

**TCP/11/16(427)**

**Planning Application – 16/00994/FLL – Erection of a dwellinghouse (in principle), land 90 metres north east of Meadows Cottage, Forneth**

## **REPRESENTATIONS**



### Comments to the Development Quality Manager on a Planning Application

<b>Planning Application ref.</b>	16/00994/IPL	<b>Comments provided by</b>	E McMillan
<b>Service/Section</b>	TES - Flooding	<b>Contact Details</b>	██████████
<b>Description of Proposal</b>	Erection of a dwellinghouse (in principle)		
<b>Address of site</b>	Land 90 Metres North East Of Meadows Cottage Forneth for Mr Iain Menzies		
<b>Comments on the proposal</b>	<p>As this is an In Principle application there is no information on the proposed location within the site of the dwelling house. Due to the proximity of the site to the Cattymill Burn and the extents of the indicative 1 in 200 year SEPA flood map we would recommend the location of the house is situated within the south western half of the site, towards the site entrance.</p> <p>We would also recommend that any SUDS features or private drainage arrangements are located out with the limit of the 1 in 200 year flood envelope.</p>		
<b>Recommended planning condition(s)</b>			
<b>Recommended informative(s) for applicant</b>	SEPA Flood Maps (via SEPA website)		
<b>Date comments returned</b>	13/6/2016		



**From:**Nicki McIntyre  
**Sent:**22 Jun 2016 16:02:42 +0100  
**To:**John Russell  
**Cc:**Development Management - Generic Email Account  
**Subject:**Erection of a dwellinghouse (in principle), Land 90 Metres North East Of Meadows Cottage  
Forneth , 16/00994/IPL

Dear John

Thank-you for your email requesting our comments on the above consultation.

In our response to the previous application, 15/02052/IPL, we submitted advice in regards to the impact to the protected interests of the Dunkeld-Blairgowrie Lochs Special Area of Conservation, specifically in regards to nutrient enrichment arising from foul drainage. This current application does not address this issue, therefore, I refer you to our previous response, dated 16 December 2015.

Regards

Nicki

Nicki McIntyre | Operations Officer | Tayside & Grampian Area | Scottish Natural Heritage | Battleby | Perth | PH1 3EW | Direct Dial 01738 458591 | Switchboard 01738 444177

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## Scottish Natural Heritage Dualchas Nàdair na h-Alba

All of nature for all of Scotland  
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Mr Nick Brian  
Development Quality Manager  
Perth and Kinross Council  
Pullar House  
35 Kinnoull Street  
PERTH  
PH1 5GD

16 December 2015

Our ref: SIT/SAC/Dunkeld-Blairgowrie Lochs/ASS  
SIT/SSSI/Lochs Clunie and Marlee/ASS  
Your ref: 15/02052/IPL

Dear Mr Brian

### **Town and Country Planning (Scotland) Act 1997**

#### **Erection of a dwellinghouse (in principle), Land 90 Metres North East of Meadows Cottage, Forneth**

Thank-you for your letter of 10 December seeking our comments in respect of the above planning application.

#### **Summary**

##### **Dunkeld-Blairgowrie Lochs Special Area of Conservation (SAC)**

This proposal could be progressed with appropriate mitigation. However, because it could affect internationally important natural heritage interests, **we object to this proposal unless it is made subject to conditions so that the works are done strictly in accordance with the mitigation detailed in our appraisal below.**

#### **Appraisal of the Impacts of the proposal and advice**

##### **Dunkeld-Blairgowrie Lochs Special Area of Conservation (SAC)**

The proposed development lies within the catchment of the Dunkeld-Blairgowrie Lochs SAC.

The site's status means that the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 (the "Habitats Regulations"), as amended, apply. A summary of Scottish Government policy can be found on our website: (<http://www.snh.gov.uk/docs/A423286.pdf>).

In our view, this proposal is likely to have a significant effect on the qualifying interests of the SAC. These lochs, into which effluent from the development would drain, are of particular importance for their habitats and species. Moderately-enriched water bodies and the aquatic plant, slender naiad, are now rare and threatened in the UK as a result of nutrient enrichment from man-made sources, including housing developments and agriculture. Consequently, Perth & Kinross Council is required to carry out an appropriate assessment in view of the site's conservation objectives for its qualifying interests.



