

Our ref: PCS/117936  
Your ref: 11/02022/PPP

If telephoning ask for:  
Zoe Griffin

27 January 2012

Andrew Miller  
The Moray Council  
Development Services  
Environmental Services Dept.  
Council Office, High Street  
Elgin  
IV30 1BX

By email only to: [consultation.planning@moray.gov.uk](mailto:consultation.planning@moray.gov.uk)

Dear Andrew

**Planning Application: 11/02022/PPP  
Demolish flat and erect 4 no residential units at  
Heather Lodge Flat, Tytler Street, Forres**

Thank you for your e-consultation sent to SEPA on 09 January 2012 regarding the above planning application.

We object to the proposed development on flood risk grounds unless, should the Planning Authority be minded to approve this application, the following planning **conditions** are imposed:

- No development that could impact on floodplain storage or conveyance of the River Findhorn is permitted until the formal Findhorn Flood Alleviation Scheme has been constructed and is fully operational.
- No dwelling shall be occupied until such time as the Flood Alleviation Scheme has been constructed and is deemed fully operational by Moray Flood Prevention Authority.

In the event that the planning authority proposes to grant planning permission contrary to this advice on flood risk the application must be notified to the Scottish Ministers as per The Town and Country Planning (Notification of Applications) (Scotland) Direction 2009.

Notwithstanding our position we would expect Moray Council to undertake their responsibilities as the Flood Prevention Authority.

**Advice to the Planning Authority**

**1. Flood risk**

- 1.1 We have reviewed the information provided in this consultation and it is noted that the entire application site lies within the 1 in 200 year (0.5% annual probability) flood envelope



Chairman  
David Sigsworth  
  
Chief Executive  
Dr Campbell Gemmell

Aberdeen Office  
Inverdee House, Baxter Street  
Torry, Aberdeen AB11 9QA  
tel 01224 266 600 fax 01224 896 657  
[www.sepa.org.uk](http://www.sepa.org.uk)

Our ref: PCS/117936  
Your ref: 11/02022/PPP

Andrew Miller  
The Moray Council  
Development Services  
Environmental Services Dept.  
Council Office, High Street  
Elgin  
IV30 1BX

If telephoning ask for:  
Zoe Griffin

27 January 2012

By email only to: [consultation.planning@moray.gov.uk](mailto:consultation.planning@moray.gov.uk)

Dear Andrew

**Planning Application: 11/02022/PPP  
Demolish flat and erect 4 no residential units at  
Heather Lodge Flat, Tytler Street, Forres**

Thank you for your e-consultation sent to SEPA on 09 January 2012 regarding the above planning application.

We object to the proposed development on flood risk grounds unless, should the Planning Authority be minded to approve this application, the following planning **conditions** are imposed:

- No development that could impact on floodplain storage or conveyance of the River Findhorn is permitted until the formal Findhorn Flood Alleviation Scheme has been constructed and is fully operational.
- No dwelling shall be occupied until such time as the Flood Alleviation Scheme has been constructed and is deemed fully operational by Moray Flood Prevention Authority.

In the event that the planning authority proposes to grant planning permission contrary to this advice on flood risk the application must be notified to the Scottish Ministers as per The Town and Country Planning (Notification of Applications) (Scotland) Direction 2009.

Notwithstanding our position we would expect Moray Council to undertake their responsibilities as the Flood Prevention Authority.

**Advice to the Planning Authority**

**1. Flood risk**

- 1.1 We have reviewed the information provided in this consultation and it is noted that the entire application site lies within the 1 in 200 year (0.5% annual probability) flood envelope



Chairman  
David Sigsworth  
  
Chief Executive  
Dr Campbell Gemmell

Aberdeen Office  
Inverdee House, Baxter Street  
Torry, Aberdeen AB11 9QA  
tel 01224 266 600 fax 01224 896 657  
[www.sepa.org.uk](http://www.sepa.org.uk)

of the Indicative River & Coastal Flood Map (Scotland) of the Mosset Burn and River Findhorn. We also have records of the area having been flooded by the Mosset Burn in 1997.

