

POW OF INCHAFFRAY DRAINAGE COMMISSION (SCOTLAND) BILL

Written submission received by Stephen Chouman (supported by James P Craig and David Clark)

Issues as I see them with the proposed Bill include:

- There does not appear to be any science behind the “benefitted land” in the documents provided by the Commission. I cannot see how it can be relied as being accurate.
- The annual assessment charge should be capped in order to protect heritors. This is particularly important for homeowners that do not have a business interest in the “benefitted land” as a business can treat the annual assessment charge as an expense against annual income. In addition, businesses can reclaim the VAT proportion of the assessment charge, further reducing the impact it has on them. Homeowners however have to pay the full amount with no savings made against tax or VAT, so the impact is much more pertinent for any changes in assessment charges.
- As someone who has paid every penny of the assessments raised in my name from when I purchased my property, I am angered and shocked to hear that the Commission has suggested that any outstanding assessments which were raised under the existing bill are not pursued. I understand that the outstanding assessments are getting close to £8-£10,000! This means that I, alongside all others who have done similar, will be penalised for and subsidising those who have not paid up to date, or in some cases, at all! Homeowners in the “Manor Kingdom” estate at Balgowan have a clause in our title deeds requiring us to pay assessments for the Pow of Inchaffray and therefore any attempt to avoid the assessments through ignorance cannot be upheld. I believe that if assessments under the proposed Bill are pursued then the existing outstanding amounts should also be pursued in full.
- Despite repeated reference to the area consisting of the new homes at Balgowan being liable to flooding by the Commission throughout the meeting with the Parliamentary Committee, the objective of the Commission being to facilitate drainage of the land only.
- Maps on the SEPA website show that the estate at Balgowan is not at risk of flooding, although the lands to the north/east/west are.
- The Committee has a submission from Janice Milne (SEPA) which also states that the homes at Balgowan are not likely to flood.
- Regarding the inclusion of a single or possibly pair of commissioners from Balgowan, the homeowners will still be effectively powerless against the landowners making up the remainder of the commission. Making up 73% of the heritors, Balgowan will be unable to veto the landowners who will still have an overwhelming majority within the commission (with 6 members), making our inclusion seems at best a token gesture.

- Mr Jo Guest stated that “objections have to be taken in to account” when he was in front of the Committee which feels somewhat unlikely from my experience. I, amongst many others from the Balgowan estate, have contacted the Commission and also McCash & Hunter Solicitors in order to get answers and make representation. Many (and I think it would be reasonable to use the word “most”) of these contacts have been ignored. I do not believe that our views will be taken in to account and do believe that we are seen as a form of cash cow (although “vexatious heritor” as suggested by Mr Guest in the Committee is perhaps suitable here due to the issues we have caused by necessitating the new Bill). After raising concerns as a heritor and increasing unsettlement within the community I was invited along to Commissioner meetings as an “observer” in 2015 in an attempt to make the Commission more accountable and transparent to the community. I was assured that I would be made aware of all meetings from then onwards; however this has not been the case. Communication fizzled out from the Commission and other than receiving notice of assessments and of the new Bill we have been excluded from any Committee meetings. I have purposely used the term “fizzled out” as they were previously used by the Commission when describing talks between themselves, McCash & Hunter Solicitors and Manor Kingdom, the house builder, when initial attempts to get a solution to assessment charges for the new homes. The duties of the solicitors paid to look after the best interest of the Commission were severely neglected at this point when they were being advised and this is the same firm which the Commission continues to use, have now proven they will not respond to communications from myself and my neighbours, along with neglecting to include me as an observer despite stating I would be. The minute of any meetings was also to be circulated to my email address and again this started and then “fizzled out” very quickly. Being told that they have a duty to respond is simply not sufficient and the right to object is definitely something which should be included within the new Bill along with the process following the objection clearly being laid out.
- The drainage from Balgowan, which makes up a few hundred metres of land adjacent to the many miles long Pow of Inchaffray, should be considered further. Admittedly we have the cleansed water which is released from the waste treatment plant on the estate alongside the natural water which needs drained, but no consideration has been given to compare the volume/flow of water prior to the Balgowan estate to the flow of water after the estate, thereby scientifically quantifying the impact we as a community have on the Pow which seems in my mind to be the way we should be assessed and levied. The information used as reference in my eyes looks to be anecdotal, whereas I think we need to know what we add in to the Pow, how much we raise the water level and then go from there in order for it to be equitable.
- The water entering the Pow from the Balgowan estate is thoroughly cleansed by the waste water treatment plant for anything which is coming from the homes, with surface water run off making up the remainder of the drainage required. As I see it, this is relatively easy to commute down to exit of the Pow into the River Earn many miles away. Compare this, on the other hand, to the

run off from fields which are also benefitting from the Pow. It only takes a drive along the Tibbermore to Crieff road on any day which has seen rainfall to establish the volume of mud which comes off the neighbouring fields, ultimately ending up in the Pow which is surely the reason regular dredging is required. This is amplified after the fields are ploughed when the silt running off lays in pools on the road, so again this must do the same into the Pow from adjacent fields benefitting from it. The impact of miles of this surely massively outweighs by a massive multiplier the impact we as a community have on the Pow, however, as I understand it we are liable to pay over 40% of the annual assessments levied by the Commission for such a small frontage on to the Pow. This value will obviously change (I wouldn't like to guess whether positively or negatively in my case) when the additional heritors are included in assessments under the proposed Bill. I believe that as householders our impact is low/minimal, whereas the benefit we receive from the Pow is low/reasonable. On the other hand, farmers require the drainage of their land to ensure that the hundreds of thousands (possibly millions?) of pounds of income they generate every year can continue. The impact of the Pow from run off from the fields must be largely negative and the benefit received for the draining large also, so the proportion payable should match this rather than the one size fits all approach which I feel is currently used. I do not know how the assessment can be made, but I do not believe the proposed method is fair and reasonable to all.

I trust these points help you understand the issues that we face as a community and would very much appreciate your help on my/our behalf in order that we can ensure a fair and reasonable solution with the new Pow of Inchaffray Drainage Commission (Scotland) Bill.