INVESTOR IN PEOPLE

Scottish Natural Heritage, Battleby, Redgorton, Perth, PH1 3EW  
Tel 01738 444177 Fax 01738 45 8611 [www.snh.org.uk](http://www.snh.org.uk)

To help you do this we advise that in our view, on the basis of the appraisal carried out to date, if the proposal is undertaken strictly in accordance with the following mitigation then the proposal will not adversely affect the integrity of the site:

- The drainage strategy should be revised to clearly demonstrate that there will be no increase in phosphorous loading to the catchment. This is likely to require a reduction in phosphorus loading from other properties in the area to offset any increase from this development.

You may wish to carry out further appraisal before completing the appropriate assessment.

Further details of the appraisal we carried out are in Annex 1.

**If you are minded to grant planning permission against our advice, you should notify the Scottish Ministers.**

#### **European Protected Species – Slender Naiad**

Please note that Slender Naiad is also a European Protected Species (EPS), and is therefore afforded further protection under the Habitats Regulations. The legislative requirements relating to EPS are detailed in Annex 2.

#### **Lochs Clunie & Marlee SSSI**

The lochs and associated botanical interest of the SSSI are also likely to be adversely affected by the proposal for the reasons outlined above for the SAC interest.

The contact for this consultation is Nicki McIntyre, email [nicki.mcintyre@snh.gov.uk](mailto:nicki.mcintyre@snh.gov.uk) or telephone 01738 458591.

I would be grateful if you could let us know of your Council's decision in due course or of any further changes to the proposal which would be relevant to our interests.

Yours sincerely

(via email)

**Gavin Clark**  
Operations Manager  
Tayside and Grampian  
[Gavin.clark@snh.gov.uk](mailto:Gavin.clark@snh.gov.uk)



## **Annex 1 - SNH Appraisal of the Proposals**

### **Appraisal of the likely impacts to the Dunkeld-Blairgowrie Lochs Special Area of Conservation (SAC)**

Information regarding the SAC qualifying features and Conservation Objectives are available on the Sitelink section of our website at <http://gateway.snh.gov.uk/sitelink/index.jsp>.

#### **Dunkeld-Blairgowrie Lochs SAC**

The site's SAC status means that the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended, (the 'Habitats Regulations') apply. Further details of the legislative requirements can be found at: <http://www.snh.gov.uk/docs/A423286.pdf>.

The proposal is not directly connected with, or necessary to, conservation management of the site.

The proposal comprises the erection of a dwellinghouse on land to the north-east of Meadows Cottage on land within the Lettbar of Ballied farm.

The planning application does not provide phosphorous mitigation for this proposal, therefore, in our view, this proposal is likely to have a significant effect on the qualifying interests of the site. As a consequence, Perth and Kinross Council is required to undertake an appropriate assessment in view of the site's conservation objectives for its qualifying interests.

It is likely that the proposal will have a significant indirect effect on the qualifying interests of the SAC due to the increase in phosphorus released into the catchment. Eutrophication, which leads to deterioration in water quality, has been an issue in these lochs for a considerable length of time. These problems result in higher pH, phosphate and nitrate levels and increased turbidity through suspended algal growth. The combination of these factors leads to decreased water clarity and reduced photosynthesis, resulting in a serious decline in the botanical interest of the SAC, including the slender naiad population. Slender naiad monitoring in September 2007 found a healthy slender naiad population in Loch of the Lowes, two plants in Marlee Loch and none in Lochs Craiglush, Butterstone and Clunie, overall, a considerable crash in population from the 2004 survey. Any further increase in the phosphorus loading to the lochs could further damage any chance of the slender naiad population recovering.

Research work by the Scottish Environment Protection Agency (2004) and Edinburgh University (2005) has demonstrated that the two most significant contributions to the increased phosphorus loads in the catchment are run-off from agricultural land and septic tanks. To address this issue we introduced a catchment management scheme in 2004 to reduce phosphate pollution from farming. Due to reductions of run-off from agricultural land the lochs showed early signs of recovery, however, recent excessively wet winters have reversed this trend, demonstrating how fragile the recovery had been.

Nutrient enrichment arising from the foul drainage associated with these types of development tends to be long lasting and difficult to reverse. It is, therefore, essential that any proposed development demonstrates that there would be no net increase in phosphorus loading to the lochs. The proposed drainage strategy for this development, which comprises a biodisc, treatment plant to a soakaway, will result in an increase in phosphorous loading to the catchment if mitigation is not provided.