- 1.2 Since the widespread flooding of Forres from the Mosset Burn in 1997, Moray Council has completed construction of a Flood Alleviation Scheme (FAS) on the watercourse which protects properties up to a 1 in 200 year event.
- 1.3 However, the site is also within the functional floodplain of the River Findhorn as identified in the modelling work undertaken for the development of the proposed Forres (Findhorn and Pilmuir) FAS. It is understood that the area would benefit from the current Scheme proposals. We cannot advise on the specific timescales for construction and standard of protection the Forres (Findhorn and Pilmuir) FAS at this time and as such it is recommended that the Moray Flood Prevention Authority is contacted for further detailed information.
- 1.4 It is understood that the proposal is to increase the number of dwellings in an area which has a history of flooding and has been shown to be at a significant risk of flooding from the River Findhorn. Scottish Planning Policy supports redevelopment in built up areas such as this on the understanding that flood prevention measures to the appropriate standard already exist, are under construction or are planned as long term development strategy. As we understand there are uncertainties over the timescales of the planned scheme we would recommend planning permission is conditional on;
  - No development that could impact on floodplain storage or conveyance of the River Findhorn is permitted until the formal Forres (Findhorn and Pilmuir) Flood Alleviation Scheme has been constructed and is fully operational.
  - No dwellings are occupied until such time as the Forres (Findhorn and Pilmuir) Flood Alleviation Scheme has been constructed and is deemed fully operational.

## **2. Other issues**

- 2.1 To assist with streamlining the planning process, we now focus our site specific advice in development management where we can add best value in terms of enabling good development and protecting Scotland's environment. For other issues relating to our interests please refer to our standing advice which is applicable to this type of small-scale local development available at [www.sepa.org.uk/planning.aspx](http://www.sepa.org.uk/planning.aspx).

*This advice is given without prejudice to any decision made on elements of the proposal regulated by us, which may take into account factors not considered at the planning stage.*

## **Detailed advice for the applicant**

### **3. Flood risk**

- 3.1 We would like to highlight to the applicant that there is no guarantee when the flood alleviation scheme would be completed or indeed that it will be completed. In addition, as insurers are concerned about the potential frequency and cost of environmental risk including flooding, it is recommended that the applicant should consider the availability of insurance for any proposals or subsequent purchasers or tenants.
- 3.2 The Indicative River & Coastal Flood Map (Scotland) has 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 cross-sections and low-lying coastal land. The outlines do not account for flooding arising from sources such as surface water runoff, surcharged culverts or drainage systems. The methodology was not designed to quantify the impacts of factors such as flood alleviation measures, buildings and transport infrastructure on flood conveyance & storage. The Indicative River & Coastal Flood Map (Scotland) is designed to be used as a national strategic assessment of flood risk to support planning policy in Scotland. For further information please visit [www.sepa.org.uk/flooding/flood\\_map.aspx](http://www.sepa.org.uk/flooding/flood_map.aspx).

- 3.3 We refer the applicant to the document entitled: "*Technical Flood Risk Guidance for Stakeholders*". This document provides generic requirements for undertaking Flood Risk Assessments and can be downloaded from [www.sepa.org.uk/flooding/flood\\_risk/planning\\_flooding.aspx](http://www.sepa.org.uk/flooding/flood_risk/planning_flooding.aspx). Please note that this document should be read in conjunction with Annex B in SEPA Policy 41: "*Development at Risk of Flooding, Advice and Consultation – a SEPA Planning Authority Protocol*", available from [www.sepa.org.uk/flooding/flood\\_risk.aspx](http://www.sepa.org.uk/flooding/flood_risk.aspx).
- 3.4 Our Flood Risk Assessment checklist should be completed and attached within the front cover of any flood risk assessments issued in support of a development proposal which may be at risk of flooding. The document will take only a few minutes to complete and will assist our review process. It can be downloaded from [www.sepa.org.uk/flooding/flood\\_risk/planning\\_flooding/fra\\_checklist.aspx](http://www.sepa.org.uk/flooding/flood_risk/planning_flooding/fra_checklist.aspx)
- 3.5 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.
- 3.6 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 Moray 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 inline with the phases of this legislation and can be downloaded from [www.sepa.org.uk/flooding/flood\\_risk/planning\\_flooding.aspx](http://www.sepa.org.uk/flooding/flood_risk/planning_flooding.aspx).

If you have any queries relating to this letter, please contact me by telephone on 01224 266600 or by e-mail to [planning.aberdeen@sepa.org.uk](mailto:planning.aberdeen@sepa.org.uk) .

Yours sincerely

Zoe Griffin  
Senior Planning Officer  
Planning Service

Ecopsy to: Agent – Wittets Architects Ltd: [sg@wittets.co.uk](mailto:sg@wittets.co.uk)

**Linda Pearce**

---

**Subject:** FW: 11/02022/PPP erection of 4 residential units at heather lodge, tytler street, forres  
**Attachments:** 11-02022-PPP 4 units, heather lodge, forres.doc



11-02022-PPP 4  
units, heather ...

