

20/01455/APP
16th November 2020

**Proposed residential development (48 affordable units)
and all associated landscaping and infrastructure on Site
At Caroline Street Forres Moray
for St Machar Properties Limited**

Comments:

- Application is for 5 to 49 dwellings which is not in accordance with the development plan, and is being recommended for approval.
- Advertised for neighbour notification purposes - notification not possible because no premises situated on land to which notification can be sent and as a departure to the development plan.
- 11 representations received from 8 parties.

Procedure:

- Delegated authority to Head of Economic Growth and Development to issue decision subject to no further representations being received following expiry of neighbour notification period; and
- Completion of a (Section 75) legal agreement regarding developer obligations relating to healthcare and sports and recreation prior to issue of consent.

Recommendation **Grant Planning Permission - Subject to the Following:**

Conditions/Reasons

1. No development shall commence until details of the affordable housing specification for the site have been submitted to and approved by the Council, as Planning Authority in consultation with the Head of Housing and Property Service, unless otherwise agreed with the Council, as Planning Authority. This shall include detailed arrangements for the long-term delivery and provision of the affordable housing accommodation on the site, together with evidence confirming the identity of the organisation (or other similar agency) responsible for the provision and management of all affordable housing provided on the site. Thereafter the development shall be implemented in accordance with the approved details and maintained on this basis for the lifetime of the development.

Reason: To ensure all of the residential units approved on site are affordable and managed accordingly.

2. That all foul and surface water drainage arrangements for the development shall

be in accordance with the approved Drainage Assessment prepared by Fairhurst, and revised associated drainage drawings received 25 June 2021. No dwelling shall be occupied until it is connected to the SUDS scheme as detailed within the approved Drainage Assessment and drawings.

Reason: To ensure an acceptable form of development is provided in accordance with the submitted drainage information and drawings, and to provide for adequate protection of the water environment from surface water run-off during the lifetime of the development and to ensure no increase in groundwater levels in the locality of the site.

3. Prior to the commencement of any works, a construction environment management plan incorporating a site specific pollution prevention plan shall be submitted to and approved in writing by the Council, as Planning Authority; and thereafter all work shall be carried out in accordance with the approved plan.

Reason: In order to prevent potential pollution of the environment and minimise impacts from construction works on the environment.

4. No development shall commence until details regarding the installation of fibre broadband connection for each residential unit (to be provided prior to occupation of each unit) have been submitted to and approved in writing by the Council, as Planning Authority. Thereafter, the development shall be implemented in accordance with these approved details, unless otherwise agreed in writing by the Council, as Planning Authority.

Reason: To ensure the residential units hereby approved are served by appropriate high speed internet connections, in accordance with policy PP3 – Infrastructure and Services of the Moray Local Development Plan 2020.

5. That all tree works and tree protection measures on the development site shall be carried out in accordance with the details outlined in drawing number CSF-2102-TP and the submitted Tree Survey Report dated 30 March 2021 prepared by Astell Associates, unless otherwise agreed in writing with the Council, as Planning Authority.

Reason: To ensure an acceptable form of development is provided in accordance with the submitted landscape plan and tree survey, and that suitable protection is given to existing trees proposed for retention.

6. The mitigation and enhancement measures in relation to bats, breeding birds and otters outlined within the submitted Environmental Survey (Sections 17, 18 and 20 refer) and Bat Roost Potential Survey prepared by Astell Associates shall be fully implemented by the developer, unless otherwise agreed in writing with the Council, as Planning Authority.

Reason: To ensure that the development does not have an adverse impact on protected species or habitat and to minimise disturbance to nature conservation interests.

7. Construction works (including vehicle movements) associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0800 – 1900 hours, Monday to Friday and 0800 – 1300 hours on Saturdays only, and at no other times out with these permitted hours (including National Holidays) shall construction works be undertaken except where previously agreed in writing with the Council, as Planning Authority and where so demonstrated that operational constraints require limited periods of construction works to be undertaken out with the permitted/stated hours of working.

Reason: To ensure that there is no adverse impact upon neighbouring properties, or loss of amenity.

8. A 2.3m high close boarded fence shall be provided along the northern boundary of the site pertaining to Block 1, and as described in the Section 8.2.7 of the Noise Impact Assessment supporting document by Vibrock Limited, Shankiel, Ilkeston Road, Heanor, Derbyshire, dated 16 March 2021 Report Ref. R21.11010/1/AF and titled “Noise Impact Assessment. Residential Development at Caroline Street, Forres, Moray for Halliday Fraser Munro.” The final selected acoustic barrier in terms of chosen material, design, surface density shall be submitted in a plan and agreed in writing with the Council, as Planning Authority prior to the occupation of the apartments in Block 1 (plots 1 to 9), and shall thereafter be installed and retained throughout the lifetime of the development.

Reason: To ensure that there is no adverse impact or loss of amenity for residents of the proposed properties and to satisfactorily mitigate any potential noise pollution.

9. No development shall commence until details of the sound insulation performance of the selected glazing and ventilation to living apartments 1–16 inclusive, 19-25, 30-37 and 43 shall be submitted in writing and agreed with the Council, as Planning Authority. The minimum glazing and ventilation requirements shall be in accordance with Table 4.1 of the Noise Impact Assessment supporting document by Vibrock Limited, Shankiel, Ilkeston Road, Heanor, Derbyshire, dated 16 March 2021 Report Ref. R21.11010/1/AF and titled “Noise Impact Assessment. Residential Development at Caroline Street, Forres, Moray for Halliday Fraser Munro.” The selected glazing and ventilation requirements shall thereafter be retained throughout the lifetime of the development.

Reason: To ensure that there is no adverse impact or loss of amenity for residents of proposed properties identified within Table 4.1 and to satisfactorily mitigate any potential noise pollution.

10. In respect of remediation of contamination on the site, remedial measures shall be implemented in accordance with the details as specified in Fairhurst's report "Caroline Street, Forres, Remediation Strategy November 2020 Issue 2" dated 8 April 2021. The following information shall be submitted to, and accepted in writing by the Council, as Planning Authority prior to the respective works;
 - (i) Prior to commencement of development, a materials management plan shall be provided, detailing the location and depth of materials that are to be

- excavated for re-use on site and how they shall be handled, stored and protected from disturbance during construction works;
- (ii) Prior to commencement of construction works on plots 10 to 26 inclusive, a full technical specification for a scheme to provide protection against the ingress of harmful vapours shall be provided along with details of independent verification of its installation by an appropriately qualified person;
- (iii) Prior to importation of materials for use as clean cover, details of the source and volume of the materials to be imported shall be provided along with sample analyses and assessment criteria.

No dwelling shall be occupied until the validation report as specified in the Remediation Strategy has been submitted and written confirmation has been issued by the Council, as Planning Authority that the remedial works have been completed in accordance with the agreed details.

Reason: To ensure that the site is suitable for the proposed use and that risks posed by on-site contamination are appropriately managed.

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (or any amendments to this order) Schedule 1, Part 1, Class 1A, 1B, 1C & 3A (erection of extension, conservatory, garage, summerhouse or any other outbuilding on plots/gardens) within the northeast area of the site (Plots 10 to 26 inclusive) shall require the express consent of the Council, as Planning Authority.

Reason: To ensure that gas/vapour protection measures are installed to the appropriate standard such that the development is safe from ingress of harmful gases/vapours.

12. No development shall commence until revised landscape plans have been submitted to and approved in writing by the Council, as Planning Authority. These shall be closely based upon the Landscape Layout drawing sheets 1 to 5 numbers P(94) 001C, 002C, 003C, 004C and 005C and associated maintenance arrangements, and show the following revised details:
 - a) All extra heavy standard trees shall be replaced with semi-mature trees with a minimum girth of 18-20cm;
 - b) Details of timescales for delivery of the public art proposed and long-term maintenance arrangements;
 - c) All street trees on public land and in private front gardens shall be retained;
 - d) The boundary treatment to the rear of gardens of plots 36 and 37 adjacent to the main open space shall be 1m high stone wall with a 0.8m timber fence above (all other boundary treatment facing onto the open space being stone wall 0.5m);
 - e) The boundary treatment to the side garden of plot 43 which extends from the back of the parking area to the rear building line shall be a 1m timber fence;
 - f) Detailed plans of proposed brick and timber planters; and
 - g) Details of the proposed specification of trees and shrub planting/hedging to ensure that the landscaping contributes to creating two distinctive character areas, through use of different colours and heights to reinforce identity.

Thereafter, the development shall be implemented in accordance with these approved plans and timescales unless otherwise agreed in writing by the Council, as Planning Authority. Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless otherwise agreed by the Council, as Planning Authority.

Reason: To ensure that the approved landscaping works and public art are timeously carried out and properly maintained for the lifetime of the development, and to ensure the two character areas have a distinct identity.

13. That all finished floor and road levels for the development shall be in accordance with the details shown on the approved site sections and site levels drawings, unless otherwise agreed in writing by the Council, as Planning Authority.

Reason: To ensure that the development is integrated into the surrounding townscape and in the interests of amenity.

14. Other than the windows shown in the approved drawings, no windows shall be inserted into the southeast (side) elevations of the houses on plots 26, 27 and 40, flats 20 and 22 (Block 3) and south (side) elevation of the house on plot 44 without the prior written formal consent of the Council, as Planning Authority.

Reason: In order to safeguard the privacy of adjoining occupiers.

15. All boundary screen fencing as shown on the approved Landscape Layout drawing number P(94) 001B shall be erected prior to occupation of the respective dwelling which it serves and thereafter retained for the lifetime of the development. The screen fencing along the whole of the east boundary within the northeast part of the site shall also be erected prior to occupation of any dwelling within this area, namely plots 10 to 26.

Reason: To protect the privacy of adjoining occupiers.

16. No development shall commence until detailed specifications of the materials of the external finishes and colour palette of the houses and flats within each character area have been submitted to and approved in writing by the Council, as Planning Authority. Thereafter all works shall be carried out in accordance with these approved details.

Reason: In order to ensure that the development achieves distinction, character and identity in each character areas as these details are lacking from the application.

17. No development shall commence until the following details for the provision of Electric Vehicle (EV) charging infrastructure have been submitted to and approved in writing by the Council, as Planning Authority, in consultation with the Roads Authority:

- Detailed drawing (scale 1:200) confirming the provision of, or location where future Electric Vehicle (EV) charging units to serve plots 30, 31, 34, 35, 38 and 39 would be located to serve parking associated with each house.
- Details (Written proposals/plans) for EV charging infrastructure to serve parking associated with each plot which confirms the provision of the necessary cabling, ducting, and consumer units capable of supporting the future charging unit in accordance with the minimum requirements based on policy DP1 of the Moray Local Development Plan 2020.

Thereafter, the EV charging infrastructure shall be provided in accordance with the approved details, and maintained and available for that use thereafter unless otherwise agreed in writing by the Council, as Planning Authority, in consultation with the Roads Authority.

Reason: In the interests of an acceptable form of development and the provision of infrastructure to support the use of low carbon transport, through the provision of details currently lacking from the submission.

18. No development shall commence until detailed proposals (Plans 1:200 minimum) have been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority for the provision of road and footway improvements between the development site, and the junction of Caroline Street with Bogton Road to address pedestrian connectivity and road safety.

Thereafter, unless otherwise agreed in writing by the Council, as Planning Authority in consultation with the Roads Authority, the works required shall be provided in accordance with the approved details prior to the completion of the first house or flat within the development.

Reason: To ensure acceptable infrastructure is provided for pedestrians on the route to the development in the interests of road safety.

19. No development shall commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. The Construction Traffic Management Plan shall include the following information:
 - duration of works;
 - construction programme;
 - anticipated schedule for delivery of materials and plant;
 - full details of any temporary construction access;
 - measures to be put in place to prevent material being deposited on the public road;
 - measures to be put in place to safeguard the movements of pedestrians;
 - Agreed routes and restrictions (details required to confirm that no construction traffic use of the Lea Bridge is permitted and delivery must be managed to avoid peak times/school arrivals and departures.)
 - traffic management measures to be put in place during works including any specific instructions to drivers including operational hours and;

- details to demonstrate parking provision for site personnel, loading and unloading areas for construction traffic.

Thereafter, the development shall be implemented in accordance with the approved details.

Reason: To ensure an acceptable form of development in terms of the arrangements to manage traffic during construction works at the site.

20. Unless otherwise agreed in writing by the Council, as Planning Authority in consultation with the Roads Authority, works to modify the public road at Lea Road and to form a new turning head shall be completed and opened to the public prior to the commencement of any other part of the development located to the north of Lea Road (Block 1, Plots 1 to 9).

Reason: To ensure the provision of roads infrastructure is provided at an appropriate stage of the development in the interest of road safety.

21. Visibility splays of 2.4 metres by 43 metres shall be provided at all accesses and junctions from the development onto the public road and at the junction of Caroline Street with Lea Road. The visibility splays shall be maintained clear of any obstruction above 0.6 metres in height, measured from the level of the carriageway.

Reason: To ensure an acceptable standard of development is provided throughout the development site at all times in the interests of road safety.

22. No house or flat shall be completed until the car parking and cycle storage associated with it has been provided and is thereafter maintained for this purpose unless otherwise agreed in writing by the Council, as Planning Authority, in consultation with the Roads Authority.

Reason: To ensure adequate parking provision is provided and maintained available for use associated with each house or flat.

23. No tree felling shall commence on site until a woodland planting scheme to compensate for the removal of 0.324 hectares of woodland from the site has been submitted to and approved in writing by the Council, as Planning Authority in consultation with Scottish Forestry. The replanting scheme must comply with the requirements set out in the UK Forestry Standard (Forestry Commissions, 2011. ISBN 978-0-85538-830-0) and the guidelines to which it refers. The scheme submitted for approval must include:-
 - a) details of the location of the area to be planted (which must be within Moray);
 - b) details of land owners and occupiers of the land to be planted;
 - c) the nature, design and specification of the proposed woodland to be planted (to be mixed native species, at minimum stock density of 1600 trees per hectare);
 - d) details of all necessary consents for the Replanting Scheme and timescales within which each shall be obtained;

- e) the phasing and associated timescales for implementing the Replanting Scheme;
- f) proposals for the maintenance and establishment of the Replanting Scheme, including; annual checks; replacement planting; fencing; ground preparation; and drainage etc; and
- g) proposals for reporting to Moray Council on compliance with timescales for obtaining the Necessary Consents and thereafter implementation of the Replanting Scheme (to be carried out by a suitably qualified person(s) with relevant forestry qualifications, technical abilities and experience e.g. chartered forester).

The approved Replanting Scheme shall thereafter be implemented in full and in accordance with the phasing and timescales set out therein, unless other arrangements are agreed in writing by the Council, as Planning Authority in consultation with Scottish Forestry.