## Annex 2 - Legal Position in Relation to European Protected Species – Slender naiad

Regulations 39 and 43 of The Conservation (Natural Habitats &c.) Regulations 1994 (as amended) (Habitats Regulations) provide full protection for certain animal and plant species. The species identified above are referred to as European protected species and are listed on Schedules 2 (animals) and 4 (plants) of the Habitats Regulations.

This means it is illegal to:

- Deliberately or recklessly capture, injure or kill a European protected species of wild animal or to deliberately or recklessly (i) harass an animal or group of animals; (ii) disturb an animal while it's occupying a structure or place used for shelter or protection; (iii) disturb an animal while it's rearing or otherwise caring for its young; (iv) obstruct access to a breeding site or resting place, or otherwise deny the animal use of the breeding site or resting place; (v) disturb an animal in a manner that is, or in circumstances which are, likely to significantly affect the local distribution or abundance of the species to which it belongs; (vi) disturb an animal in a manner that is, or in circumstances which are, likely to impair its ability to survive, breed or reproduce, or rear or otherwise care for its young
- Deliberately or recklessly take or destroy its egg
- Deliberately or recklessly disturb any cetacean
- Damage or destroy the breeding sites or resting places of such animals
- Deliberately or recklessly pick, collect, cut, uproot or destroy European protected species of wild plant

Where it is proposed to carry out works which will affect European protected species or their shelter/breeding places, whether or not they are present in these refuges, a licence is required from the licensing authority (in this case likely to be Scottish Government). It is strongly advised that you refer to the Scottish Government information on the current interim licensing arrangements, which can be found in the document *European Protected Species, Development Sites and the Planning System: Interim Guidance for Local Authorities on Licensing Arrangements*, (October 2001) before applying for a licence. Copies of this are available at <http://www.scotland.gov.uk/library3/environment/epsq-00.asp> or by writing to the Landscape and Habitats Division, Room GH 93, Victoria Quay, Edinburgh EH6 6QQ or by telephoning 0131 244 7140.

As highlighted in the Interim Guidance, three tests must be satisfied before the licensing authority can issue a licence under Regulation 44(2) of the Conservation (Natural Habitats &c.) Regulations 1994 (as amended) to permit otherwise prohibited acts. An application for a licence will fail unless all of the three tests are satisfied. The three tests involve the following considerations:

- Test 1 - The licence application must demonstrably relate to one of the purposes specified in Regulation 44(2) (as amended). For development proposals, the relevant purpose is likely to be Regulation 44(2)(e) for which Scottish Government is currently the licensing authority. This regulation states that licences may be granted by Scottish Government only for the purpose of *"preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment."*
- Test 2 - Regulation 44(3)(a) states that a licence may not be granted unless Scottish Executive is satisfied *"that there is no satisfactory alternative"*.
- Test 3 - Regulation 44(3)(b) states that a licence cannot be issued unless Scottish Executive is satisfied that the action proposed *"will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range"* (Scottish Executive will, however, seek the expert advice of Scottish Natural Heritage on this matter).

Consideration of European protected species must be included as part of the application process, not as an issue to be dealt with at a later stage. Any consent given without due consideration to these species is likely to breach European Directives with the possibility of consequential delays or the project being halted by the EC, as has happened previously.

### Comments to the Development Quality Manager on a Planning Application

<b>Planning Application ref.</b>	16/00994/IPL	<b>Comments provided by</b>	Euan McLaughlin
<b>Service/Section</b>	Strategy & Policy	<b>Contact Details</b>	<b>Development Negotiations Officer:</b> Euan McLaughlin [REDACTED]
<b>Description of Proposal</b>	Erection of a dwellinghouse (in principle)		
<b>Address of site</b>	Land 90 Metres North East Of Meadows Cottage Forneth for Mr Iain Menzies		
<b>Comments on the proposal</b>	<p><b>Primary Education</b></p> <p>With reference to the above planning application the Council Developer Contributions Supplementary Guidance requires a financial contribution towards increased primary school capacity in areas where a primary school capacity constraint has been identified. A capacity constraint is defined as where a primary school is operating, or likely to be operating following completion of the proposed development and extant planning permissions, at or above 80% of total capacity.</p> <p>This proposal is within the catchment of Newhill Primary School.</p>		
<b>Recommended planning condition(s)</b>	<p><b>Primary Education</b></p> <p>As this application is only "in principle" it is not possible to provide a definitive answer at this stage however it should be noted that the Developer Contributions Policy would apply to all new residential units with the exception of those outlined in the policy. The determination of appropriate contribution, if required, will be based on the status of the school when the full application is received.</p>		
<b>Recommended informative(s) for applicant</b>	N/A		
<b>Date comments returned</b>	24 June 2016		



