

LRB-2023-58

Review of Condition 3 on planning permission

23/01202/FLL (Change of use of builder's yard to form extension to garden ground and erection of link extension between dwellinghouse and outbuilding (in part retrospect), Woodstock, Dinnie's Lane, Comrie, Crieff, PH6 2DR)

REPRESENTATIONS

Monday, 04 September 2023



Local Planner
Planning and Development
Perth and Kinross Council
Perth
PH1 5GD

Development Operations
The Bridge
Buchanan Gate Business Park
Cumbernauld Road
Steps
Glasgow
G33 6FB

Development Operations
Freephone Number - 0800 3890379
E-Mail - DevelopmentOperations@scottishwater.co.uk
www.scottishwater.co.uk



Dear Customer,

Woodstock Dinnie's Lane, Comrie, Crieff, PH6 2DR
Planning Ref: 23/01202/FLL
Our Ref: DSCAS-0093610-67B
Proposal: Change of use of builders yard to form extension to garden ground and erection of link extension between dwellinghouse and outbuilding (in part retrospect)

Please quote our reference in all future correspondence

Audit of Proposal

Scottish Water has no objection to this planning application; however, the applicant should be aware that this does not confirm that the proposed development can currently be serviced. Please read the following carefully as there may be further action required. Scottish Water would advise the following:

Water Capacity Assessment

Scottish Water has carried out a Capacity review and we can confirm the following:

- ▶ There is currently sufficient capacity in the Turret Water Treatment Works to service your development. However, please note that further investigations may be required to be carried out once a formal application has been submitted to us.

Waste Water Capacity Assessment

- ▶ There is currently sufficient capacity for a foul only connection in the Comrie Waste Water Treatment works to service your development. However, please note that further investigations may be required to be carried out once a formal application has been submitted to us.

Please Note

- ▶ The applicant should be aware that we are unable to reserve capacity at our water and/or waste water treatment works for their proposed development. Once a formal connection application is submitted to Scottish Water after full planning permission has been granted, we will review the availability of capacity at that time and advise the applicant accordingly.

Surface Water

For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into our combined sewer system.

There may be limited exceptional circumstances where we would allow such a connection for brownfield sites only, however this will require significant justification from the customer taking account of various factors including legal, physical, and technical challenges.

In order to avoid costs and delays where a surface water discharge to our combined sewer system is anticipated, the developer should contact Scottish Water at the earliest opportunity with strong evidence to support the intended drainage plan prior to making a connection request. We will assess this evidence in a robust manner and provide a decision that reflects the best option from environmental and customer perspectives.

General notes:

- ▶ Scottish Water asset plans can be obtained from our appointed asset plan providers:
 - ▶ Site Investigation Services (UK) Ltd
 - ▶ Tel: 0333 123 1223
 - ▶ Email: sw@sisplan.co.uk
 - ▶ www.sisplan.co.uk
- ▶ Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements to be installed, subject to compliance with Water Byelaws. If the developer wishes to enquire about Scottish Water's procedure for checking the water pressure in the area, then they should write to the Customer Connections department at the above address.
- ▶ If the connection to the public sewer and/or water main requires to be laid through land out-with public ownership, the developer must provide evidence of formal approval from the affected landowner(s) by way of a deed of servitude.
- ▶ Scottish Water may only vest new water or waste water infrastructure which is to be laid through land out with public ownership where a Deed of Servitude has been obtained in our favour by the developer.

- ▶ The developer should also be aware that Scottish Water requires land title to the area of land where a pumping station and/or SUDS proposed to vest in Scottish Water is constructed.
 - ▶ Please find information on how to submit application to Scottish Water at [our Customer Portal](#).
-

Next Steps:

▶ All Proposed Developments

All proposed developments require to submit a Pre-Development Enquiry (PDE) Form to be submitted directly to Scottish Water via [our Customer Portal](#) prior to any formal Technical Application being submitted. This will allow us to fully appraise the proposals.

Where it is confirmed through the PDE process that mitigation works are necessary to support a development, the cost of these works is to be met by the developer, which Scottish Water can contribute towards through Reasonable Cost Contribution regulations.