Reason: In order to ensure compensatory woodland planting is provided to mitigate for that lost as a result of the development.

24. No development shall commence until additional information and plans regarding the biodiversity enhancement measures outlined within the submitted Design and Access Statement (Revision 4, Section 5.6 refers) dated March 2021 and Environmental Survey dated 5th February 2021 (Sections 22 and 23 refer) have been submitted to and approved in writing by the Council, as Planning Authority. This shall include details of locations and timescales for the provision of the proposed rain gardens, bat and bird boxes, insect hotel, hedgehog highways, butterfly bank, berry bearing trees and shrubs, and wildflower planting.

Thereafter, the development shall be carried out in accordance with the approved details and timescales.

Reason: In order to ensure provision of the biodiversity enhancement on the site as this information is lacking from the submissions.

25. No development shall commence until a scheme for the provision of one item (minimum) of inclusive play equipment at the Bogton Play area has been submitted to and approved in writing by the Council, as Planning Authority, unless alternative arrangements are agreed. This shall include details of siting, timescale for provision (to be installed upon completion of the 24th residential unit), supply, delivery and installation of one item of Inclusive Play Equipment and its associated safety surfacing which meets BSEN11776 and BSEN 1177, which is suitable for children aged 5 to 12 years old that allows for a structured way of providing active, developmental play. It must blend in and work with other areas of the site and provide playtime and rewards for good performance. Thereafter, the development shall be implemented in accordance with these approved details, unless otherwise agreed in writing by the Council, as Planning Authority.

Reason: In order to ensure the timely provision of inclusive play equipment at an agreed/acceptable location at the Bogton Play area.

Reason(s) for Decision

The Council's reason(s) for making this decision are:-

The proposal is considered to be an acceptable departure from the requirements of policies PP1, DP1 & EP5 of the MDLP 2020 for the following reasons:

- This opportunity site OPP1 Caroline Street designated in the MLDP forms part of a brownfield, derelict site (former Tesco site) and a former gas works (contaminated land). This land has been vacant for a significant period of time (approx. 18 years). The re-development of this site for affordable housing in close proximity to the town centre has a unique set of circumstances. Considerable weight has been attached to this when balancing all other material considerations and departure issues set out below.
- The departure from adopted car parking standards (shortfall of 8 visitor spaces and reduced standard for the proposed three 4-bedroomed dwellings from 3 to 2 car parking spaces) and the layout/arrangement of parking (50% of parking to side and rear – behind building line) is justified in this unique set of circumstances, taking into account the following material considerations for the proposal;
 - proposed tenure (all affordable housing)
 - constrained nature and shape of brown field site
 - site layout and mitigation of some hedging and landscaping backdrop
 - close proximity and access to local car parks
 - location in close proximity to Forres town centre reducing the need for car journeys to make visits to shops, local services
 - high level of accessibility to local public transport network i.e. bus stops and train station
- The departures in terms of place making and open space policies PP1, DP1 & EP5 have been addressed through the imposition of a suite of planning conditions with the exception of 2.7% shortfall of open space and no functional play area. The open space that has been proposed includes the incorporation of three separate rain gardens to accommodate SuDs drainage in a sustainable manner and landscaped seating areas. Seating and landscaping have been incorporated to make these areas attractive and useable but in a different way to that of a pocket park i.e. kick about space. The site is however, in close proximity (walking distance) to existing large areas of open space, which have play equipment (to be enhanced) and open space for play (kick about space – football) at Bogton Road and land adjacent to the Mosset Burn. The combination of these unique set of circumstances makes this departure acceptable despite being regrettable.

The site layout and density is appropriate to the location, can be adequately serviced and will not adversely affect the surrounding area in terms of amenity and environmental impact. In all other respects the proposal accords with the Moray Local Development Plan 2020 and there are no material considerations that indicate otherwise.

List of Informatives:

THE DEVELOPMENT MANAGEMENT & BUILDING STANDARDS MANAGER has commented that:-

This development is subject to a S.75 legal agreement in regard to arrangements for payment of developer obligations to address the impact of the development upon healthcare and sports and recreation facilities, to be payable in instalments.

Construction/demolition works have the potential to disturb nesting birds or damage their nest sites, and as such, checks for ground nesting birds should be made prior to the commencement of development if this coincides with the main bird breeding season (April - July inclusive). All wild bird nests are protected from damage, destruction, interference and obstruction under the Wildlife and Countryside Act 1981 (as amended). Some birds (listed on schedule 1 of the Wildlife and Countryside Act) have heightened protection where it is also an offence to disturb these birds while they are in or around the nest. For information please see: www.snh.org.uk/publications/online/wildlife/law/birdseggs.asp

A Building Warrant will be required for the proposals. Should you require further assistance please do not hesitate to contact Building Standards, Environmental Services Department, Council Office, High Street, ELGIN IV30 1BX or by telephoning 01343 563243.

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:

Before commencing development, the applicant is obliged to apply for Construction Consent in accordance with Section 21 of the Roads (Scotland) Act 1984 for new roads. The applicant will be required to provide technical information, including drawings and drainage calculations, and provide a Road Bond to cover the full value of the works in accordance with the Security for Private Road Works (Scotland) 1985 Regulations. Advice on this matter can be obtained from the Moray Council web site or by emailing transport.develop@moray.gov.uk

Before commencing development the applicant is obliged to apply for permission to modify the existing public road, in accordance with Section 56 of the Roads (Scotland) Act. The applicant will be required to provide technical information, including drawings and drainage calculations, a programme for the proposed works. Advice on the application process can be obtained by emailing transport.develop@moray.gov.uk

Construction Consent shall include a CCTV survey of all existing roads drainage to be adopted and core samples to determine the construction depths and materials of the existing road. Any requirement for a Stage 3 or 4 Road Safety Audit will be determined through the Roads Construction Consent process or subsequent to the road construction prior to any road adoption.

Planning consent does not carry with it the right to carry out works within the public road boundary and the applicant is obliged to contact the Transportation

Manager for road opening permit in accordance with the Roads (Scotland) Act 1984. This includes any temporary access joining with the public road.

The provision of Electric Vehicle (EV) chargers and/or associated infrastructure shall be provided in accordance with Moray Council guidelines. Cabling between charging units and parking spaces must not cross or obstruct the public road including footways. Infrastructure provided to enable EV charging must be retained for this purpose for the lifetime of the development unless otherwise agreed in writing by the Planning Authority.

Any street furniture which needs to be repositioned will be at the expense of the developer. Advice on these matters can be obtained by e-mailing transport.develop@moray.gov.uk

Street lighting will be required as part of the development proposal.

Private Roads - A responsible party, constituting the road manager, must be nominated for a private road and this information included within the National Gazetteer through the Scottish Road Works Register (SRWR).

No building materials/scaffolding/builder's skip shall obstruct the public road (including footpaths) without permission from the Roads Authority.

The applicant shall ensure that their operations do not adversely affect any Public Utilities, which should be contacted prior to commencement of operations.

The applicants shall free and relieve the Roads Authority from any claims arising out of his operations on the road or extension to the road.

The Transportation Manager must always be contacted before any works commence.

This includes any temporary access, which should be agreed with the Roads Authority prior to work commencing on it.

No retaining structures or embankments shall be constructed along the edge of the road, whether retaining the public road or ground adjoining the public road without prior consultation and agreement of the Roads Authority.

SCOTTISH WATER has commented that:

See attached Scottish Water consultations dated 23 November 2020 and 26 May 2021.

The SCOTTISH ENVIRONMENT PROTECTION AGENCY has commented that:

See attached consultation responses dated 11 December 2020 and 27 April 2021.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

Reference No.	Version No.	Title/Description
P(90)001		Location plan
P(94)050	1	Hedging in car park areas
137132/1005	D	Swept path analysis
137132/1006	B	Swept path analysis
011	A	Character areas
P(90)020		Daylight analysis
137132/2/2201	D	Drainage Strategy Adoption Plan
137132/2/2202	B	Development Areas and Surface Water Discharge rates
P(90)006	F	Parking analysis
P(00)002	D	Block 1 - elevations
P(00)011	B	Block 2 - 3 - elevations
P(00)001	D	Block 1 - floor plan
P(00)010	C	Block 2-3 - floor plan
P(00)012	D	Plots 10 and 12 - elevations and floor plans
P(00)008	C	Plots 41 - 43 - elevations and floor plans
P(90)003	K	Proposed site layout
P(90)004	E	Proposed street elevations
P(90)007	A	External bin store
P(90)008	A	External store details
P(90)011	C	Open space analysis
137132/1500	B	Proposed site level information
P(90)013	B	Proposed street sections
137132/9900	A	Utilities and services plan
P(00)018	A	Plots 27–28 - elevations and floor plans
P(00)017	A	Plots 23-26 - elevations and floor plans
P(00)019	A	Plots 29-30 - elevations and floor plans
P(00)020	A	Plots 31-32 - elevations and floor plans
P(00)021	A	Plots 33- 34 - elevations and floor plans
P(00)022	A	Plots 35-36 - elevations and floor plans
P(00)023	A	Plots 37-38 - elevations and floor plans
P(00)024	A	Plots 39-40 - elevations and floor plans
P(00)025	A	Plots 44-46 - elevations and floor plans
P(00)026	A	Plots 47-48 - elevations and floor plans
P(94)001	C	Proposed landscape layout (Sheet 1 of 5)
P(94)002	C	Proposed landscape layout (Sheet 2 of 5)
P(94)003	C	Proposed landscape layout (Sheet 3 of 5)
P(94)004	C	Proposed landscape layout (Sheet 4 of 5)
P(94)005	C	Proposed landscape layout (Sheet 5 of 5)
137132/2/2200	D	Drainage Strategy

Additional Information to be issued with decision:

Scottish Water Consultations dated 26 May 2021 and 23 November 2020
SEPA consultations dated 27 April 2021 and 11 December 2020

Remediation Strategy by Fairhurst dated November 2020 Issue 2, Remediation
Strategy Drawings and Summary of Remediation Strategy
Tree Survey Report dated 30 March 2021 by Astell Associates
Noise Impact Assessment dated 16 March by Vibrock Ltd
Design and Access Statement
Environmental Survey dated 2 February 2021 by Astell Associates
Landscape Maintenance Schedule Revision B



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:
20/01455/APP

Site Address:
Site at Caroline Street
Forres

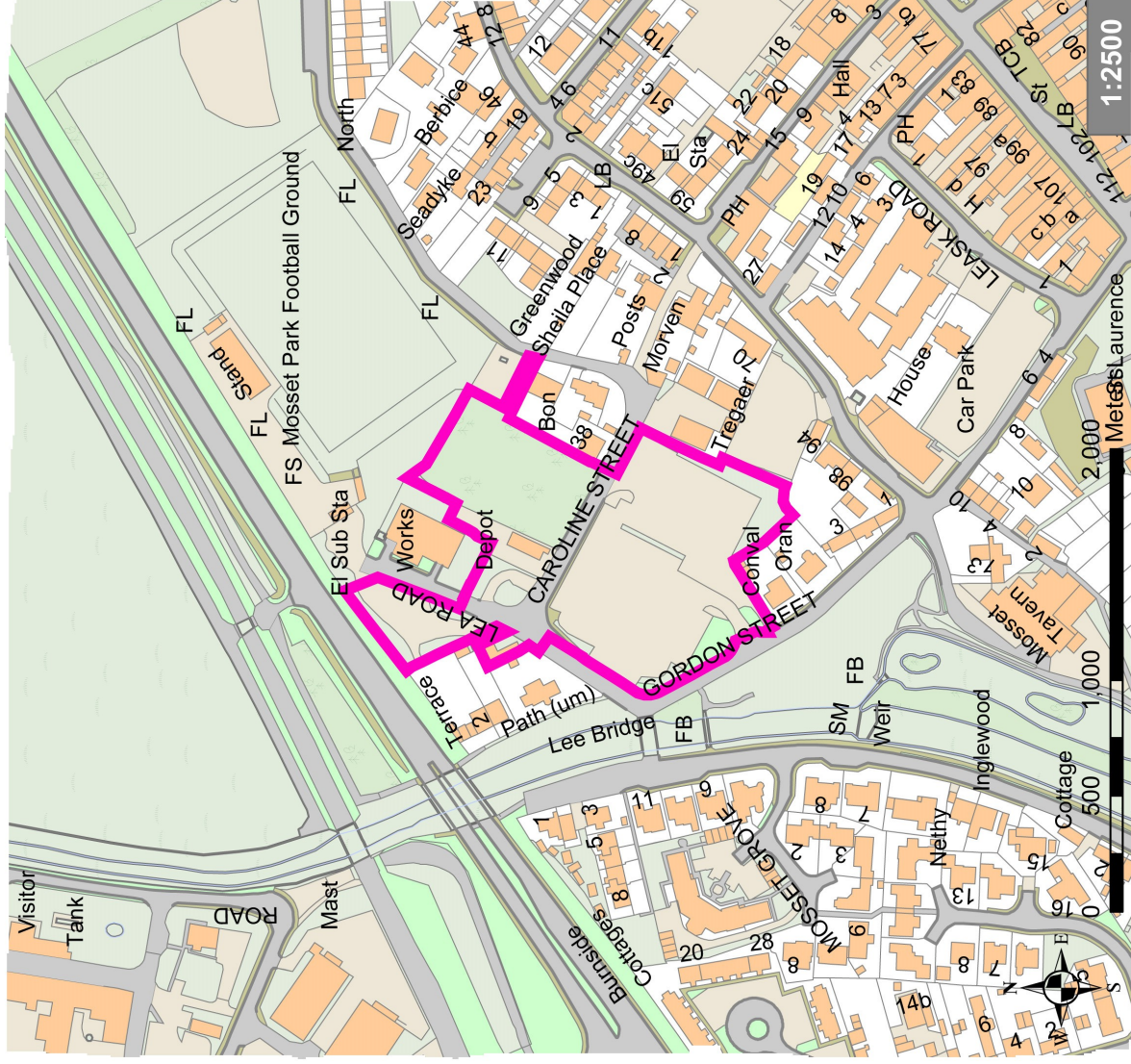
Applicant Name:
St Machar Properties Limited

Plans, drawings and other material submitted to the local authority are protected by the Copyright, Designs and Patents Act 1988 (section 47). You may only use material which is downloaded and/or printed for consultation purposes, to compare current applications with previous schemes and to check whether developments have been completed in accordance with approved plans.

Further copies must not be made without the prior permission of the copyright owner.