# Memorandum

To	Development Quality Manager	From	Regulatory Service Manager
Your ref	PK16/00994/IPL	Our ref	LJ
Date	28 June 2016	Tel No	████████

The Environment Service

Pullar House, 35 Kinnoull Street, Perth PH1 5GD

## Consultation on an Application for Planning Permission

**PK16/00994/IPL RE: Erection of a dwellinghouse (in principle) Land 90 Metres North East Of Meadows Cottage Forneth for Mr Iain Menzies**

I refer to your letter dated 7 June 2016 in connection with the above application and have the following comments to make.

**Contaminated Land** (assessment date – 28/06/2016)

### Recommendation

A search of the historic records did not raise any concerns regarding ground contamination and therefore I have no adverse comments to make on the application.





Our ref: PCS/147241  
Your ref: 16/00994/IPL

If telephoning ask for:  
Sheena Jamieson

28 June 2016

Perth and Kinross Council  
Pullar House  
35 Kinnoull Street  
Perth  
PH1 5GD

By email only to: [DevelopmentManagement@pkc.gov.uk](mailto:DevelopmentManagement@pkc.gov.uk)

Dear Sir/Madam

**Town and Country Planning (Scotland) Acts**  
**Planning application: 16/00994/IPL**  
**Erection of a dwellinghouse (in principle)**  
**Land 90 Metres North East of Meadows Cottage, Forneth**

Thank you for your consultation email which SEPA received on 07 June 2016. This letter is written with reference to our previous response to 15/02052/IPL on 19 December 2015 as we understand the details of the application are unaltered, and therefore our previous comments remain relevant and are reiterated below, along with advice with regards flood risk.

We ask that the planning **condition** in Section 1 be attached to the consent. If it will not be applied, then please consider this representation as an **objection**. Please also note the advice provided below.

**Advice for the planning authority**

**1. Phosphorous mitigation**

- 1.1 The [Dunkeld - Blairgowrie Lochs SAC supplementary guidance](#) was adopted in July 2015. The guidance requires that information is submitted with full or approval of matters specified in condition planning applications regarding details of proposed phosphorous mitigation. The reason for this is to ensure that development accords with Local Development Plan Policy EP6: Lunan Valley Catchment Area which states that total phosphorous from built development must not exceed the current level to work towards the ecological recovery of the Lunan Lochs.

Continued....



Chairman  
Bob Downes

Chief Executive  
Terry A'Hearn

**Perth Strathearn House**

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- 1.2 Therefore we require that a **condition** is attached to any consent that your authority is minded to approve to ensure that details of proposed phosphorous mitigation which complies with the supplementary guidance referred to in paragraph 1.1 is submitted in advance of a full or approval of matters specified in condition planning applications being approved at the site.
- 1.3 The applicant should be aware that if phosphorous mitigation to meet the SG cannot be provided at the site we will object to any full or approval of matters specified in condition planning application submitted.

## **2. Flood Risk**

- 2.1 Review of the SEPA flood hazard map shows that a small part of the development site along the north eastern boundary is at risk of fluvial flooding. The surface water flood map also shows that this area is at flood risk, however the model used to generate the surface water flood map has simply picked up the low lying channel of the Cattymill Burn and the risk to this site is fluvial flooding.
- 2.2 No topographic information has been provided in support of this application. Review of the available LiDAR information we hold highlights that the south western part of the site is at least 4m above the Cattymill Burn and therefore not at risk of fluvial flooding. However the north eastern part of the development site is significantly lower and in turn at risk of flooding. The site plan simply outlines the location and there is no information regarding the positioning of the dwelling. As the development is for a single dwelling and there is sufficient flood free areas within the site to position a single dwelling, we offer no objection to the proposed development. We would highlight that the dwelling would have to be located in the south western part of the site.
- 2.3 Notwithstanding our advice we would expect Perth & Kinross Council to undertake their responsibilities as the Flood Prevention Authority.