-----Original Message-----

From: Karine.Suller@aberdeenshire.gov.uk [mailto:Karine.Suller@aberdeenshire.gov.uk]  
Sent: 14 January 2012 17:16  
To: Stephen Gauld  
Subject: 11/02022/PPP erection of 4 residential units at heather lodge, tytler street, forres

FAO S Gauld,

please find attached the planning gain assessment for the above mentioned, which I'd be grateful if you could forward to your clients, Mr Ross.  
I've responded to the Planning Officer today.

Kind regards, Karine

(See attached file: 11-02022-PPP 4 units, heather lodge, forres.doc)

Karine Suller  
Acting Team Leader, Planning Gain

Legal and Governance  
Aberdeenshire Council  
c/o Banchory Area office  
The Square  
Banchory AB31 5RW

Tel: 01330 826933  
Fax: 01330 823972  
Mobile: 07836 558071  
e-mail: karine.suller@aberdeenshire.gov.uk

**SENSITIVE**

Ongoing negotiation,  
not to be posted in  
Planning Application  
file on IDOX, or Council  
Website

Aberdeenshire  
Council



Legal and Governance

**SENSITIVE**

## **M E M O R A N D U M**

---

To: Andrew Miller, Development Management

Date: 14 January 2012

From: Karine Suller, Planning Gain Officer  
C/o Area Office, The Square, Banchory

Your Ref: 11/02022/PPP

---

### **Planning Permission in Principle to demolish flat and erect 4 No. residential units**

**Address: Heather Lodge Flat, Tytler Street, Forres**

**11/02022/PPP**

This assessment is carried out in relation to policies contained within the Moray Local Plan, specifically Policy H9: Affordable Housing and Special Needs Housing and Policy IMP 3: Developer Contributions. Copies of these policies can be found on the Council website at: [www.moray.gov.uk/planning](http://www.moray.gov.uk/planning)

**NB:** Should the planning application be successful and such permission not be implemented within the time scale allowed and the applicant subsequently requests to renew the original permission a reassessment may be carried out in relation to the Council's policies and mitigation rates pertaining at the time.

The following report, should the application be successful in gaining Planning Permission, may form the basis of a Section 75 Agreement which must be agreed and signed prior to the Council issuing Planning Permission. Aspects regarding the future maintenance of open space, non adopted footways and hard standing together with, where applicable, mechanisms for the securing of Affordable Housing, its tenure, standard of construction and occupation criteria will also be included in such an agreement.

Applicants should also be made aware that there will be a charge for the preparation of the Section 75 Agreement to cover costs incurred by the Council on the Developers' behalf.

Developers of small to medium sites should be aware of the cumulative effects of their developments on the infrastructure and amenity currently

enjoyed by existing residents as well as that required to service their own developments. In order, therefore, to be fair and reasonable to all developers contributions where applicable and justifiable will be levied in proportion to the scale of the development proposed.

#### **Standard house unit size**

A standard 'full size' house unit is considered a 3 bedroom unit. 2 bedroom units trigger a 20% allowance and a 1 bedroom a 40% allowance together with no education mitigation requirement. 4 bedroom units and above, are at plus 20% per bedroom. See also section on Affordable Housing where this is used in the calculation of off site contribution levels.

The following apartment annotations or variations thereof, provided that they comply with the statutory requirements for window area and ceiling height, will be regarded as a bedroom if the floor area is equal to or greater than the smallest annotated 'bedroom' - storeroom, games room, study, workroom, nursery.

In addition dwelling units may comprise of one each of the following: Family Room, Lounge, Conservatory, Dining Room. Additional public rooms so annotated will be treated as additional bedrooms provided that they fulfil the criteria as above for ceiling height and window area and have a floor area equal to or greater than the smallest indicated bedroom.

#### **Brownfield development**

An allowance of 20% against Affordable housing contributions is available for Brownfield developments. The developer will have been expected to take into account any decontamination measures resulting from the redevelopment of the site and the discount level against Affordable Housing contributions is designed to provide an incentive to redevelop brownfield sites as well as to offset unforeseen costs during the development.

The allowance may not apply where buildings have been unoccupied or redundant for less than one year prior to the date of the application.

Significant extraordinary development costs that could not have been known at the start of the development *may* be taken into account if evidenced in writing by a qualified third party.