▶ Non Domestic/Commercial Property:

Since the introduction of the Water Services (Scotland) Act 2005 in April 2008 the water industry in Scotland has opened to market competition for non-domestic customers. All Non-domestic Household customers now require a Licensed Provider to act on their behalf for new water and waste water connections. Further details can be obtained at www.scotlandontap.gov.uk

▶ Trade Effluent Discharge from Non-Domestic Property:

- ▶ Certain discharges from non-domestic premises may constitute a trade effluent in terms of the Sewerage (Scotland) Act 1968. Trade effluent arises from activities including; manufacturing, production and engineering; vehicle, plant and equipment washing, waste and leachate management. It covers both large and small premises, including activities such as car washing and laundrettes. Activities not covered include hotels, caravan sites or restaurants.
- ▶ If you are in any doubt as to whether the discharge from your premises is likely to be trade effluent, please contact us on 0800 778 0778 or email TEQ@scottishwater.co.uk using the subject "Is this Trade Effluent?". Discharges that are deemed to be trade effluent need to apply separately for permission to discharge to the sewerage system. The forms and application guidance notes can be found [here](#).
- ▶ Trade effluent must never be discharged into surface water drainage systems as these are solely for draining rainfall run off.
- ▶ For food services establishments, Scottish Water recommends a suitably sized grease trap is fitted within the food preparation areas, so the

development complies with Standard 3.7 a) of the Building Standards Technical Handbook and for best management and housekeeping practices to be followed which prevent food waste, fat oil and grease from being disposed into sinks and drains.

- ▶ The Waste (Scotland) Regulations which require all non-rural food businesses, producing more than 5kg of food waste per week, to segregate that waste for separate collection. The regulations also ban the use of food waste disposal units that dispose of food waste to the public sewer. Further information can be found at www.resourceefficientscotland.com

I trust the above is acceptable however if you require any further information regarding this matter please contact me on **0800 389 0379** or via the e-mail address below or at planningconsultations@scottishwater.co.uk.

Yours sincerely,

Ruth Kerr.

Development Services Analyst

PlanningConsultations@scottishwater.co.uk

Scottish Water Disclaimer:

"It is important to note that the information on any such plan provided on Scottish Water's infrastructure, is for indicative purposes only and its accuracy cannot be relied upon. When the exact location and the nature of the infrastructure on the plan is a material requirement then you should undertake an appropriate site investigation to confirm its actual position in the ground and to determine if it is suitable for its intended purpose. By using the plan you agree that Scottish Water will not be liable for any loss, damage or costs caused by relying upon it or from carrying out any such site investigation."

Memorandum

To Development Management & Building
Standards Service Manager

From Regulatory Services Manager

Your ref 23/01202/FLL

Our ref CHF

Date 21.09.2023

Communities

Pullar House, 35 Kinnoull Street, Perth PH1 5GD

Consultation on an Application for Planning Permission

23/01202/FLL RE: Change of use of builders yard to form extension to garden ground and erection of link extension between dwellinghouse and outbuilding (in part retrospect) at Woodstock Dinnie's Lane Comrie Crieff PH6 2DR for Mrs Sarah Hawkins

I refer to your letter dated 5 September 2023 in connection with the above application and have the following comments to make.

Contaminated Land

Recommendation

The proposed development is on land formerly used as a builders yard, there is also a former railway immediately north of the site. There is the potential for the extended garden ground to be impacted by these former activities.

I therefore recommend the following condition be applied to the application.

Condition

EH41

Prior to the commencement of works on site, an evaluation for the potential of the site to be affected by contamination by a previous use should be undertaken and as a minimum, a Preliminary Risk Assessment (Phase 1 Desk Study) will be submitted for consideration by the Council as Planning Authority. If after the preliminary risk assessment identifies the need for further assessment, an intrusive investigation should be undertaken to identify;

- I. the nature, extent and type(s) of contamination on the site
- II. measures to treat/remove contamination to ensure the site is fit for the use proposed
- III. measures to deal with contamination during construction works
- IV. condition of the site on completion of decontamination measures.