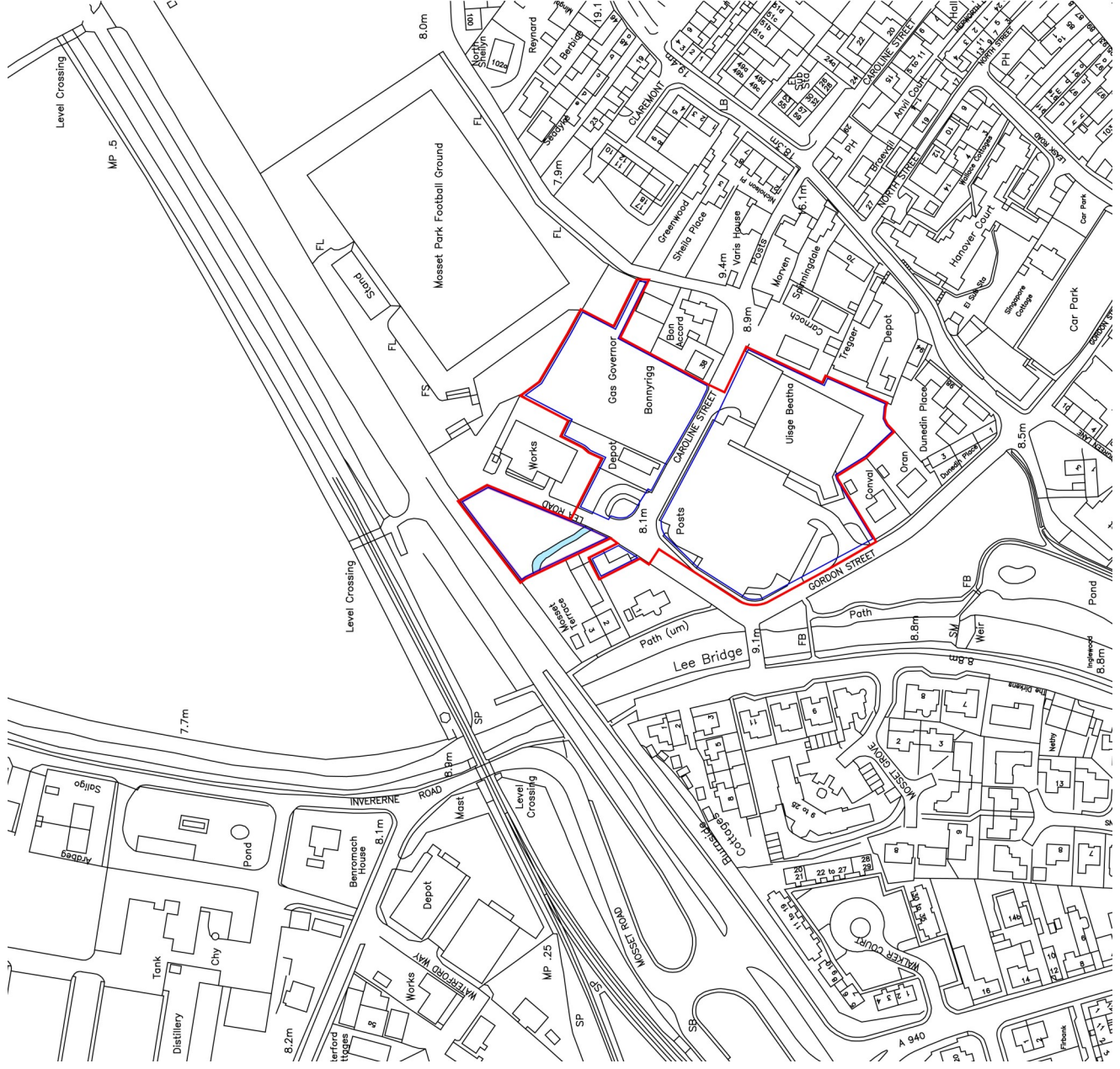
Maps shown in the Planning Committee Report can only be used for the purposes of the Planning Committee. Any other use risks infringing Crown Copyright and may lead to prosecution or civil proceedings. Maps produced within this Planning Committee Report can only be reproduced with the express permission of the Moray Council and other Copyright holders. This permission must be granted in advance.

Location Plan



The map displays the Mosset Park area, characterized by a mix of residential streets and industrial/commercial sites. Key features include:

- Streets:** Mosset Road, Gordon Street, Caroline Street, Lee Road, Invererue Road, and Waterford Way.
- Landmarks:** Mosset Park Football Ground, Gas Governor, Works, Depot, and various residential buildings.
- Infrastructure:** A railway line with level crossings, a canal, and a bridge (Lee Bridge).
- Boundaries:** A red line highlights a specific route or boundary within the area.





PROHIBITED FOR THE USE WITH PLANNING APPLICATIONS
 Reproduced from the Ordnance Survey map with the permission of the Controller of Her Majesty's Stationary Office Crown Copyright 2021. The Moray Council 100023422

Reproduced from the Ordnance Survey map with the permission of the Controller of Her Majesty's Stationary Office Crown Copyright 2021 The Moray Council 100023422

Scale: 1:1,250 @ A4



Photo 1—Caroline Street



Photo 2—South Area



Photo 3—South Area



Photo 4— North west area from Lea Road



Photo 5— South area from Lea Road



Photo 6— South area from Gordon Street



Photo 7— North East Area



Photo 8 — North East Area



PLANNING APPLICATION: 20/01455/APP

In the event that a recommendation on this planning application is overturned the Committee is reminded of the advice contained on the front page of the agenda for Reports on Applications

THE PROPOSAL

- This application seeks planning permission for a proposed residential development of 48 affordable residential units (19 flats and 29 houses) on Opportunity Site OPP1 Caroline Street with associated landscaping and infrastructure. This includes areas of landscaped open space, street trees, rain gardens/SuDs drainage, courtyard parking, EV charging, cycle storage, a cycleway and footpaths.
- The proposed site layout comprises three areas: Area 1, located within the northwest part of the site at the north end of Lea Road containing a block of flats (Block 1), Area 2 within the northeast area of the site north of Caroline Street comprising two attached blocks of flats (Block 2 and 3) and two terraced blocks, and Area 3 within the southern part of the site between Caroline and Gordon Street, comprising two terraced blocks and eight pairs of semi-detached properties.
- Access would be via new accesses off Caroline Street and Lea Road.
- One flat and five house types are proposed – Flat Type 1 (19 no. 1 bed, 2 person in 2/3 storey blocks), House Type 1 (3 no. 3 bed, 6 person), House Type 2 (11 no. 3 bed, 6 person), House Type 3 (3 no. 4 bed, 7 person, wheelchair accessible), House Type 4 (5 no. 3 bed, 6 person) and House Type 5 (7 no. 3 bed, 6 person). All house types are 2 storey.
- The houses would have proposed finishes of white and beige/tan dry dash render, yellow/sandstone facing brick and grey concrete roof tiles and; the flats would have finishes of white dash render, timber cladding and grey corrugated metal roofing.
- The houses and flats will be connected to the public foul sewer and water supply.
- Site specific surface water drainage arrangements for each area, would comprise a mixture of rain gardens, filter trenches/porous paving and cellular storage units which would discharge to the existing combined sewer network or the adjacent watercourse.
- Ground levels on the site are proposed to be raised by up to 0.8m in the northeast area and up to 1.2m within the south area due to the requirement to import clean cover soil or growing medium as part of the remediation scheme for the site to address contamination on the site.
- Detailed landscape plans and associated open space/landscape design information for the site set out species, size, spacing and maintenance details for new planting within the open spaces, streets, communal areas and gardens, together with retention of existing trees (where technically feasible). An accompanying Tree Survey confirms the retention of a number of identified trees around the site edge (Birch, Willow, Sycamore, Ash and Korean Fir) which are to be supplemented with additional landscaping; this also confirms that the majority of trees on the site will require to be felled to accommodate the development.
- Supporting information includes a Planning Statement, Design and Access Statement, Environmental Interpretive Report and Remediation Strategy, Flood Risk Assessment, Drainage Assessment, Transport Assessment, Road Safety Audit, Tree

THE SITE

- The site extends to 1.42 hectares and forms the majority of the Forres OPP1 Caroline Street designation, identified in the adopted Moray Local Development Plan 2020.
- The site comprises 3 areas. The northwestern part of the site is currently hardstanding, used by adjacent commercial and residential properties for parking. The northeastern area (former gas works) is overgrown with trees and shrubs, with a derelict building present. The southern area was the former supermarket store and parking area. The building has been demolished, but car park and floor slab remain.
- Housing lies to the west/east/south, Mosset Park football ground to the north, the A96 to the west and the Mosset Burn and pond/open space to the south.
- The SEPA indicative flood map shows that the site is currently identified as being at 'little or no risk' from river flooding, although it has been subject of historical flooding in the past. The site also benefits from protection from the Forres (Burn of Mosset) Flood Alleviation Scheme.
- Core path FR42 runs through the site from Lea Road and Caroline Street, linking up to the High Street.
- The Forres Conservation Area lies adjacent and to the southwest of the site.

SITE HISTORY

17/01553/SCN - Proposed residential development (circa 60 affordable units), associated infrastructure and landscaping at land at Bogton Road and Caroline Street, Forres. Formal Screening Opinion adopted/issued (7 November 2017) where, under the Environmental Impact Assessment Regulations 2017 (EIA) and after taking account of the characteristics and location of the development and the characteristics of its potential impact, the proposal is a 'Schedule 2 development' but would not be likely to result in significant environmental effects, hence the proposal is not EIA development and formal EIA procedures are not required.

17/01417/PE – Preliminary enquiry for proposed residential development (circa 60 affordable units), associated infrastructure and landscaping at land at Bogton Road and Caroline Street, Forres. Response issued 30 October 2017.

16/00740/PAN – Proposal of Application Notice (PAN) for proposed residential development (affordable housing circa 80 units) and associated landscaping and infrastructure works. Following consideration of the PAN, the Planning and Regulatory Services Committee (meeting on 14 June 2016) advised that it had no comments to make at that stage. A public consultation event was subsequently carried out in 2017.

09/01111/OUT – Application for outline planning permission for re-configuration of and extension to town centre, including replacement and additional retail floorspace, a petrol filling station with forecourt shop, new road junction, related access for pedestrians cyclists and road vehicles parking and landscaping at Mosset Park, Lea Road, Forres – granted 12 June 2013. The current application site forms the southern part of this site.

POLICY - SEE APPENDIX

ADVERTISEMENTS

- Advertised for neighbour notification purposes and as a departure to the development plan.

CONSULTATIONS

Strategic Planning & Delivery – The proposal is for 48 affordable homes comprising a mixture of 2 bed flats and 3 and 4 bed terraced properties. The site is an identified opportunity site. OPP 1 Caroline Street is in close proximity to Forres High Street and enclosed by residential properties, a light industrial use and the Forres Mechanics football ground. This brownfield site contains a former gas works and is the site of a former Tesco store that has been demolished, there are known contaminated land issues.

PP1 Placemaking and DP1 Development Principles

A number of iterations of the design have been submitted and revised following numerous discussions with the applicant's design team in order to address the requirements of PP1 Placemaking. This response should be read in conjunction with the detailed Quality Audit (QA).

A QA was undertaken and the key issues arising are as follows:

Character and Identity

In the final version of the design two character areas have been identified and are distinguished through different coloured street materials within the parking courts, different types of hedging and use of metal gates and metal street furniture in one area and wooden in the other. However, there is insufficient variation in the choice of building materials, colour palette of materials for buildings and use of varied landscaping within the character areas to create a distinct character and identity for each character area. In order for the proposals to comply with Policy PP1, material choices, colouration of materials and variation within landscaping proposals across the two character areas must be addressed. If the proposal were to be recommended for approval this must be delivered through condition.

Car Parking

The layout and arrangement of parking spaces fails to provide 50% of parking to the side and rear behind the building line. The majority of parking is accommodated in two parking areas within an internal street to the rear of the houses. Efforts have been made to mitigate the impact of parked cars on the streetscene, where technically feasible hedging has been provided to break up every 4th space. The topography of the site results in a rise in levels in the southern portion of the site and this has meant it isn't possible to deliver hedging in this location breaking up every 4th space.

The proposals are considered an acceptable departure from the side and rear parking requirement due to the constrained nature of this brownfield site with immediately adjacent neighbouring properties that limit opportunities to reconfigure the layout. The lack of hedging at an interval of every 4th space in the southern

portion of the site is also an acceptable departure as the difference in levels in this location prevents the hedging mitigation being achieved at an interval of every 4th space. Car parking in this location also benefits from hedging along the rear of the spaces as well as the backdrop of a landscaped amenity area that will help soften the impact of parked cars.

Landscaping and Open Space

The open space provided within the site fails to meet the minimum 15% requirement and instead 12.3% is proposed. On the basis that this development is at the higher end of the 10-50 units which requires to provide a minimum of 15% open space, this shortfall is unacceptable. A quality assessment of the open space was undertaken as part of the QA process and the proposed open space failed to meet the 75% score to be considered high quality open space, more detail is set out within EP5 Open Space.

In addition to this as part of the QA process the need for an equipped play space was identified and must include inclusive equipment suitable for all. An equipped play space has not been provided and there is insufficient space within the largest open space to accommodate one due to the size and positioning of the rain garden. Again more detail is set out within EP5 Open Space.

Detailed landscaping plans and supporting maintenance schedules have been provided and the applicant is proposing a variety of tree, shrub and bulb planting as well as planting for the rain gardens. As identified above, these proposals do not reinforce character areas and a condition must be applied to deliver the required variation across the site if the proposals are recommended for approval. Avenue tree planting along all routes has been provided within the front gardens of properties and these trees will need to be safeguarded by condition if approval is recommended. The accompanying landscaping schedule references girths of 16-18cm and this needs to be amended to 18-20cm to deliver semi mature trees, this can be dealt with by condition if the proposals are to be recommended for approval.

The amended drainage strategy includes rain gardens within open spaces to create blue/green networks within the site and helps in delivering multi-functional open space. Additional planting has also been provided to improve amenity value of the other smaller areas of open space.

Overall, the proposals fail to meet the requirements of PP1 as the proposal fails to provide the minimum 15% open space or high quality open space required and therefore does not meet either the quantity or quality standards. In addition to this the development fails to provide a play space, the need for which was identified as part of the QA process. As highlighted above there is a lack of variation across the choice of building materials and colour palette etc. and variation in landscaping proposals, if recommended for approval this must be addressed by condition.

PP3 Infrastructure and Services

The proposal has incorporated the required electric vehicle car charging points and provided confirmation of ICT and fibre optic broadband connections to all homes. A utilities plan has also been submitted to accompany the proposals.