#### **Listed Buildings and enabling development**

An allowance of 20% against Affordable Housing contributions is also made for the refurbishment and or change of use of Listed Buildings where the building has not been in use for commercial, agricultural or residential purposes for the year prior to the planning application.

Where the application is for enabling development, for example for the repair or refurbishment of a listed building, the applicant is cautioned to ensure that there is sufficient development proposed to not only cover the enabling works but also Planning Gain contributions that would be required from the additional development or through a change of use etc to the existing building. E.g. a derelict

property being converted into multiple households: these may require infrastructure contributions as well as any additional properties that were part of the enabling development application. The applicant is strongly advised to contact the planning service in the first instance to establish the level of refurbishment, conversion etc that will be considered as legitimate enabling development.

### **Conservation Areas**

An allowance of 20% is allowed against Affordable housing contributions for developments within a conservation area or proposed conservation areas as detailed in the current local plan. This is to offset the additional costs of architectural features and traditional materials etc that may be required to fulfil the design criteria for developments in these areas.

### **Garages & stores**

The developer should be mindful of the requirements of the purchasers of the properties with regard to the storage of garden equipment, vehicles and other non household items.

### **Mandatory inclusion of business units**

A further allowance of 25% is allowed against affordable housing contributions for the inclusion of a business unit on site. This principally applies to farm steadying conversions.

### **Replacement dwelling units**

There is generally no requirement for contributions where the development of a dwelling house is a direct replacement of a dwelling house that has been deemed to be a household for Council Tax purposes within the previous 5 years. However should the replacement dwelling be in excess of twice the gross floor area of the original a contribution based on 50% of that required for a single unit will be required.

**For the purposes of this report the proposed development is considered to comprise:**

**4 x 2 bed units**

**equating to 3.2 Full Size equivalents.**

**This figure will be used in any calculations within this report.**

**The Planning Gain Service will assess the following issues to consider the impacts of the proposed development upon the local community.**

### **Affordable Housing**

**Local Authorities are obliged to require developers to provide a contribution to affordable housing provision through Scottish Planning Policy (2010) and supplemented by Planning Advice Note 2/2010: Affordable Housing, where there is a demonstrable need in an area. The Developer must be seen to be providing a contribution in cash, by an amount equivalent to the housing land value, or land or discounted housing units, to enable this obligation to be fulfilled.**



**As the application falls below the 10 house threshold identified in Policy H9, no contributions can be sought towards affordable housing.**

### **Infrastructure**

#### **Waste Recycling Facilities**

Forres has recycling facilities at Grant Park, Leys Road car park and the Tesco car park. In consideration of these existing facilities, no further mitigation is required.

#### **Community Facilities**

##### **Public Halls, Community Centres**

The development will generate an additional requirement (based on 3.2 units) of approximately 2.2 m<sup>2</sup> of community facility provision at a cost of £1,175 per m<sup>2</sup> equalling a contribution of £2,585. This is based on the requirement of 0.69m<sup>2</sup> of Community facility per dwelling unit as determined for small to medium size developments.

Forres has a Community Centre on the High Street, which has approximately 2,182 m<sup>2</sup> of space, which provides sufficient space for 3,162 households. Forres has a population of 9,174 or approximately 3,988 households. It can be seen that the Community Centre does not provide sufficient space for the current population and the impact of another 4 households will put additional pressure upon these facilities, thereby justifying a contribution.

**Contribution = £2,585**

##### **Playing Fields:-Method of calculation**

As a guide the cost of providing a Playing field is in excess of £60,000 this includes the average land purchase costs and site works. The requirement per 1000 residents is 6 acres (2.4 hectares) of recreational space which includes at least one football pitch/ playing field of 0.7 hectares. At the average of 2.3 persons per household this equates to 435 households requiring the full mitigation of at least one full size pitch and associated recreational open space. The requested gross contribution of £135 per household is therefore in line with the £138 that would be required to fulfil these requirements and is considered fair as the reduction includes a full discount of the land element within the overall cost to the Council.

Where existing recreational facilities are undersized for the current population a contribution towards improvements or additional facilities is considered fair and reasonable in order to extend the operating capacity of these facilities. This may for example be used in the form of additional drainage to enhance the playing capacity of the pitch.

The figure of £135 per household was further refined to indicate what portion of the funds would be required for the works and that which would be required to maintain

those works in order that the facilities can become operational in the short term. It is apparent that one could not proceed without provision for the other. The overall level of discount for the actual works is therefore substantial and developers are cautioned that these figures will require upward revision in the near future.