### **Caveats & Additional Information for Applicant**

The SEPA Flood Maps have been produced following a consistent, nationally-applied methodology for catchment areas equal to or greater than 3km<sup>2</sup> using a Digital Terrain Model (DTM) to define river corridors and low-lying coastal land. The maps are indicative and designed to be used as a strategic tool to assess flood risk at the community level and to support planning policy and flood risk management in Scotland. For further information please visit <http://www.sepa.org.uk/environment/water/flooding/flood-maps/>

Please note that we are reliant on the accuracy and completeness of any information supplied by the applicant in undertaking our review, and can take no responsibility for incorrect data or interpretation made by the authors.

The advice contained in this letter is supplied to you by SEPA in terms of Section 72 (1) of the Flood Risk Management (Scotland) Act 2009 on the basis of information held by SEPA as at the date hereof. It is intended as advice solely to Perth Kinross Council as Planning Authority in terms of the said Section 72 (1). Our briefing note entitled: "Flood Risk Management (Scotland) Act 2009: Flood risk advice to planning authorities" outlines the transitional changes to the basis of our advice in line with the phases of this legislation and can be downloaded from <http://www.sepa.org.uk/environment/land/planning/guidance-and-advice-notes/>.

Continued....



### **Detailed advice for the applicant**

#### **3. Phosphorous mitigation**

- 3.1 Relevant information with regards forms of phosphorous mitigation proposals are contained within the SG.

#### **4. The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended)**

- 4.1 The applicant should be aware that they will need to apply for a licence under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended (CAR)) for the discharge of foul effluent from the development. Contact should be made with the Perth Operations team, details below, regarding this issue.
- 4.2 The provision of phosphorous mitigation to ensure that total phosphorous from built development does not exceed the current level is a separate issue to the CAR licence. The approval of submitted phosphorus mitigation details is therefore made without prejudice to any CAR licence application and does not infer that the CAR licence application(s) will be approved. It should be noted that any mitigating property will also require authorisation from us under CAR.

### **Regulatory advice for the applicant**

#### **5. Regulatory requirements**

- 5.1 Details of regulatory requirements and good practice advice for the applicant can be found on the [Regulations section](#) of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the operations team in your local SEPA office at:

Perth Strathearn, Broxden Business Park, Lamberkine Drive, PERTH, PH1 1RX  
Tel: 01738 627989

If you have any queries relating to this letter, please contact me by telephone on 01738 448193 or e-mail at [planning.se@sepa.org.uk](mailto:planning.se@sepa.org.uk).

Yours faithfully

Sheena Jamieson  
Senior Planning Officer  
Planning Service

ECopy to: Mark Myles, MBM Planning & Development, [mm@mbmplanning.co.uk](mailto:mm@mbmplanning.co.uk);

*Disclaimer*

*This advice is given without prejudice to any decision made on elements of the proposal regulated by us, as such a decision may take into account factors not considered at this time. We prefer all the technical information required for any SEPA consents to be submitted at the same time as the planning or similar application. However, we consider it to be at the applicant's commercial risk if any significant changes required during the regulatory stage necessitate a further planning application or similar application and/or neighbour notification or advertising. We have relied on the accuracy and completeness of the information supplied to us in providing the above advice and can take no responsibility for incorrect data or interpretation, or omissions, in such information. If we have not referred to a particular issue in our response, it should not be assumed that there is no impact associated with that issue. For planning applications, if you did not specifically request advice on flood risk, then advice will not have been provided on this issue. Further information on our consultation arrangements generally can be found on our [website planning pages](#).*

### Comments to the Development Quality Manager on a Planning Application

<b>Planning Application ref.</b>	16/00994/IPL	<b>Comments provided by</b>	Niall Moran
<b>Service/Section</b>	Transport Planning	<b>Contact Details</b>	██████
<b>Description of Proposal</b>	Erection of a dwellinghouse (in principle)		
<b>Address of site</b>	Land 90 Metres North East Of Meadows Cottage Forneth		
<b>Comments on the proposal</b>	Insofar as the Roads matters are concerned I do not object to the proposed development provided the condition indicated below is applied, in the interests of pedestrian and traffic safety.		
<b>Recommended planning condition(s)</b>	Prior to the occupation and use of the approved development all matters regarding access, car parking, layout, design and specification, including the disposal of surface water, shall be in accordance with the standards required by the Council as Roads Authority and to the satisfaction of the Planning Authority.		
<b>Recommended informative(s) for applicant</b>			
<b>Date comments returned</b>	28 June 2016		