DP2 Housing

The proposal is for 100% affordable housing. Proposals must provide 25% of the

total units as affordable housing however a higher percentage contribution will be considered subject to funding availability. The Housing Strategy Development Manager has raised no objections to the 100% affordable housing development or the proposed housing mix.

EP2 Biodiversity

Detailed landscaping plans have been submitted and have been annotated with proposals for biodiversity enhancement across the site that include native species landscaping, wildflower planting, provision of rain gardens, hedgehog highways, bat and bird boxes, an insect hotel and butterfly bank. These measures are considered appropriate to the site and meet the terms and intention of the policy which is to enhance biodiversity.

EP5 Open Space

EP5 requires open space within new developments to meet standards for quantity, quality and accessibility to ensure the delivery of multifunctional open space. The proposal fails to provide the minimum threshold of 15% open space and instead proposes a reduced provision of 12.3%. Originally this threshold was met with 17% open space provision, however the parking arrangement had to be amended to address a shortfall in parking spaces which led to the largest area of open space within the development being reduced in size. The deficit of open space could be addressed by reducing the number of houses and increasing the open space within the development.

In addition to the shortfall in open space an equipped play space has not been provided and cannot be accommodated on site within the current layout. The applicant has advised a play space is not required as the site is mainly for older people, however given there are 29 three and four bedroomed homes proposed on site this justification is not accepted. If recommended for approval a condition must be applied requiring the provision of inclusive play equipment off site at Bogton.

In terms of the quality element of open space provision as part of the QA process the open space is assessed and must achieve a very good quality score of no less than 75%. The proposals were assessed against the criteria as part of the QA process and scored 67%. Despite scoring well in terms of biodiversity enhancement on site the open space is dominated by rain gardens and there are limited opportunities for other activities such as play. It should be noted that the previous arrangement with 17% open space provision and a larger area of open space with seating areas adjacent to Lea Road was considered better and addressing the shortfall of car parking has been to the detriment of open space provision. As stated previously reducing the number of houses and increasing open space provision could address this issue.

The proposals fail to meet both the quality and quantity standards set out within Policy EP5 and fails to deliver a play space when a need for one has been identified through the QA process.

EP7 Forestry, Woodland and Trees

Under the terms of EP7 as the area of woodland proposed for removal is 0.324 ha and exceeds 0.1 ha threshold it is considered under the terms of part c) of the policy relating to permanent woodland removal. Woodland removal will only be permitted where it would achieve significant and clearly defined additional benefits (excluding

housing).

A supporting tree survey and supplementary information prepared by an arboriculturist has been provided justifying tree removal. The trees on the old gas works site need to be removed to allow removal of the contaminated subsoil. In addition to this many of these existing trees are unstable and blown over due to the shallowness of the topsoil. New trees will be planted in deeper topsoil leading to better quality landscaping and biodiversity value. There are clear and significant environmental and health benefits associated with the remediation of contaminated land that justifies woodland removal.

Some of the individual trees around the periphery of the former Tesco site are technically unfeasible to retain as they require to be removed to provide access and avoid impacting on visibility splays. Where possible trees have been retained and are to be supplemented with additional planting. The justification for the removal of individual trees and woodland in both cases is accepted and will have to be mitigated by compensatory planting.

Contrary to policy, no proposals for compensatory planting have been submitted and it is clear that the required woodland planting cannot be accommodated within the current layout. The applicant has advised that approximately 90 trees will be replacing the 60 proposed for removal. It should be noted that street trees and landscaping required to meet a separate policy requirement, in this case PP1 Placemaking, are not considered to constitute compensatory planting to mitigate the removal of the area of woodland. Given the inability to accommodate compensatory planting on site the applicant will need to agree to the provision of off-site compensatory planting elsewhere in Moray, otherwise the proposals will fail to satisfy policy requirements. It is understood that this can be dealt with by condition if the proposals were recommended for approval.

Conclusion

While there is strong policy support for the redevelopment of this site, development on brownfield and greenfield sites must achieve the placemaking requirements of the Moray Local Development Plan 2020. The applicant was made aware of these policy requirements throughout the design process.

As set out above the proposals as submitted fail to meet the requirements of policies PP1, DP1 and EP5 as the open space provision fails to meet both quality and quantity standards required to deliver high quality multifunctional open space.

Developer Obligations – A developer obligations assessment has been carried out to consider the impact of the development upon local infrastructure; this confirms that obligations are required towards healthcare and sports and recreation. The applicants have confirmed that they are agreeable to the contributions which will be secured through a S.75 legal agreement.

Transportation Manager – No objection subject to conditions regarding provision of Electric Vehicle (EV) charging infrastructure, road/footway improvements between the site and junction of Caroline Street with Bogton Road, a Construction Traffic Management Plan, works to modify the public road at Lea Road and to form new turning head, acceptable visibility splays at all accesses/junctions and provision of car parking and cycle storage.

The Transportation Manager's consultation response contains the following detailed comments on the proposals in relation to connectivity, car parking, site layout, access and required transport improvements. The response also describes the surrounding road and path network in detail.

The site is located within 5 minutes walking distance of the nearest bus stops and services which are located on Forres High Street. (Approx 330m via Gordon Street and 400m via Caroline Street).

No proposals for play areas are included within the development and the closest facilities are located approximately 380 metres to the East on Bogton Road. Access to these facilities would currently require walking approximately 100 metres on road via Caroline Street and Bogton Road.

The site is also located within the Andersons Primary and Forres Academy school catchment areas, the most direct routes to the catchment primary school are via Caroline Street and either High Street or North Road. There are currently no existing footways for pedestrians walking from the development site to North Road via Caroline Street. The alternative route on footways via Gordon Street requires multiple road crossings and would increase the walking distance by up to 300m to avoid the 30 metre gap in the footway on the most direct route.

Both Caroline Street and Gordon Street are likely to be desire lines for pedestrian journeys to and from the site dependent on their destination however, Caroline Street is likely to be the desired route taken for school trips and for access to the larger retail shops at the east end of the High Street.

Pedestrian Connectivity/Road Safety

Development North of Caroline Street

A path is proposed through the development located to the north of Caroline Street which would connect Bogton Road to Caroline Street via a continuous 2 metre footpath. Whilst this does not provide a continuous off road path to the existing play area located off Bogton Road due to the constraints at the existing Gas Governor and other property boundaries located adjacent to the path link to Bogton Road, it would reduce the walking distance on road to 19 metres which is an improvement on the current situation. Given the constraints and the wider benefits this development will provide in terms of the path networks, Transportation officers consider the proposal to be acceptable.

The footway shown on the north side of Caroline Street adjacent to the site frontage terminates to the east at right angles to the road. The proposed detail is not accepted and would need the kerblin to be tapered, Transportation recommends that this should be addressed through planning conditions.

Development South of Caroline Street

The development proposals indicate provision of a new 3 metre wide 'Corepath' along the site frontage onto Caroline Street. This path terminates at the south eastern boundary of the site at a wall boundary with No. 37 Caroline Street. Under the current proposals Pedestrians would need to leave the footway and walk in the road for approximately 30 metres to reach the no through road section of Caroline Street which leads to Forres High Street.

Transportation officers advised that modifications to the existing public road should be provided and assessed (swept path analysis and Road Safety Audit) to demonstrate provision for a segregated path connection between the proposed site paths and the no-through section of Caroline Street. No proposals for improvements have been provided by the applicant. The Road Safety Audit submitted in support of the application acknowledges the termination of the path and recommends dropped kerbs and corduroy type paving to identify this to users and mitigate a safety issue with the proposals. Whilst the mitigation addresses the safety issues in isolation it is not the function of a Road Safety Audit to consider the wider connectivity issues and opportunities to enhance accessibility.

Transportation officers acknowledge that it will not be possible to achieve a continuous 3m path within the existing constraints, however it is officers view that subject to taking account of the constraints, further improvements could be made within the existing public road extents to enhance provision for pedestrians at this location therefore this issue is recommended to be addressed by planning condition.

Large Vehicle Access/Servicing

Moray Council refuse collection policy is to service developments from the public road wherever possible and to avoid the need to reverse refuse collection vehicles for health and safety reasons. In order to service the development on the north and south of Caroline Street, refuse collection vehicles would require to enter private parking areas and perform reversing manoeuvres within the proposed development. In order to mitigate the risk of reversing refuse collection vehicles, segregated paths are provided which will allow pedestrian movements through these car parking areas without the need to walk in the space shared with vehicles.

The Transport Statement submitted in support of the application includes provision of vehicle swept paths for refuse collection vehicles within the parking areas which demonstrate that the swept paths for turning of current Moray Council refuse collection vehicles can be accommodated.

Servicing of the development area to the north of Lea Road the proposals show a change in the existing public carriageway from approximately 7.3m to 5.5m but with the addition of a 2 metre footway on the north/west side of the road. A turning head is included which is sufficient for the proposed development and the proposals represent an improvement to the existing public road in terms of its edge construction and formalised turning facilities. Details of vehicle swept paths provided within the Transport Statement show that coaches and articulated HGV's serving the stadium and the adjacent commercial business could still turn within land adjacent to the Forres Mechanics Football stadium which is currently already used informally for that purpose.

Lea Bridge

Whilst there is an existing weight restriction on the Lea Bridge, the development would be accessible via a number of different routes in the event of a bridge closure or replacement. Transportation do not consider it proportionate or reasonable to seek the replacement of, or a developer contribution towards, the replacement of the existing bridge given the nature of the development. During construction however a Construction Traffic Management Plan would be required to take account of the bridge constraint and the management of traffic and delivery vehicles via alternative routes. This requirement can be addressed through planning conditions if recommended for approval.

Development Impact/Transport Statement

Transportation consider that the scale of the development in this location and the level of traffic generation from the proposed development does not require capacity assessment of junctions on the local road network.

Parking

Parking Requirement

Area	House Mix	House/Flat Spaces (Required)	Proposed	Shortfall (-ve)/ Excess (+ve)
Caroline Street North	6 (3 bed houses) 1 (4 bed house) 10 (1 bed flats)	24 spaces	26 spaces	+2 space
Caroline Street South	20 (3 bed houses), 2 (4 bed houses)	44 spaces	30 Communal spaces 12 On Plot spaces	-2 spaces
Lea Road	9 (1 bed flats)	9 spaces	12 spaces	+3 spaces
TOTAL	48 Houses/Flats	77 spaces	80 spaces	+3 spaces

The parking analysis submitted in support of the application shows the location of spaces allocated to each house or flat. Given the limited number of 4 bedroomed properties, location of the site, accessibility to local shops services and public transport Transportation have, in discussion with the applicant, agreed a reduction in the allocated parking requirement for 4 bedroom houses from 3 spaces to 2. This is reflected in the table above.

Whilst the development would satisfy the parking requirements for each household as agreed with officers and provide an additional 3 spaces above this, the proposals would represent a departure in terms of the visitor parking standards which are based on 1 space per 4 house/flat (Lea Road (2) spaces), Caroline St North (4 spaces) and Caroline St South (5 spaces)). The net shortfall in visitor parking based on the proposed layout and standard is 8 spaces. Given the tenure, site layout, location in proximity to the town centre, shops, services and public transport and availability of public car parking within the town centre Transportation consider the proposal to be acceptable in terms of parking provision.

Cycle Parking

Cycle storage provision is indicated on the proposed site layout, the locations and indicated quantity is acceptable to Transportation.

Electric Vehicle Charging (EV)

The proposals indicate provision for EV charging infrastructure (post locations) to serve allocated parking spaces within communal parking areas. No details are provided for either the provision of or future infrastructure provision for EV charging at house plots with on-plot parking. Transportation however consider the details submitted to be acceptable subject to inclusion of a planning condition requiring further information for the provision of EV charging infrastructure.

Street Engineering Review (SER)/Roads Construction Consent (RCC)

The SER states on Page 5 in the 3rd para under “Parking Provision” that

“As noted in the Transportation Statement, 92 car parking spaces is considered to be more than is necessary for a site formally within the Town Centre boundary (where zero parking development is permitted) due to the accessibility of the location which will lead to reduced car dependency.”

Transportation wish to note that the statement above is considered to be incorrect. Whilst the site was ‘formerly’ within the defined Town Centre under the 2015 Moray Local Development Plan, at that time under the 2011 Moray Council Parking Standards Town Centre ‘Zero Parking’ was limited to ‘*Renovation/change of use of existing building up to 5 units*’ and therefore the policy for zero parking at that time would not have been applicable to a similar development as this at that time.

For clarity, the development lies outwith the designated town centre boundary as defined in the current 2020 Moray Local Development Plan. The ‘zero parking’ rate for the 2020 Moray Local Development Plan parking standards only applies within the town centre and in those cases would be limited to renovation/change of use of existing buildings and there is no allowance for new build.

Road Design

Current best practice recommends that the detailed design for Roads Construction Consent is developed in parallel with the planning application to ensure proposals are achievable and comply with design standards. No detailed design has been received for the proposed changes to the existing public roads at this time.

Transportation officers consider that the remaining road design issues can be addressed through Planning Conditions and as part of the separate statutory process required for Roads Construction Consent.

Environmental Health Manager – No objection subject to conditions controlling construction working hours, and the submission/approval of details of the 2.3m high acoustic barrier along the northern site boundary adjacent to Block 1 and glazing/ventilation requirements for living apartments closest to the trunk road, as recommended within the submitted Noise Impact Assessment, and thereafter provision in accordance with these details.

Environmental Health, Contaminated Land - No objection, subject to a condition requiring implementation of remedial measures in accordance with the submitted Remediation Strategy, and submission/approval of information prior to the respective works including a materials management plan, a technical specification for a scheme to provide protection against the ingress of harmful vapours, details of source of imported material for use as clean cover, and thereafter prior to occupation, a validation report confirming that all remedial works have been completed in accordance with the agreed details to be confirmed by the Council, as Planning Authority.

Environmental Protection Manager – The application has minimal open space and therefore nearby open space should be upgraded to improve paths and general amenity. Application should include either a play area or improve existing facilities at Bogton Road.

Moray Access Manager – Notes that application proposes to upgrade core path FR42 within the site linking Lea Road, Caroline Street to High Street as an active travel route with road pavements provided to the standard of a cycle path specified by Moray Council Transportation. Development will place added pressure on nearby Core Path network, specifically FR31 which should be improved to facilitate multi use between the main Bridge St Roundabout and the A96 (similar to other sections of this path that have already been improved i.e. unbound dust surface).

Transport Scotland – Does not advise against the granting of permission.

Moray Council, Housing & Property Manager - No objection, the housing mix is acceptable.

Moray Flood Risk Management - No objection.

Scottish Environment Protection Agency (SEPA) – No objection on flood risk grounds. Notes that the development site is protected by the Forres (Burn of Mosset) Flood Alleviation Scheme to the 1 in 200 year standard of protection.

