish Natural Heritage (SNH) but also the wording of the third paragraph, there would be nothing lost to the plan as a whole if the second paragraph were to be deleted.

Policy EP3D: Reinstatement of Natural Watercourses

4. The focus of Policy EP3D is the impact of new development on existing watercourses consequent on proposals for new development. SPP at paragraph 211 confirms that culverts are a frequent cause of local flooding, particularly if design or maintenance is inadequate and goes on to state the thrust of Government policy with regard to provision and maintenance with respect to new development. Policy EP3D is compatible with that. Looking further than new development, there is nothing in Policy EP3D which stands in the way of the setting up of a local ditch and watercourse management scheme in an area not covered by a flood prevention scheme provided that it is compatible with all of the council's statutory duties regarding flood risk management and flood prevention. Accordingly, there is no need for a modification to the Proposed Plan.

Reporter's recommendations:

Policy EP3A: Water Quality

1. Policy EP3A should be re-titled "*Water Environment*". The existing wording of the policy should be deleted and replaced with text as follows:

"The Scottish River Basin Management Plan has protection and improvement objectives which aim to ensure that there is no deterioration of water body status and where possible secure long term enhancements to water body status. Proposals for development which do not accord with the Scotland River Basin Management Plan and any relevant associated Area Management Plans will be refused planning permission unless the development is judged by the Council to be of significant specified benefit to society and/or the wider environment."

Policy EP3B: Foul Drainage

2. Delete paragraph 2