Prior to the completion or bringing into use of any part of the development the agreed measures to decontaminate the site shall be fully implemented as approved by the Council as Planning Authority. Validation that the scheme has been fully implemented must also be submitted to the Council as Planning Authority.

CDS Planning Local Review Body

From: John Williamson
Sent: 08 January 2024 15:55
To: CDS Planning Local Review Body
Cc: Christie Findlay; Kirsty Steven
Subject: FW: LRB-2023-58 - Contaminated Land

Follow Up Flag: Follow up
Due By: 19 January 2024 10:00
Flag Status: Flagged

Dear Audrey

Please find below comments from the Council's Contaminated Land Team regarding the LRB case above. The Planning Authority has no further comments to make on this case.

Kind Regards

John Williamson
Planning Officer
Planning and Development
Development Management
Perth and Kinross Council
Pullar House, 35 Kinnoull Street
Perth
PH1 5GD

From: Christie Findlay
Sent: Monday, January 8, 2024 3:10 PM
To: John Williamson
Cc: Kirsty Steven
Subject: RE: LRB-2023-58 - Contaminated Land

Hi John,

With regards to the LRB relating to 23/01202/FLL - Change of use of builders yard to form extension to garden ground and erection of link extension between dwellinghouse and outbuilding (in part retrospect). I have the following comments to make ahead of the LRB:

- This proposal involves a change of use from a builders yard which is a potentially contaminative past use. Depending on the type of activities formerly carried out on the site, there is the potential for contamination to be present from sources such as underground/above ground fuel storage, asbestos material from former buildings or building supplies or timber treatment products.
- The change of use to a residential garden also makes the proposal high risk due to the end user being long-term human occupants.
- As we do not know the long-term extent that the future garden will be used for, any residential garden ground must comply with soil parameters for 'residential with gardens' end use – the most sensitive soil parameter. This is regardless of whether the garden will be used to grow food for human consumption, be covered with grass, or under gravel.

- Historic planning app 05/00868/FUL (immediately south of this site) was also conditioned due to concerns regarding potential contamination from an underground tank. Unfortunately I cannot find any further information, however, there is also the potential for any leaks or spills from this to have impacted the vicinity.
- Due to the lack of information regarding the former builders yard, a precautionary approach is required to ensure the site is suitable for the proposed use and to safeguard the health of future site users for years to come.

Happy to discuss.

Kind regards,

Christie Findlay

Contaminated Land Officer
Environmental Health
Regulatory Services
Communities
Perth & Kinross Council

Pullar House | Kinnoull Street | Perth | PH1 5GD


Generic email: contaminatedland@pkc.gov.uk

Comments on Christie Findlay's representation re Condition 3 on planning permission 23/01202/FLL

Your ref: LRB-2023-58

1 February 2024

Dear Ms Simpson

Thank you for providing Christie Findlay's comments.

They are logical for the general case. Some are not a good fit for my specific case, outlined below. And there are balancing issues that I raised in my original appeal, especially Section 4. Moreover, Christie Findlay's comments raise a number of questions, due perhaps to my ignorance, but I would really like help in getting to the best answers.

I respond to Christie Findlay's points in order of his or her letter.

1. "sources such as underground/above ground fuel storage, asbestos material from former buildings or building supplies or timber treatment products."

I have checked again with Neil Dawson, employee since 2001 of Carmichael's, the yard owners, and now running his own joiner's business in Comrie.

- Storage was in open bays with concrete bases. No asbestos in those bays.
- As noted in my original appeal, fuel and timber treatment products were never stored in the builder's yard: neither above nor below ground.
- Asbestos was never stored there. Had it been, its dust would have blown away (outdoor storage).
- Timber was very rarely stored there. When it was, it was in in very small quantities and never for more than a few days. The main timber storage was an enclosed shed at the main Carmichael's yard, on Monument Road, Comrie.
- What was habitually stored on my land was builder's sand, shap sand, gravel and paving stones.

2. "The change of use to a residential garden also makes the proposal high risk due to the end user being long-term human occupants."