Aberdeenshire Archaeology Services - No objection.

Scottish Water – No objections. Advisory comments confirming sufficient capacity currently within water and waste water treatment works, however further investigations may be required once a formal application is submitted to Scottish Water. Also highlights that the development proposals impact on existing Scottish Water assets and the need for diversion procedures.

Scotia Gas - No response at time of writing report.

OBJECTIONS-REPRESENTATIONS

NOTE: Following the determination of this application, name and address details will be/have been removed (i.e. redacted) in accordance with the General Data Protection Regulations (paragraph 3 of Minute, Planning & Regulatory Services Committee 16 September 2014).

One revised neighbour notification – period expires 10 August 2021

13 representations have been received from 10 parties:

Mr David Macarthur - 54 Highfield Forres Moray IV36 1FN - S

Mr Brian McMullen - The Nethy Invererne Road Forres Moray IV36 1DZ - O

Forres Mechanics Football Club Mosset Park Lea Road Forres Moray IV36 1AU - O

Miss Joanne Curry - 3 Mosset Terrace Lea Road Forres Moray IV36 1AL - O

Mr And Mrs Ian And Ann Tavendale - Oran Dunedin Place Gordon Street Forres IV36 1AJ – O

Ms Lindsay MacGregor - Bonnyrigg Bogton Road Forres Moray IV36 1BJ - O

AES Solar Limited - AES Solar Limited Lea Road Forres Moray IV36 1AU - O

Steven Clark And Alison Bernard - Uisge Beatha 37 Caroline Street Forres Moray IV36 1AQ - O

Alison Bernard - Uisge Beatha 37 Caroline Street Forres IV36 1AQ - O

Mr Steven Clark - Uisge Beatha 37 Caroline Street Forres Moray IV36 1AQ – O

Issue: Supports proposal, layout maintains a suitable green buffer with the A96 and football ground, notes development will be for older residents but will also provide important affordable housing for young people and families, non-provision of vehicular access onto Gordon Street is welcomed, layout includes a good amount of walking links, widening and improvements to pavements, design aesthetic makes sense includes features that characterise the town, includes walls and gateways, natural wood and stone finish to buildings, landscaping to break up parking spaces and green space welcomed.

Comments (PO): These comments are noted and have been taken into account in the consideration of this application.

Issue: Drainage impacts, football stadium is the lowest point in this area which is subject to pluvial flooding during heavy rainfall, concerned that the proposed development within the northeast area will cause further flooding in the stadium.

Comments (PO): The applicants have submitted a drainage impact assessment which addresses the matter of surface water from the site. This concludes that there are no particular issues, and Flood Risk Management having considered all material submitted has raised no objections to the proposal. Part of this assessment process is to ensure that surface water on site is appropriately managed and that post development flows are no greater than pre-development flows.

Issue: Parking impacts, the area marked as Block 1 on the proposed layout for many decades has been used as parking for football fans attending games at the Mosset Park and works vehicles in connection with AES Solar Systems, and development of this area will cause access issues and parking problems in surrounding streets during match days. Occupiers of properties on plots 37 to 40 with dedicated parking to the rear (shown some distance away) are likely to park to the front of their properties on Gordon Street causing congestion.

Currently limited parking at the Mosset Tavern resulting in vehicles parking on roads in the area, the proposal will lead to additional vehicles adding to congestion.

The proposed parking of 1 spot per property is not enough, when football matches are on contributor cannot exit own drive as this usually blocked.

Comments (PO): The use of this ground for parking by fans and AES Solar Systems vehicles is an informal arrangement only which could be denied by the applicant at any time as it is within their ownership and control. As such the current proposed development cannot reasonably be held accountable for this issue which is ultimately a private matter between the applicant and persons/parties parking vehicles. The Transportation Section has raised no objection to this particular element of the proposal.

A further consideration of note concerns the planning history for AES Solar Systems, specifically planning permission 18/00217/APP granted (and implemented) for alterations and extensions to these premises, which included the use of some of the parking on the football ground in accordance with an agreement between the football club and AES Solar during weekdays. This was the subject of a planning condition.

Should parking on public roads associated with the football ground or commercial premises become a problem or cause obstruction this would be a police matter.

In terms of parking impacts upon the wider area, the Transportation Section considers that the proposal can be accommodated on the site without adversely impacting the surrounding road network and road safety.

The proposed layout has been amended to increase the level of parking provision to 1 space per flat and 2 spaces per family dwelling (within courtyards and on plot parking) following discussions with the Transportation Section.

The layout has been amended to incorporate on-plot parking for six of the proposed dwellings, this includes plots 38 and 39 which front onto Gordon Street and will reduce the likelihood of occupiers of these properties having to park their cars on the street. The proposed layout has also been amended to ensure that access to the driveway of concern is retained and left unobstructed, ultimately this is a private matter between the applicant and contributor.

Issue: Access impacts, Lea Road is barely wide enough to allow two cars to meet safely, large vehicles and emergency services require access to the stadium and concerned that finished width of Lea Road will not be wide enough to allow safe access if residents park on the side of the road, the proposed site plan shows no turning facility at the end of Lea Road which will lead to vehicles accessing the development having to turn around in front of the turnstiles which could be dangerous for pedestrians on match days, requests that the developer be required to provide a turning circle on the site.

Construction of block 1 in front of AES Solar would impact turning and loading/unloading arrangements for HGV's and articulated vehicles visiting the site, causing risks to local residents, the public and staff, and economic impacts.

Comments (PO): The proposed layout at this location includes provision of a 5.5m wide carriageway along Lea Road which leads onto an area of rough ground at the entry to the Football Stadium, a 2m footway and following amendments a turning head to allow refuse vehicles, coaches and HGVs to turn. These access arrangements supported by swept path plans are compliant with Transport Standards and acceptable to the Transportation Section.

Issue: Concerns regarding contaminated site having previously been a scrap metal yard, gas works etc.

Comments (PO): The application has been supported by an Environmental Interpretive Report and Remediation Strategy (revised) which propose a range of remedial measures to ensure that the ground is made suitable for redevelopment. These include removal of contaminated material and buried structures, installation of gas/vapour membrane, barrier geotextile and importing clean cover soil. The Contaminated Land Section has reviewed this information and has raised no objection to the proposal subject to implementation of the measures outlined in the Remediation Strategy and submission/approval of further details.

Issue: Amenity concerns, the development will overshadow adjacent property and garden, affect privacy and be detrimental to personal health and mental health. Removal of trees and shrubs present on the site will remove visual screening to existing properties.

Windows and balconies of the proposed 3 storey apartment block (block 3) will overlook gardens of adjacent property, and new public footpath on higher ground alongside contributor's property will allow pedestrians using path to overlook garden due to low height of current boundary wall. Parking to Block 1 will look straight into garden of contributor's property.

Comments (PO): The proposed revised layout would provide sufficient separation between the proposed houses of concern within the eastern part of the site and existing adjoining housing to the east/northeast to maintain acceptable amenity levels (i.e. privacy and light) in accordance with policy DP1. To address concerns raised by officers and within the representations, this has involved reconfiguring the proposed dwellings on plots 47 and 48 to pull them forward/away from the neighbouring property, repositioning houses

on plots 22 and 23 away from the boundary to front onto Caroline Street and changes to the design of the 3 storey block to remove windows shown previously in the side (southeast) elevation.

Although removal of the majority of trees from the site will open it up visually this is required to facilitate the viable development of the site, the application includes boundary screen fencing where reasonably required to protect amenity.

Block 3 in terms of its position and orientation would be set away from neighbouring property and face onto the development site, although front facing windows and balconies ('Juliet' style comprising railings across windows) would afford some limited oblique views into the garden of concern these would not be so significant as to warrant refusal. Any overlooking impacts from users of the new public footpath alongside the contributor's property would be temporary/transient in nature and could occur now irrespective of development taking place.

Issue: The land is designated for commercial use only.

Comments (PO): The site forms the majority of the Forres OPP1 Caroline Street designation in the Moray Local Development Plan which is identified as being suitable for redevelopment for residential, commercial or retail purposes.

Issue: There is no need in Forres for more homes to buy, the town requires homes to rent.

Comments (PO): The proposed development is for 48 affordable units to be managed and operated by a Registered Social Landlord, and as such would not be sold on the open market.

Issue: Concerns regarding lack of adequate access for heavy plant into the area which would involve using the bridge across the Mosset Burn which is classed as a "Weak Bridge", the local road network is narrow and unsuitable for HGVs as it is a residential area, volume of construction traffic required during the remediation of the site will damage road surfaces along access routes, risks of damage to resident and business vehicle and property, impacts to local business caused by disruption to access routes and risk/impacts to pedestrian footfall.

Comments (PO): The Transportation Section is content that the surrounding local road network is capable of accommodating construction traffic associated with this development without adverse impacts on road safety or the network itself. Whilst there is an existing weight restriction on the Lea Bridge the development would be accessible via a number of different acceptable routes in the event of a bridge closure or replacement. During construction a Construction Traffic Management Plan would be required to take account of the bridge constraint and the management of traffic and delivery vehicles via alternative routes, which can be addressed through planning conditions. Disruption on local business and any effects on pedestrian footfall during construction would be temporary.

Issue: Development would have a detrimental impact on the area as it would lead to more traffic on the road network which is already inadequate, development could increase traffic significantly in the area causing risks to pedestrians visiting the area and recreational park.

The proposed footpath at the northeast corner of the site adjacent to the sub-station leading onto Bogton Road on a blind corner would be dangerous to pedestrians and cyclists.

Comments (PO): The scale of the development in this location and level of traffic generation from the proposed development can be readily accommodated within the local road and footway network. The proposed footpath leading onto Bogton Road is acceptable and the Transportation Section has raised no road safety concerns in these respects.

Issue: The proposal is overdevelopment, social housing involves squeezing as many people as possible into a small space which means that the applicant is proposing to construct an area comprising totally of flats.

There are enough homes being built around the town within walking distance of the high street and all local amenities without upsetting this part of the town.

Comments (PO): The proposed development is considered to represent an appropriate form of development for this location that would fit with the surrounding townscape and relate satisfactorily to neighbouring properties; contrary to the comment this would include a mix of 29 family homes with reasonably sized gardens and two blocks of flats (19) with communal open space.

The proposal will provide much needed affordable housing within an accessible location and redevelop a derelict brownfield site which is favoured by policy.

Issue: Pollution impacts, concerns regarding dust and dirt generated during construction, noise impacts during construction will be unacceptable, works will disrupt utilities during construction.

Comments (PO): A Construction Environmental Management Plan incorporating a site specific pollution prevention plan would be required to prevent pollution of the environment and minimise impacts from construction works, this will be addressed by a planning condition. Similarly noise impacts during construction will be mitigated through a condition restricting hours of construction works to between 0800 to 1900 hours, Monday to Friday and 0800 to 1300 hours on Saturdays as recommended by the Environmental Health Section.

Impacts on utilities during construction would be a matter between the developer's contractor and utility provider concerned, and are not a material planning consideration; informative advice in this regard would be attached to the decision.

Issue: Concerns regarding over-provision of 80 allocated parking spaces required by Council parking policy, which is out of date; the Council has declared a climate emergency and published draft strategy and action plan, this is an opportunity to show how new development can reduce car use and provide designated spaces for car sharing and shared electric cycle usage.

Comments (PO): The revised layout incorporates an acceptable level of parking for the proposed houses and flats, and has been agreed following extensive discussions between the applicants and planning/transportation officers. This provision does not comply fully with current parking standards (shortfall of 8 visitor spaces and reduced standard for the proposed three 4-bedroomed dwellings from 3 to 2 car parking spaces), however taking account of the location of the site close to the town centre, proposed tenure and public transport links this reduced level of provision is considered acceptable in these circumstances. The parking would also include the required electric vehicle charging supply/cabling either through dedicated arrangements for each dwelling.

The proposed layout does not include the provision car share spaces, and opportunities for such provision are limited in this case given the constrained nature and size of the site, ultimately this would be a matter between the applicant and any car share operator.

Issue: Concerned that building works will cause subsidence to contributor's property.

Comments (PO): No evidence suggesting that subsidence will occur due to construction activities has been submitted in support of this comment, if this were to occur this would be matter for investigation by applicant's engineers to remedy/resolve. The Building Standards Section has been advised of this comment for noting during consideration of any building warrant application.

Issue: Concerned that development will lead to security problems when the contributor is at work.

Comments (PO): Security concerns as a result of an adjacent housing development are not a material planning consideration.

OBSERVATIONS

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the Development Plan i.e. the adopted Moray Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise.

The main issues are considered below.

Principle of residential development on Forres OPP1 Caroline Street

The application site forms the majority of the Forres OPP1 Caroline Street designation, a long standing site identified as suitable for redevelopment (residential, commercial or retail) in the Moray Local Development Plan 2020.

Associated MLDP Policy DP6 Mixed Use and Opportunity Sites states that proposals to redevelop these sites, which are often vacant or derelict will be considered favourably where they are compatible with surrounding uses and meet all other policy requirements. The policy also identifies the need for applications to provide a Development Framework that shows the layout of the whole site, range of uses, landscaping, open space and site specific design requirements.

Under the terms of this policy the principle of residential development on this site is acceptable, and the submitted layout drawings which cover the full extent of the designation include sufficient information to allow assessment of all relevant planning matters.

Policy Background (Forres OPP1, DP6, DP2, DP1 and PP1)

Policy DP2 Housing a) requires proposals on designated sites to be supported by a design statement and supporting information regarding the comprehensive layout and development of the whole site, addressing infrastructure, access for pedestrians, cyclists, public transport and service vehicles, landscaping, drainage, affordable and accessible housing and other matters identified by the Council, as well as to comply with policy PP1 Placemaking, DP1 Development Principles, site development (designation) requirements and relevant MLDP policies.

Primary Policy PP1 Placemaking contains a number of design criteria which all residential development must meet, with significant emphasis on placemaking, biodiversity and promoting health and well-being through good urban design.

Policy DP1: Development Principles sets out the need for the scale, density and character of development to be appropriate to the surrounding area.

Site specific requirements for Forres OPP1 include the requirement for applications to be supported by Transport, Contaminated Land and Flood Risk Assessments, and provision of improvements to footpaths and crossings in existing local streets and a landscaped boundary along the north of the site.

The proposed layout and supporting submissions provide sufficient information to inform assessment against policy and the designation requirements. The findings of the Quality Auditing process carried out for this application (summarised below) confirms that there a number of departure issues resulting in one category being red and all others green.