Forres has a range of sports and recreational facilities, including a Swimming Pool and Fitness Suite at the Academy, football pitches at the Primary Schools, Football and hockey pitches at the Academy, a football pitch and pavilion at Roysvale Park and tennis courts off Albert Street.

#### Playing fields etc

Open space and play areas are the subject of Planning Conditions. However, the additional population generated by the development will have an impact on the capacities of current facilities which are outwith the purely educational element of any developer contributions.

It is fair and reasonable to proportion such elements separately and as such the figures for sports both internal and external are derived as follows:-

#### Playing Fields

**3.2 x £135 per household = £432**

Indoor & Outdoor sports facilities requiring works other than for playing fields e.g.:

#### Lighting

**3.2 x £360 per household = £1,152**

**These contributions will be expended on recreational elements in the immediate area on a best value basis for the mitigation elements listed above at the discretion of the Council for the benefit of the residents of the development.**

#### Library Facilities

The guideline requirement for floor area in relation to population indicates that a building of at least 42sqm per 1,000 residents is required in settlements below 20,000 people. As the population criteria are exceeded only by continued expansion of the settlement by developers the need for a contribution towards such facilities is therefore reasonable and justifiable.

**Forres Library is located on the High Street and is open for 52 hours per week. The pro-rata contribution arising from this development would be based on approximately 7.4 persons.**

**This equates to 0.31 m<sup>2</sup> @ £1,175 per m<sup>2</sup> (42/1000) x (7.4) = 0.31m<sup>2</sup> = £364**

#### **Education**

Pupils from the development will be zoned to **Anderson's Primary and Forres Academy**. Education mitigation is calculated on the anticipated number of pupils from

a development and their effect on the school roll averaged out over a 5 year period. The applicant is reminded of the cumulative effect of developments on the local infrastructure.

In this instance, the primary has capacity of 274 and a roll of 224 and will therefore have sufficient capacity to accommodate this development.

The Academy has a capacity of 1,121 and a roll of 1,029, which is declining, and will have sufficient capacity to accommodate the additional 8 households. Therefore no further education contributions will be required.

**Primary Contribution = Nil**

**Secondary Contribution = Nil**

### **Sustainable & Public Transport/Access**

In sympathy with government policy on sustainable development every encouragement should be in place for residents of the development to use Public Transport. The Developer would be asked to provide potential clients with information as to the nearest public transport services available both in sales literature and in any sales office related to the development.

### **Roads**

Access to the site will be taken directly from Tytler Street (ZC36E), within the town and therefore no further contributions towards passing places will be required.

### **Summarised as follows**

Affordable Housing	Nil
Infrastructure	
Recycling:	Nil
Community Halls:	£2,585
Playing Fields:	£432
Ancillary Sports Facilities:	£1,152
Library:	£364
Primary education:	Nil
Secondary Education:	Nil
Roads	Nil

**Total: £4,533**

### **Methods of Payment**

On no account should cash be remitted.

#### **1) Scheduled within a legal agreement**

This will normally take the course of a Section 75 or Section 69 Agreement where either there is a requirement for Affordable Housing on site which will necessitate a Section 75 Agreement being put in place and into which a Planning Gain payment schedule can be incorporated, and/or the amount of Planning Gain is such that an upfront payment may be considered prohibitive. The Agreement must be in place prior to the issuing of the Planning Permission.

**NB:** The applicant is cautioned that the costs of preparing a legal agreement from the applicant's own solicitors may in some instances be in excess of the total amount of contributions required. As well as their own solicitor's fees, Applicants will be liable for payment of the Council's legal fees and outlays in connection with the preparation of the Agreement. The applicant is therefore encouraged to contact their own solicitor who will liaise with the Council's Legal Service to advise on this issue.

### **Other methods of payment**

Providing that there is no requirement to enter into a Section 75 or 69 Agreement, e.g. for the provision of Affordable Housing on or off site and or other Planning matters, as advised by the Planning Service the developer/applicant may opt to contribute the full amount prior to the release of the Planning Permission.

### **2) Remittance by Cheque**

Cheques must be made payable to "**Moray Council**", and sent to:

Planning Gain Manager  
Aberdeenshire Council  
c/o The Square  
Banchory  
Aberdeenshire  
AB31 5RW

Moray Council Finance will be advised that the cheque has been received. However this will require a period of 14 days from date of receipt before the Planning Officer will be informed that the Planning Permission may be issued.

Karine Suller  
Planning Gain Officer