- The area would seem to be high risk only if contaminants were used there. We know they were not.
- People have lived in the current house since at least 1992. Since 1996, when Barclay Carmichael acquired the house, the boundary between the two properties was an ordinary fence that would have afforded no protection from the types of potential contaminants mentioned.

3. "As we do not know the long-term extent that the future garden will be used for, any residential garden ground must comply with soil parameters for 'residential with gardens' end use – the most sensitive soil parameter. This is regardless of whether the garden will be used to grow food for human consumption, be covered with grass, or under gravel."

- This is a good point which I do not wish to contradict. However, the following considerations may contribute usefully to the overall picture:
 - The ground is alluvial. It comprises impacted pebbles and small rocks for a considerable depth. I have dug at least 60 cm and found no change. Surrounding gardens are the same. I have to use a pickaxe to make holes for individual plants. Neighbours wanting a conventional garden have imported topsoil. So have I, for two raised beds contained by dry-stone walling.
Implication: future gardens with conventional usage will with high probability be constructed on, rather than in, the current ground, using brought-in soil.
 - The main garden area is in the northerly part, long listed as residential (see point 2 above).
 - The bulk of the old builder's yard comprises older sheds used for (nontoxic) storage, and 24/7 car parking, mainly by my neighbour's family and carers. These are social benefits.
 - No appreciable changes are envisaged until after my death, which statistics suggest is 10 or more years from now. Allowing Carmichael's two or three years of non-toxic use of the area before I bought the property, that would make 34-35 years of non-toxic use. A list of contaminants that could harm after 35 years would be helpful if the issue is to be pursued.

Comments on Christie Findlay's representation re Condition 3 on planning permission 23/01202/FLL

4. "Historic planning app 05/00868/FUL (immediately south of this site) was also conditioned due to concerns regarding potential contamination from an underground tank. Unfortunately I cannot find any further information, however, there is also the potential for any leaks or spills from this to have impacted the vicinity."

- There is another garden (and bungalow) between my plot and the former garage site.
- The ground was decontaminated and I am told that the verification report should be in your records. As Findlay notes, purification was a planning condition. It was fulfilled as part of Braemore Estate's successful planning application, 2005-7.
- The site was bought by the Comrie Parish Church circa 2013 / 14 and is still owned by them as St Kessog's Square. Iain Cormack, architect for the Church works, does not have Braemore Estate's verification report, but his records only relate to his current works. He is checking out another possibility but does not expect a response before 2 February 2024, the deadline for my response.
- If you cannot find your copy of the verification study, when we know that it was correctly carried out and there is no requirement to keep documents more than 10 years, is it reasonable to expect me to pay several thousand pounds to repeat the verification process for my land, especially with a desk study? I am told that actually testing the soil could be cheaper. It would certainly seem to be a more worthwhile expenditure to know rather than to guess. However, if you do require sight of the verification report and insist that I find it, then I ask for an extension beyond 2 February.
- In the absence of the actual verification report, I attach two documents that show what was done. **BILL03.xls** is the waste transfer note for removal of fuel tanks and ground decontamination (2005); **20080123130954257.tif** certifies that the tanks were gas free (2007). Keith Marshall at Thomson Bethune Edinburgh, the firm supervising demolition and site clearance, provided both.
- Further, here is what else I have been told. My most authoritative and detailed source is William Frame of Braemore Estates. Hamish Reid, the garage owner, and Denholm Partnership Architects, corroborate the general points while not recalling details like the contractors' names.
 - Mason Evans completed the contamination survey.
 - Chamic carried out the works where contaminated soil was removed, fuel tanks degassed, removed, and backfilled with clean material.
 - The fuel tanks were removed, soil around them removed, concrete from the ground covering removed, roof sheeting with asbestos taken away, and so on (see provided documents).
 - The fuel tanks were not large, they did not leak, and the ground was not badly contaminated. It was a small fuel station; most of its work comprised vehicle repair and service.
 - All the required documentation was sent to PKC at the time, pre and post demolition (2005-7).
- As no major leakage was found, grounds for suspecting current petroleum contamination on my land seem weak, especially given the physical properties of the site and the potential contaminant.
 - The ground is alluvial, and slopes downhill towards the river Earn. i.e. away from my land.
 - Petroleum is a natural substance formed by decomposition of organic matter. Natural degradation times vary with conditions such as the density of the contaminant (low in our case), access to oxygen, and temperature. My reading of scientific publications suggests the range is less than 60 days, up to about 30 years. The latter figure is for major oil spills from tankers. It is very much less for minor spills. 17 years have elapsed in our case.
- The work put into this search has involved 10-11 people in addition to myself: Hamish Reid, the garage owner; Denholms (3); William Frame; Thomson Bethune; Church of Scotland Edinburgh (2 or 3); Church of Scotland Comrie (2: Craig Dobney; Iain Cormack).