Placemaking, Siting and Design (PP1, DP1, DP2, R1, EP2 and EP5)

Policy PP1 Placemaking sets out that sufficient information must be provided to allow the Council to carry out a Quality Audit (QA) of the proposal. As noted in the Strategic Planning and Development Team's response this Audit process has been undertaken through a series of meetings and correspondence. Initial issues were identified and during consideration of the proposals revisions made to address some of the changes sought. The QA assessed the proposal against the 7 fundamental placemaking principles of Policy PP1. In order to comply with PP1 and deliver a distinctive place with all the associated health and environmental benefits proposals require to achieve "green" ratings and this has been achieved in all but one category as set out in the table below subject to a suite of conditions being imposed.

QA Category	QA1	QA2 (mitigation conditions secured)	Reasoning for score and mitigation/conditions necessary to score green
Character & Identity			<p>Two character areas have been identified, however there is insufficient variation in the choice of building materials, colour palette of materials for buildings and limited use of varied landscaping to create the required two distinct character areas.</p> <p>If recommended for approval a condition must be applied requiring material choices, colouration of materials and variation within landscaping proposals across the two character areas to deliver the requirements of PP1.</p>
Healthier and Safer Environments			<p>The path leading to the vehicle bridge at the Mosset Burn has been deleted.</p> <p>Existing trees that impeded visibility have been removed and new trees relocated where possible.</p>

			<p>If recommended for approval a condition must be applied to ensure only back gardens have 6ft fencing to ensure natural surveillance of the main open space from principal rooms. A condition must also be applied to ensure the impact of the 6ft fencing is mitigated by appropriate landscaping.</p> <p>Dual frontage elevations have been provided on identified plots to overlook routes throughout the site.</p> <p>The identified amenity issues have been addressed.</p> <p>Public art proposals have been submitted and a location within the site identified. If recommend for approval a condition must be applied requiring further detail including timescales for delivery and future maintenance.</p> <p>The seating area within the parking court has been removed.</p>
Housing Mix			<p>The Housing Manager is satisfied with the housing mix proposed.</p>
Open Spaces and Landscaping			<p>The proposals fail to meet the quantity and quality standards with 12.3% open space proposed as opposed to the 15% requirement resulting in an unacceptable shortfall.</p> <p>Despite scoring well in terms of biodiversity enhancement, open space is dominated by rain gardens and there are limited opportunities for other activities such as play.</p> <p>A play area has not been provided on site and cannot be accommodated within the current layout. If the proposal is recommended for approval a condition must be applied to deliver inclusive play equipment off site at Bogton.</p> <p>No compensatory planting has been provided and the street trees and landscaping needed to meet the requirements of PP1 do not constitute compensatory planting.</p> <p>If the proposal is recommended for approval a condition must be applied to ensure street trees within front gardens are safeguarded/retained and a commuted payment for the provision of compensatory planting elsewhere in Moray.</p> <p>Heavy standard trees have been specified in the landscaping schedules. If the proposal is recommended for approval a condition must be applied requiring semi-mature trees (18-20cm girth).</p>

Biodiversity			<p>Biodiversity has been embedded into the landscaping plan with proposals for rain gardens, bat and bird boxes, insect hotel and butterfly bank alongside native tree and shrub planting.</p> <p>If recommended for approval a condition must be applied requiring further detail including locations and timescales.</p>
Parking			<p>The parking arrangement within the internal streets despite reconfiguration still do not meet the 50% side and rear behind the building line requirement. The layout has been reconfigured and a limited number of spaces are now to the side and rear behind the building line. This is considered an acceptable departure from PP1 on the basis of the constrained nature of this brownfield site.</p> <p>Plans have been provided setting out the details of landscaping within communal parking areas. The topography of the site means it is not possible to provide hedging every fourth space on parts of the southern portion of the site. This is an acceptable departure from PP1 on the basis of hedging to the rear of the spaces and backdrop of the immediately landscaped amenity space that will help mitigate the impact of parked cars.</p> <p>If the proposal is recommended for approval a condition must be applied to ensure delivery of appropriate hedging of a reasonable height and width to help mitigate the impact of parked cars.</p> <p>The revised cycling parking and secure storage is acceptable.</p> <p>No details are provided for either the provision of or future infrastructure provision for EV charging at house plots with on-plot parking. If recommended for approval a condition must be applied requiring further information for the provision of EV charging infrastructure allowing this category to become green.</p>
Street Structure			<p>Paths have been widened throughout the development and address previous safety and accessibility concerns.</p> <p>A road safety audit has been submitted.</p>
Street Layout			<p>A turning area is available in the open ground adjacent to the site to allow turning for lorries, coaches and emergency vehicles. A turning head is also provided within application site.</p> <p>Following revisions there are no longer any visibility issues.</p>

Street Detail			<p>An acceptable SUDs and drainage strategy is proposed including the incorporation of rain gardens that will contribute to placemaking.</p> <p>A utilities plan for the site has been provided.</p>
---------------	--	--	--

1) Character and Identity

The QA identified the need to define two clearly distinguishable character areas through use of different architectural features, surfacing materials, use of colour, landscaping and boundary treatment. The proposal originally scored a red under this category.

PP1 states developments must provide a number of character areas reflecting site characteristics so that they have their own identity and are clearly distinguishable.

The revised layout now provides two character areas and these are predominantly distinguished by the variation in the palette of surfacing materials within the parking courts, hedge type/colour, entrance gates and street furniture. However, additional conditions have been recommended to ensure that the identity of these character areas are distinctive and this achieved through the combination of material finishes/colours and landscaping details.

2) Healthier, Safer Environments

The previous QA identified the need for changes to the layout to create a legible layout and safer environment as the proposal originally scored red under this category. This has been addressed through submission of revised plans and layout which include deleting a path which led to the road bridge at the Mosset Burn, removal of existing trees that restricted visibility and provision of low fencing/dual frontage elevations to ensure natural surveillance.

Seating areas and public art are to be provided across the development to encourage people of all ages and mobility's to interact, participate in activity and rest and reflect. This also provides opportunities for social interaction between residents. Delivery timescales and maintenance has been covered by a planning condition.

3) Housing Mix

The affordable requirements for the site have been met. The applicants' planning statement confirms that all housing will be affordable. The mix of housing types across the site with a range of two storey, terraced and semi-detached house types and flats is acceptable, and this has been confirmed by the Housing Strategy and Development Manager. The units themselves are of a high design standard. Delivery of affordable housing has been covered by planning condition.

As the layout comprises all affordable housing the requirements of Policy DP2 for accessible housing do not apply, although it is noted that 3 houses would be wheelchair accessible.

4) Open Spaces/Landscaping

The original and revised QA identified a number of issues with the provision of open space and landscaping which in essence highlighted a shortfall in terms of quantity, quality and how the space was proposed to be used.

PP1 states developments must provide accessible, multi-functional open space within a clearly defined hierarchy integrated into the development and connected via an active travel network of green/blue corridors that are fully incorporated into the development and to the surrounding area, and meet the requirements of policy EP5 Open Space and the Open Space Strategy Supplementary Guidance.

In terms of the revised proposals, despite efforts to enhance original proposals taking into account changes required to the layout to address issues such as car parking and drainage, there remains a regrettable shortfall of 2.7% open space provision; and as such the proposals have been unable to meet the 15% requirement set out in policy EP5 and are a departure matter. The proposed 48 affordable houses being delivered on a vacant derelict site with constraints has been challenging, and with the exception of this element all other policy requirements have been met. The landscaping proposals do however contain a variety of elements including the welcome provision of numerous street trees and hedging that have been integrated into the proposed layout. Conditions have been recommended to ensure delivery, retention and size.

Policy PP1 states that play areas (where identified) must be inclusive. This proposal does not include a formal play area (despite being requested) due to site constraints and the requirement to meet other policies. However, there is significant useable open space and equipped play areas within a 5 minute walk of the site across the road alongside the Mosset Burn and at Bogton Road. A condition has been imposed to enhance the play facilities at Bogton Road through the provision of 1 piece of fully inclusive play equipment and surfacing to meet standards. In light of this and as the proposal does incorporate landscaping, rain gardens and attractive seating areas it is considered that this departure has to be carefully balanced with all other material considerations associated with this proposal. In this regard the departure identified is acceptable in this unique set of circumstances.

5) Biodiversity

The QA identified the need for a biodiversity plan to show how the development would create new habitat and incorporate biodiversity features into the development and originally scored red under this category. A Biodiversity Plan and landscape plans have been provided which sets out how biodiversity has been embedded into the scheme with the provision of bat and swift boxes, areas of nectar-rich wildflower habitat, insect hotels, berry bearing trees and shrubs etc. In addition separate rain gardens with marginal planting will assist with supporting biodiversity across the site. The provision of these also outlined on the submitted landscape plans and within the Design and Access Statement shall be addressed by planning condition to ensure delivery.

6) Car Parking

The original QA raised concerns regarding the dominance of parked cars within the internal street/courtyard and scored a red in this category.

PP1 states that car parking must not dominate the streetscape to the front of properties. A minimum of 50% of car parking must be provided to the side or rear and behind the building line with a maximum of 50% car parking within the front curtilage or street, subject to the visual impact being mitigated by hedging, low stone boundary walls or other acceptable treatments.

The proposals have been revised and despite being reconfigured the 50% side and rear requirement for cars to be behind the building line has still not been fully achieved. This issue has been partially addressed by some car parking spaces to serve the semi-detached units being re-located (to provide on-plot parking), as well as the introduction of more hedging to mitigate their dominance in the street scene. One of the main reasons why the 50% requirement has been difficult to be fully met in this case is due to the restricted shape and size of the brownfield site.

This category now scores a green in the final audit.

7) Street Structure, Layout and Detail

The original QA also scored a red in the audit and as a result of revised layouts this has now been awarded a green and has been achieved through the widening of footpaths, changes to address visibility and the provision of a turning area to accommodate larger vehicles.

The revised layout is permeable and will encourage walking and cycling from the site around the town. The layout of the site is compact and enables traffic speeds to be kept low. Within the parking courtyards different material finishes have been proposed to help reinforce street hierarchy.

Overall, the proposed revised layout represents a high standard of design on this designated opportunity site in Forres which incorporates the principles of good placemaking in PP1, achieving scores of green under each of the design principles outlined in the Quality Audit with the exception of open space/landscaping. Subject to conditions addressing the above requirements (where identified), the proposals would accord with the main provisions of PP1, DP1, DP2, OPP1, EP2 and EP5 and are considered to be acceptable departures for the reasons set out.

Amenity (privacy and light) (DP1)

Policy DP1: Development Principles requires proposals to have regard to the amenity of neighbouring properties and to avoid adverse amenity impacts in terms of privacy, daylight or overbearing effects.

The proposals comprise a range of dwelling types including 29 two storey dwellings (terraced and semi-detached) and 19 flats in two 2/3 storey blocks within the northern parts of the site.

Initial assessment identified the requirement for amendments to the proposal to address amenity impacts (overlooking) on neighbouring properties to the east from proposed two-storey houses along the eastern boundary on plots 47, 48, 22 and 23 and side facing windows in the block of flats (block 3) within the northern part of the site. These impacts have been addressed through the revised layout which shows the two storey houses on plots 22 and 23 repositioned away from the boundary to front onto Caroline Street, and the houses on plots 47 and 48 pulled forward/reconfigured to ensure adequate separation distance between existing and proposed properties. These revisions coupled with intervening proposed 1.8m high screen fencing which would back onto existing block work walls and a chain link fencing would further ensure provision of acceptable amenity levels. Side facing windows in the flats have also been omitted from the design.

The proposed increase in ground levels across areas of the site will elevate parts of the development by between 0.8 and 1.2m above existing levels as a consequence of the remediation scheme, however with the above mentioned layout changes, adequate separation and site orientation it is considered that any impacts (loss of privacy or light) on neighbouring properties would not be so significant as to warrant refusal on amenity grounds. This relationship between the proposed and existing properties is shown in cross section and street elevation drawings submitted in support of the application.

A planning condition shall be attached removing permitted development rights for new windows in the side elevations of a number of dwellings/apartments on the site to protect the amenity of neighbouring residents.

Overall the revised layout and design would relate satisfactorily to the amenity of the surrounding area and neighbouring properties, reflect the character and pattern of other existing nearby housing developments, and would accord with policy DP1.

Transportation, Access and Parking (Forres OPP1, DP6, PP1, PP3, DP1 and DP2)

Policies PP3 Infrastructure and Services and DP1 Development Principles (ii) Transportation require development to be planned and co-ordinated with infrastructure to ensure places function properly, and proposals are adequately served by infrastructure and services. Policy PP1 Placemaking and DP2 Housing require proposals on designated sites to be supported by Placemaking and a design statement addressing roads infrastructure, access for pedestrians, cyclists, public transport and service vehicles. The Forres OPP1 designation requires submission of a Transport Assessment and improvements to footpaths and crossings in existing local streets.

Placemaking and Design Statements, a Transport Statement, Road Safety Audit, Utilities Plan and engineering drawings have been submitted with the application to address the above policies PP1, PP3, DP1 and DP2 regarding the various transportation matters.

The proposal involves the creation of two main vehicular access roads onto Caroline Street and a further one onto Lea Road. The layout incorporating 3 courtyard parking areas and on-plot parking, and cycleway/footpath infrastructure/improvements would provide safe and suitable access, and good connectivity into the existing footpath network in line with the designation and policy requirements.

The parking analysis submitted in support of the application shows the location of spaces allocated to each house or flat, and identified a shortfall in provision to meet car parking standards. Following discussions with Transportation agreement has been reached to allow a reduced standard for car parking (from 3 spaces to 2 spaces) for the three proposed 4-bedroomed dwellings. With regard to visitor car parking the applicants have only been able to provide 2 visitor spaces plus 1 visitor/accessible space. There is therefore a shortfall of 8 visitor car parking spaces from adopted standards. This departure has only been accepted on the basis of the limited number of 4 bedroomed properties within the scheme, tenure, site layout, location of the site in proximity to the town centre, shops, services and public transport and availability of public car parking within the town centre.

Acceptable levels of cycle storage and the provision of EV charging infrastructure (post locations) within the courtyard areas to enable charging points to be installed by future occupants are also proposed. Further details of this provision along with on plot provision shall be sought by planning condition.

The accompanying Transport Statement and additional information set out that the proposed development by reason of its location close to the town centre is highly accessible as it can be accessed by a range of sustainable modes of transport, will promote sustainable travel through enhanced footpath and cycleway provision and that the development can be readily accommodated on the surrounding road network without adverse road safety impacts.

The Transportation Section has assessed the proposal and supporting information, and has raised no objection to the grant of permission subject to conditions regarding provision of Electric Vehicle (EV) charging infrastructure, road/footway improvements between the site and junction of Caroline Street with Bogton Road, a Construction Traffic Management Plan, works to modify the public road at Lea Road and to form new turning head, acceptable visibility splays at all accesses/junctions and provision of car parking and cycle storage.