5. "Due to the lack of information regarding the former builders yard, a precautionary approach is required to ensure the site is suitable for the proposed use and to safeguard the health of future site users for years to come."

- This is a fair point. However, I ask those making the final decision to do three things:
 - to balance the likelihood of harm from the (almost certainly low) probability of contamination

Comments on Christie Findlay's representation re Condition 3 on planning permission 23/01202/FLL

against the social benefits of going ahead with the proposed extension, which is neither on nor immediately adjacent to the builder's yard. And to consider the arbitrariness of requiring costly exploration for a small area that has long been lived around with no such requirement.

- I ask you to believe the completely consistent testimony of a large number of people. Put another way, there is no "lack of information". It is just that it is verbal rather than formally documented. Our increasingly-common culture of automatically disbelieving seems unhealthy.
- if you still require the contamination report, then I ask you to offer me guidance in how I might proceed, given all the extenuating circumstances noted in my original appeal. The section below lists my questions, i.e. where I would appreciate help. It may be worth reading the questions below along with those I asked in my original appeal (summarised in its Conclusion, Section 5).

Questions arising from Christie Findlay's report. I would greatly value answers to them.

1. Potential contamination from the disused railway is not mentioned. Has it been dropped?
2. How will a desk study answer the questions Christie Findlay cannot? Would it be more cost-effective to test the soil directly?
3. Government information says "Your local council will decide if a site is contaminated land."
<https://www.mygov.scot/contaminated-land/who-decides-if-land-is-contaminated>
So could you explain why I was directed to a private investigative firm?
4. At what point in this entire process does PKC or SEPA decide how the land should be cleaned up, and who pays for the investigations that lead to this decision?
 - to what extent are my lawyers, or the house vendors, responsible for misinformation? (Section 2 of my original appeal.)
 - I am a Category B person. The Category A person is identifiable.
<https://www.mygov.scot/contaminated-land/who-has-to-clean-up-the-land>
Can you explain to me how you arrange that the polluters pay, and what exactly they pay for? I doubt Mr. Carmichael will welcome the news, and indeed it seems inhumane to hold him responsible, given the very low probability of contamination, and the envisaged use of the land.
5. I do understand that the law allows you to insist on the contamination study. Do I have to do it if I do not do the extension?
6. Can you direct me to an overview of the entire process we are in? I ask because I was not told that the contamination study would be automatically triggered by submitting a planning permission request together with application for change of use of the land. Had my agent and I known that, then we would have had the opportunity to rethink the application. I only found out by sifting through the new environmental laws myself. So naturally I wonder what other unforeseen issues lie ahead. This request pertains to question 1 of the two questions in the Conclusion (Section 5) of my original appeal: "Would a contamination report have been needed had we requested planning permission for only the residential part of the property? Can we do that now? (Section 2, point 4.)" The answer to that question is of course seminal to our current considerations.