Subject to compliance with these conditions the proposals meet the transport related requirements of the Forres OPP1 designation, and policies PP1, PP3, DP1 and DP2 and is an acceptable departure to policy DP1 regarding car parking standards for the reasons outlined above.

Pollution, Contamination and Hazards (EP14 and DP1)

Pollution Control

Part a) of policy EP14 seeks to ensure that new developments do not create pollution (air, water, soil, light, noise) which may adversely affect the environment or local amenity, and where identified for applications to be accompanied by detailed assessments to inform consideration and mitigation measures.

The proximity of the site to the A96 trunk road to the north and adjacent commercial premises (AES Solar) has necessitated the submission of a Noise Impact Assessment. This addresses the effects of road traffic noise on the closest dwellings to the trunk road and sets out acoustic mitigation measures for a number of these properties including glazing and ventilation requirements and the erection of a 2.3m high close boarded fence (with acoustic performance) along the northern/roadside boundary. No significant impacts were identified from the adjacent commercial premises.

The Environmental Health Section has reviewed and is content with the proposed mitigation and has raised no objection subject to conditions requiring submission/approval of detailed specifications of the glazing/ventilation to be installed and the 2.3m high acoustic barrier, as recommended within the submitted Noise Impact Assessment. A further condition is recommended controlling construction working hours.

In terms of impacts on air, water, soil and light, to ensure the above requirements are met a condition requiring submission, approval and implementation of a construction environment management plan including a site specific pollution prevention during the construction phase is recommended.

Contamination

Part b) of Policy EP14 Pollution, Contamination and Hazards requires that development proposals on potentially contaminated land demonstrate that the site is suitable for the

proposed use and that where necessary effective remediation is agreed. Policy DP1 also requires that proposals address and mitigate any potential contaminated land issues.

Site history records indicate that a number of commercial uses and buildings have operated in this location which include a gasworks, slaughterhouse and works within the northeast area, and more recently a former supermarket within the southern area. To inform assessment of these former operations and associated contaminated land impacts the application has been supported by an Environmental Interpretive Report and Remediation Strategy (revised) which set out a range of remedial measures to ensure that the ground is made suitable for redevelopment. These include removal of contaminated material and buried structures, and installation of gas/vapour membrane, barrier geotextile and importing clean cover soil.

The Contaminated Land Section has reviewed this information and has raised no objection to the proposal subject to implementation of the measures outlined in the Remediation Strategy and submission/approval of further details (materials management plan, technical specification of the scheme to provide protection against ingress of harmful vapours and details of source of imported material for use as clean cover) and validation report. A planning condition shall be attached covering these elements and the removal of permitted development rights for extensions and outbuildings within the northeast area of the site.

On the basis of the above the proposal is considered to comply with policy.

Information Communication Technology (ICT) (PP3)

Policy PP3 Infrastructure & Services requires installation of Information Communication Technology and fibre optic broadband connections (unless justification can be provided to show that ICT is technically unfeasible here). The applicant has confirmed that this IT cabling to the development will be Fibre Optic; this provision will be addressed by planning condition.

Drainage, Water and Flooding (Forres OPP1, PP3, DP1 and EP12)

Policies PP3 Infrastructure and Services and DP1 Development Principles (iii) Water Environment, Pollution, Contamination require development to be planned and co-ordinated with infrastructure to ensure places function properly, and proposals are adequately served by infrastructure and services in terms of foul and surface water drainage and water supply. Policy EP12 Management and Enhancement of the Water Environment requires surface water from development to be dealt with in a sustainable manner (SuDS) that has a neutral effect on the risk of flooding or which reduces the risk of flooding, including temporary/construction phase SUDs and assessment of flood risks. The OPP1 designation requires submission of a Flood Risk Assessment to support any application.

Drainage and Water

A Drainage Assessment have been submitted with the application which detail proposals for foul and surface water (SUDS) drainage on the site, including maintenance and measures during the construction phase.

Foul water from the development (depending on the particular area of the site) will drain via new gravity foul sewers constructed within the access roads that would connect to the public foul drainage network or will connect to an existing combined sewer within Lea Road.

Surface water drainage arrangements, again site specific for each area, would consist of a mix of rain gardens, filter trenches, porous paving and cellular storage units which would discharge to the existing combined sewer network or the adjacent watercourse. These would be designed to provide the necessary storage and attenuation to ensure that the rate and volume of surface water run-off does not exceed existing run off rates. These arrangements and accompanying Drainage Assessment have been assessed by the Moray Flood Risk Management Section and confirmed as acceptable. A condition requiring adherence to the submitted drainage details and assessments is recommended.

The houses would connect to the public water supply. Scottish Water has raised no objection in relation to the connection to the public water or foul drainage and has provided advisory comments confirming sufficient capacity currently within water and waste water treatment works, however further investigations may be required once a formal application is submitted to Scottish Water. It also highlights that the development proposals impact on existing Scottish Water assets and the need for diversion procedures.

Flood Risk

The SEPA indicative flood map shows that the site is currently identified as being at 'little or no risk' from river flooding, although it has been subject of historical flooding in the past. The site benefits from protection from the Forres (Burn of Mosset) Flood Alleviation Scheme.

In accordance with OPP1 designation requirements and following pre-application advice given by SEPA and Flood Risk Management Section, a Flood Risk Assessment has been submitted in support of the application to inform assessment. This incorporates information available from modelling work carried out as part of the Forres Flood Alleviation Scheme and demonstrates adequate protection of the site to the 1 in 200 year standard incorporating an allowance for climate change and the necessary freeboard. Both SEPA and the Flood Risk Management Team have reviewed this information and have raised no objection on flood risk grounds.

In terms of meeting the requirements of policy PP3 xii) a utilities plan has also been submitted setting out how existing and new utility (gas, water and electricity and telephone/internet) provision would be incorporated into the layout and design of the proposal.

With the above in mind, is it considered that the proposals accord with policy in relation to drainage, water, floodrisk and infrastructure provision.

Affordable Housing (DP2)

Policy DP2 Housing sets out that all housing developments must provide a contribution towards the provision of affordable housing with proposals for more than 4 units required to provide 25% of the total units as affordable housing which is exceeded in this case where all units are affordable. DP2 also sets out that proposals must demonstrate tenure integration and ensure that architectural style and finishes are tenure blind with the spatial mix ensuring that communities are integrated to share school catchment areas, open space areas, play areas, sports areas, bus stops and other community facilities. Associated policy guidance also identifies that, in order to meet the need for affordable housing in the area proposals for 100% of affordable housing will be acceptable as part of the wider mixed community, provided all other policies are met.

The applicants' planning statement explains that all housing will be affordable. The mix of housing types across the site with a range of two storey, terraced and semi-detached house types and flats is acceptable, and this has been confirmed by the Housing Strategy and Development Manager. The units themselves are of a high design and acceptable as part of the wider mixed community.

As the layout comprises all affordable housing the requirements of Policy DP2 for accessible housing do not apply, although it is noted that 3 houses would be wheelchair accessible. In these circumstances it is considered that the development complies with policy.

A planning condition requiring arrangements for delivery to be agreed shall be attached, as recommended by the Housing Strategy and Development Manager.

Natural heritage and Biodiversity (DP1, EP1, EP2 and EP7)

Policy DP1: Development Principles sets out that development should conserve and enhance the natural and built environment and cultural resources. Policy EP1 Natural Heritage Designations seeks to ensure that development does not have an adverse effect on any Protected Species or upon any wildlife sites or other valuable local habitats. Policy EP2 Biodiversity seeks to ensure that all development proposals promote biodiversity with a biodiversity plan to be included with any placemaking statement. Policy EP7 Forestry Woodland and Trees sets out that healthy trees should be retained and included within a development proposal with protection plans.

The site is not subject to any environmental designations.

In terms of protected species and habitat interest the applicants' Environmental Survey Report (including species surveys) concludes that the habitats on this brownfield site have low ecological value, and found no evidence of any protected species on the site, although signs of activity were noted along the river. An associated bat survey undertaken in respect of the two buildings to be demolished also found no evidence of bats and very limited bat roost potential in these buildings. In order to minimise adverse impacts on protected species, the report recommends mitigation and enhancement; these relate to otters, breeding birds and bats and shall be covered by condition.

The Report also identifies the opportunity to incorporate ecological enhancement and biodiversity net gain, through provision of bat and swift boxes, areas of nectar-rich wildflower habitat, insect hotels, berry bearing trees and shrubs etc. The provision of these also outlined on the submitted landscape plans and within the Design and Access Statement shall be addressed by planning condition.

The development proposes appropriate levels of landscaping across the site including trees, shrubs, hedges, wildflower and marginal planting. This includes provision of a landscape boundary along the north site boundary in the form of retained trees and hedging in line with the OPP1 designation.

The proposal proposes the felling of the majority of trees within the woodland in the northeast area together with a number of ornamental trees within the southern area on the former supermarket site. The submitted Tree Survey and Tree Management/Protection Plan includes an assessment of these arboricultural impacts, and identifies the tree retention, removal and measures to protect roots of retained trees. This includes retention of a number of trees around the site edge (Birch, Willow, Sycamore, Ash and Korean Fir),

which would be supplemented with additional better quality trees as part of the landscaping proposals. The survey confirms that the majority of trees within the north eastern area (old gas works site) require to be removed to allow removal of the contaminated soil in order to accommodate the proposed development and associated remedial works, noting also that many of these are unstable and blown over due to shallowness of topsoil. It further confirms that a number of individual trees around the periphery of the southern area (Tesco site) will also need to be removed to provide access and avoid obstructing visibility splays. On this basis it has been demonstrated that it is technically unfeasible to retain the trees and that their removal is required to facilitate the development.

No compensatory planting proposals have been put forward and the applicants consider that the street trees and other landscaping proposed should count as compensatory planting. This is not in line with policy requirements however which is set out in policy EP7 and in this regard a condition requiring submission/approval of a compensatory planting scheme within Moray has been imposed to address this issue.

Based on the above considerations, and subject to compliance with conditions covering tree retention/planting on-site (if approved) the proposal accords with policy EP7.

Developer Obligations (PP3)

The development has been the subject of a developer obligations assessment in accordance with policy PP3 Infrastructure and Services and supplementary planning guidance which has identified the need for contributions towards healthcare and sports and recreation facilities. The applicant has agreed to the level of developer obligations which will require to be secured via a legal agreement prior to the issue of the planning consent.

Conclusion and Recommendation

The proposal is an acceptable housing development on an opportunity site designation identified in the adopted Moray Local Development Plan 2020. The site layout and density is appropriate for this location and meets the majority of principles of good placemaking, with the exception of open space, and car parking layout/provision. In all other respects the proposal accords with the Moray Local Development Plan 2020, there are no material considerations that indicate otherwise and is recommended for approval subject to conditions and completion of a S75 legal agreement.

REASON(S) FOR DECISION

The proposal is considered to be an acceptable departure from the requirements of policies PP1, DP1 & EP5 of the MDLP 2020 for the following reasons:

- This opportunity site OPP1 Caroline Street designated in the MLDP forms part of a brownfield, derelict site (former Tesco site) and a former gas works (contaminated land). This land has been vacant for a significant period of time (approx. 18 years). The re-development of this site for affordable housing in close proximity to the town centre has a unique set of circumstances. Considerable weight has been attached to this when balancing all other material considerations and departure issues set out below.
- The departure from adopted car parking standards (8 visitor spaces and reduced standard for the proposed three 4-bedroomed dwellings from 3 to 2 car parking

spaces) and the layout/arrangement of parking (50% of parking to side and rear – behind building line) is justified in this unique set of circumstances taking into account the following material considerations for the proposal;

- proposed tenure (all affordable housing)
 - constrained nature and shape of brown field site
 - site layout and mitigation of some hedging and landscaping backdrop
 - close proximity and access to local car parks
 - location in close proximity to Forres town centre reducing the need for car journeys to make visits to shops, local services
 - high level of accessibility to local public transport network i.e. bus stops and train station.
- The departures in terms of placemaking and open space policies PP1, DP1 & EP5 have been addressed through the imposition of a suite of planning conditions with the exception of 2.7% shortfall of open space and no functional play area. The open space that has been proposed includes the incorporation of three separate rain gardens to accommodate Suds drainage in a sustainable manner and landscaped seating areas. Seating and landscaping have been incorporated to make these areas attractive and useable but in a different way to that of a pocket park i.e. kick about space. The site is however, in close proximity (walking distance) to existing large areas of open space which have play equipment (to be enhanced) and open space for play (kick about space – football) at Bogton Road and land adjacent to the Mosset Burn. The combination of these unique set of circumstances makes this departure acceptable despite being regrettable.

The site layout and density is appropriate for this location, can be adequately serviced and will not adversely affect the surrounding area in terms of amenity and environmental impact. In all other respects the proposal accords with the Moray Local Development Plan 2020 and there are no material considerations that indicate otherwise.