ATTACHMENTS re point 4, bullet #5 above:

BILL03.xls

20080123130954257.tif

Yours sincerely,



Sarah Hawkins



Ref	Description	Qty	Unit	Rate	Amount
	<u>EXISTING SITE/BUILDINGS/SERVICES</u>				
	<u>C20 DEMOLITION</u>				
	<u>Demolishing structures; all as Architects drawing 2675/E01 and Mason Evans Partnership Site Investigation Report October 2005</u>				
	Survey				
1/A	Contractor to carry out dilapidation survey of existing buildings and externals, report and prepare method statements prior to commencement of works		Item		£150.00
	Demolishing structures; down to foundation formation level; including removal of associated foundations, removing any finishes as necessary and removing any redundant services including arranging disconnection by others; include for the necessary security protection to the site for the duration of the works; complete				
1/B	Garage and associated rear store building; all debris to be disposed off site; complete; (410m2)		Item		£17,536.00
1/C	extra over for; breaking out concrete floor slab; approximately 400mm thick; all debris to be disposed off site; complete		Item		incl
	Breakout and remove structures below ground; complete				
1/D	Fuel tanks and associated concrete surrounds; include for the degassing, removal and backfilling with suitable granular material of 2 x 14,000 litre below ground active fuel tanks; all debris to be disposed off site; complete		Item		£5,940.00
1/E	Fuel tanks and associated concrete surrounds; include for the degassing, removal and backfilling with suitable granular material of 3 x 18,000 litre below ground active fuel tanks; all debris to be disposed off site; complete		Item		incl
1/F	Fuel tanks and associated concrete surrounds; include for the removal and backfilling with suitable granular material of 5Nr below ground redundant fuel tanks in front courtyard area; previously degassed and filled with pea gravel; all debris to be disposed off site; complete		Item		incl
	<u>Site generally</u>				
	Drainage				
1/G	Contractor to grub up, remove, and dispose of all existing drainage runs, manholes and inspection chambers within the site; include for backfilling with suitable granular material; drain runs to be plugged and sealed at site boundary and markers put in place; complete		Item		£150.00
Page : 03/1		To Collection		£23,776.00	

Ref	Description	Qty	Unit	Rate	Amount
2/A	Contractor to grub up, remove, and dispose of existing petrol interceptors and valve chambers within the site; include for backfilling with suitable granular material; drain runs to be plugged and sealed at site boundary and markers put in place; complete External services		Item		£150.00
2/B	Contractor to grub up, remove, and dispose of all existing incoming services and manholes within the site; include for backfilling with suitable granular material; pipes and cables to be isolated and sealed at site boundary and markers put in place; complete External works		Item		£400.00
2/C	Contractor to break up, remove and dispose of all existing hardstandings; complete (338m2)		Item		£3,870.00
2/D	Contractor to remove and dispose of all existing soft landscaping, stock piled material, kerbs, walls, fences, steps and all other external works items; complete		Item		£600.00
2/E	Contractor to excavate, remove and dispose 300mm thick potentially contaminated material found below areas of soft landscaping; complete (328m2)		Item		£4,305.00
2/F	Contractor to fill areas of soft landscaping with suitable imported granular material to provide capping layer over potentially contaminated ground; complete (328m2)		Item		£1,800.00
2/G	Contractor to provide close boarded Marine Plywood timber hoarding to site boundary including double gate and associated posts; include for all necessary excavations, foundations, backfilling and disposal of surplus excavated material; all to be primed and painted, colour TBC; complete Site clearance		Item		£9,007.00
2/H	Upon completion of demolition works and disposal or arisings, Contractor to remove all general debris from the site and grade ground to suit levels of adjacent areas		Item		incl
Page : 03/2		To Collection		£20,132.00	

	Description	Amount
	Page : 03/1 Page : 03/2	£23,776.00 £20,132.00
	Page : 03/3	To Summary £43,908.00

WALSH BROTHERS
INDUSTRIAL SERVICES LTD

GAS FREE CERTIFICATE

FIVE TANKS SITUATED WITHIN:

Comrie
Perthshire
On Behalf Of Charnic Demolition

WASTE MANAGEMENT LICENCE NO: WML/E/333
WASTE CARRIERS LICENCE NO: SEA/974743/3
SEPA CONSIGNMENT NOTE: SA0372911
CERTIFICATE NO: WB/DC05/10/01

**This is to certify that the five fuel tanks at the above site were
 Tested as Gas Free by Walsh Brothers Industrial Services Ltd on
 20th June 2007.**

Signed: Mark Walsh

Position: DIRECTOR

Date: 20.06.2007