Author/Contact Officer: Richard Smith
Principal Planning Officer Ext: 01343 563256

Beverly Smith
Development Management & Building Standards Manager

APPENDIX

POLICY

Proposed Moray Local Development Plan 2020

PP1 PLACEMAKING

- a) Development must be designed to create successful, healthy places that support good physical and mental health, help reduce health inequalities, improve people's wellbeing, safeguard the environment and support economic development.
- b) A Placemaking Statement is required for residential developments of 10 units and above to be submitted with the planning application to articulate how the development proposal addresses the requirements of policy PP1 Placemaking and other relevant LDP policies and guidance. The Placemaking Statement must include sufficient information for the council to carry out a Quality Audit. Where considered appropriate by the council, taking account of the nature and scale of the proposed development and of the site circumstances, this shall include a landscaping plan, a topographical survey, slope analysis, site sections, 3D visualisations, a Street Engineering Review and a Biodiversity Plan. The Placemaking Statement must demonstrate how the development promotes opportunities for healthy living and working. The landscape plan must set out details of species type, size, timescales for planting and maintenance.
- c) To create successful, healthy places residential developments of 10 units and above must comply with Scottish Government policy Creating Places and Designing Streets and must incorporate the following fundamental principles:
 - (i) **Character and Identity**
 - Create places that are distinctive to prevent homogenous 'anywhere' development;
 - Provide a number of character areas reflecting site characteristics that have their own distinctive identity and are clearly distinguishable;
 - Provide distinctiveness between and in each character area through a combination of measures including variation in urban form, street structure/network, architecture and masonry, accent features (such as porches), surrounds and detailing, materials (buildings and surfaces), colour, boundary treatments, hard/soft landscaping and a variety of approaches to tree species and planting that emphasises the hierarchy of open spaces and streets within a cohesive design strategy for the whole development;
 - Distinctiveness must be reinforced along main thoroughfares, open spaces and places where people may congregate such as shopping/service centres;
 - Retain, incorporate and/or respond to relevant elements of the landscape such as topography and planted features, natural and historic environment, and propose street naming (in residential developments of 20 units and above, where proposed names are to be submitted with the planning application) to retain and enhance local associations;

(ii) Healthier, Safer Environments

- Designed to prevent crime, fear of crime and anti-social behaviour with good levels of natural surveillance and security using treatments such as low boundary walls, dual frontages (principal rooms) and well-lit routes to encourage social interaction. Unbroken high boundary treatments such as wooden fencing and blank gables onto routes, open spaces and communal areas will not be acceptable.
- Designed to encourage physical exercise for people of all abilities.
- Create a distinctive urban form with landmarks, key buildings, vistas, gateways and public art to provide good orientation and navigation through the development.
- Provide a mix of compatible uses, where indicated within settlement statements, integrated into the fabric of buildings within the street.
- Prioritise pedestrians and cyclists by providing a permeable movement framework that incorporates desire lines (including connecting to and upgrading existing desire lines) and is fully integrated with the surrounding network to create walkable neighbourhoods and encourage physical activity.
- Integrate multi- functional active travel routes, green and open space into layout and design, to create well connected places that encourage physical activity, provide attractive spaces for people to interact and to connect with nature.
- Create safe streets that influence driver behaviour to reduce vehicle speeds that are appropriate to the local context such as through shorter streets, reduced visibility and varying the building line.
- Provide seating opportunities within streets, paths and open spaces for all generations and mobility's to interact, participate in activity, and rest and reflect.
- Provide for people with mobility problems or a disability to access buildings, places and open spaces.
- Create development with public fronts and private backs.
- Maximise environmental benefits through the orientation of buildings, streets and open space to maximise the health benefits associated with solar gain and wind shelter.

(iii) Housing Mix

- Provide a wide range of well integrated tenures, including a range of house types and plot sizes for different household sizes, incomes and generations and meet the affordable and accessible requirements of policy DP2 Housing.
- All tenures of housing should have equal access to amenities, greenspace and active travel routes.

(iv) Open Spaces/Landscaping

- Provide accessible, multi-functional open space within a clearly defined hierarchy integrated into the development and connected via an active travel network of green/blue corridors that are fully incorporated into the development and to the surrounding area, and meet the requirements of policy EP5 Open Space and the Open Space Strategy Supplementary Guidance and Policy EP12 Managing the Water Environment and Drainage Impact Assessment for New Developments Supplementary Guidance.
- Landscaped areas must provide seasonal variation, (mix of planting and colour) including native planting for pollination and food production.
- Landscaping areas that because of their size, shape or location would not form any useable space or that will not positively contribute to the character of an area will not contribute to the open space requirements of Policy EP4 Open Space.
- Semi-mature tree planting and shrubs must be provided along all routes with the variety of approaches reflecting and accentuating the street hierarchy.
- Public and private space must be clearly defined.
- Play areas (where identified) must be inclusive, providing equipment so the facility is for every child/young person regardless of ability and provided upon completion of 50% of the character area.
- Proposals must provide advance landscaping identified in site designations and meet the quality requirements of policy EP5 Open Space.
- Structural landscaping must incorporate countryside style paths (such as bound or compacted gravel) with waymarkers.
- Maintenance arrangements for all paths, trees, hedging, shrubs, play/sports areas, roundabouts and other open/ green spaces and blue/green corridors must be provided.

v) Biodiversity

- Create a variety of high quality multi- functional green/blue spaces and networks that connect people and nature, that include trees, hedges and planting to enhance biodiversity and support habitats/wildlife and comply with policy EP2 Biodiversity and Geodiversity and EP5 Open Space.
- A plan detailing how different elements of the development will contribute to supporting biodiversity must be included in the design statement submitted with the planning application.
- Integrate green and blue infrastructure such as swales, permeable paving, SUDS ponds, green roofs and walls and grass/wildflower verges into streets, parking areas and plots to sustainably address drainage and flooding issues and enhance biodiversity from the outset of the development.
- Developments must safeguard and where physically possible extend or enhance wildlife corridors and green/blue networks and prevent fragmentation of existing habitats.

(vi) Parking

- Car parking must not dominate the streetscape to the front or rear of properties. On all streets a minimum of 50% of car parking must be

provided to the side or rear and behind the building line with a maximum of 50% car parking within the front curtilage or on street, subject to the visual impact being mitigated by hedging, low stone boundary walls or other acceptable treatments that enhance the streetscape.

- Provide semi-mature trees and planting within communal private and public/visitor parking areas and on-street parking at a maximum interval of 4 car parking spaces.
- Secure and covered cycle parking and storage, car sharing spaces and electric car charging points must be provided in accordance with policy DP1 Development Principles.
- Parking areas must use a variation in materials to reduce the visual impact on the streetscene.

(vii) Street Layout and Detail

- Provide a clear hierarchy of streets reinforced through street width, building density and street and building design, materials, hard/soft landscaping and a variety of approaches to tree planting and shrubs.
- Streets and connecting routes should encourage walking and cycling over use of the private car by providing well connected, safe and appealing routes.
- Design junctions to prioritise pedestrians, accommodate active travel and public transport and service/emergency vehicles to reflect the context and urban form and ensure that the street pattern is not standardised.
- Dead-end streets/cul-de-sacs will only be selectively permitted such as on rural edges or where topography, site size, shape or relationship to adjacent developments prevent an alternative more permeable layout. These must be short, serving no more than 10 units and provide walking and cycling through routes to maximise connectivity to the surrounding area.
- Where a roundabout forms a gateway into, or a landmark within, a town and/or a development, it must be designed to create a gateway feature or to contribute positively to the character of the area.
- Design principles for street layouts must be informed by a Street Engineering Review (SER) and align with Roads Construction Consent (RCC) to provide certainty that the development will be delivered as per the planning consent.

- (d) Future masterplans will be prepared through collaborative working and in partnership between the developer and the council for Lochyhill (Forres), Barhill Road (Buckie), Elgin Town Centre/Cooper Park, Elgin North East, Clarkly Hill, Burghead and West Mosstodloch. Masterplans that are not prepared collaboratively and in partnership with the council will not be supported. Masterplans that are approved will be Supplementary Guidance to the Plan.
- (e) Proposals for sites must reflect the key design principles and safeguard or enhance the green networks set out in the Proposals Maps and Settlement Statements. Alternative design solutions may be proposed where justification is provided to the planning authority's satisfaction to merit this.

PP2 SUSTAINABLE ECONOMIC GROWTH

Development proposals which support the Moray Economic Strategy to deliver sustainable economic growth will be supported where the quality of the natural and built

environment is safeguarded, there is a clear locational need and all potential impacts can be satisfactorily mitigated.

PP3 INFRASTRUCTURE & SERVICES

Development must be planned and co-ordinated with infrastructure to ensure that places function properly and proposals are adequately served by infrastructure and services.

- a) In relation to infrastructure and services developments will be required to provide the following as may be considered appropriate by the planning authority, unless these requirements are considered not to be necessary:
- i) Education, Health, Transport, Sports and Recreation and Access facilities in accord with Supplementary Guidance on Developer Obligations and Open Space.
 - ii) Green infrastructure and network requirements specified in policy EP5 Open Space, Town and Village Maps and, contained within Supplementary Guidance on the Open Space Strategy, Masterplans and Development Briefs.
 - iii) Mitigation/modification to the existing transport network (including road and rail) to address the impact of the proposed development in terms of safety and efficiency. This may include but not be limited to passing places, road widening, junction enhancement, bus stop infrastructure, and drainage infrastructure. A number of potential road and transport improvements are identified and shown on the Town and Village Maps as Transport Proposals (TSP's) including the interventions in the Elgin Transport Strategy. These requirements are not exhaustive and do not pre-empt any measures which may result from the Transport Assessment process.
 - iv) Electric car charging points must be provided at all commercial and community parking facilities. Access to charging points must also be provided for residential properties, where in-curtilage facilities cannot be provided to any individual residential property then access to communal charging facilities should be made available. Access to other nearby charging facilities will be taken into consideration when identifying the need for communal electric charging points.
 - v) Active Travel and Core Path requirements specified in the Council's Active Travel Strategy and Core Path Plan.
 - vi) Safe transport and access routes linking to existing networks and mitigating the impacts of development off-site.
 - vii) Information Communication Technology (ICT) and fibre optic broadband connections for all premises unless justification is provided to substantiate it is technically unfeasible.
 - viii) Foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS), including construction phase SUDS.
 - ix) Measures that implement the waste management hierarchy as defined in the Zero Waste Plan for Scotland including the provision of local waste storage and

recycling facilities designed into the development in accord with policy PP1 Placemaking. For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.

- x) Infrastructure required to improve or increase capacity at Water Treatment Works and Waste Water Treatment Works will be supported subject to compliance with policy DP1.
- xi) A utilities plan setting out how existing and new utility (including gas, water, electricity pipelines and pylons) provision has been incorporated into the layout and design of the proposal. This requirement may be exempted in relation to developments where the council considers it might not be appropriate, such as domestic or very small scale built developments and some changes of use.

b) Development proposals will not be supported where they:

- i) Create new accesses onto trunk roads and other main/key routes (A941 & A98) unless significant economic benefits are demonstrated or such access is required to facilitate development that supports the provisions of the development plan.
- ii) Adversely impact on active travel routes, core paths, rights of way, long distance and other access routes and cannot be adequately mitigated by an equivalent or better alternative provision in a location convenient for users.
- iii) Adversely impact on blue/green infrastructure, including green networks important for wildlife unless an equivalent or better alternative provision will be provided.
- iv) Are incompatible with key waste sites at Dallachy, Gollanfield, Moycroft and Waterford and would prejudice their operation.
- v) Adversely impact on community and recreational sites, buildings or infrastructure including CF designations and cannot be adequately mitigated.
- vi) Adversely impact on flood alleviation and mitigation infrastructure.
- vii) Compromise the economic viability of bus or rail facilities.

c) Harbours

Development within and diversification of harbours to support their sustainable operation will be supported subject to compliance with other policies and settlement statements.

d) Developer Obligations

Developer obligations will be sought to mitigate any measurable adverse impact of a development proposal on local infrastructure, including education, healthcare, transport (including rail), sports and recreational facilities and access routes. Obligations will be sought to reduce, eliminate or compensate for this impact. Developer obligations may also be sought to mitigate any adverse impacts of a development, alone or cumulatively with other developments in the area, on the natural environment.

Where necessary obligations that can be secured satisfactorily by means of a planning condition attached to planning permission will be done this way. Where this cannot be achieved, the required obligation will be secured through a planning agreement in accordance with Circular 3/2012 on Planning Obligations.

Developer obligations will be sought in accordance with the Council's Supplementary Guidance on Developer Obligations. This sets out the anticipated infrastructure requirements, including methodology and rates.

Where a developer considers that the application of developer obligations renders a development commercially unviable a viability assessment and 'open-book accounting' must be provided by the developer which Moray Council, via the District Valuer, will verify, at the developer's expense. Should this be deemed accurate then the Council will enter into negotiation with the developer to determine a viable level of developer obligations.

The Council's Developer Obligations Supplementary Guidance provides further detail to support this policy.

DP1 DEVELOPMENT PRINCIPLES

This policy applies to all development, including extensions and conversions and will be applied reasonably taking into account the nature and scale of a proposal and individual circumstances.

The Council will require applicants to provide impact assessments in order to determine the impact of a proposal. Applicants may be asked to determine the impacts upon the environment, transport network, town centres, noise, air quality, landscape, trees, flood risk, protected habitats and species, contaminated land, built heritage and archaeology and provide mitigation to address these impacts.

Development proposals will be supported if they conform to the relevant Local Development Plan policies, proposals and additional guidance, meet the following criteria and address their individual and cumulative impacts:

(i) Design

- a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.
- b) The development must be integrated into the surrounding landscape which will include safeguarding existing trees and undertaking replacement planting to include native trees for any existing trees that are felled, and safeguarding any notable topographical features (e.g. distinctive knolls), stone walls and existing water features by avoiding channel modifications and culverting. A tree survey and tree protection plan must be provided with planning applications for all proposals where mature trees are present on site or that may impact on trees outwith the site. The strategy for new tree provision should follow the principles of the "Right Tree in the Right Place".

- c) Make provision for new open space and connect to existing open space under the requirements of Policy EP5 and provide details of the future maintenance of these spaces. A detailed landscape plan must be submitted with planning applications and include information about green/blue infrastructure, tree species, planting, ground/soil conditions, and natural and man-made features (e.g. grass areas, wildflower verges, fencing, walls, paths, etc.).
- d) Demonstrate how the development will conserve and enhance the natural and built environment and cultural heritage resources, retain original land contours and integrate into the landscape.
- e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.
- f) Proposals do not result in backland development or plots that are subdivided by more than 50% of the original plot. Sub-divided plots must be a minimum of 400m², excluding access and the built-up area of the application site will not exceed one-third of the total area of the plot and the resultant plot density and layout reflects the character of the surrounding area.
- g) Pitched roofs will be preferred to flat roofs and box dormers are not acceptable.
- h) Existing stone walls on buildings and boundaries must be retained. Alterations and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.
- i) Proposals must orientate and design buildings to maximise opportunities for solar gain.
- j) All developments must be designed so as to ensure that all new buildings avoid a specified and rising proportion of the projected greenhouse gas emissions from their use (calculated on the basis of the approved design and plans for the specific development) through the installation and operation of low and zero-carbon generating technologies.

(ii) Transportation

- a) Proposals must provide safe entry and exit from the development, including the appropriate number and type of junctions, maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, reduce travel demands and ensure appropriate visibility for all road users at junctions and bends. Road, cycling, footpath and public transport connections and infrastructure must be provided at a level appropriate to the development and connect people to education, employment, recreation, health, community and retail facilities.
- b) Car parking must not dominate the street scene and must be provided to the side or rear and behind the building line. Maximum (50%) parking to the front of buildings and on street may be permitted provided that the visual impact of the parked cars is mitigated by hedging or low stone boundary walls. Roadways with a single carriageway must provide sufficient off road parking to avoid

access routes being blocked to larger service vehicles and prevent parking on pavements.

- c) Provide safe access to and from the road network, address any impacts on road safety and the local road, rail and public transport network. Any impacts identified through Transport Assessments/ Statements must be identified and mitigated. This may include but would not be limited to, passing places, road widening, junction improvements, bus stop infrastructure and drainage infrastructure. A number of potential mitigation measures have been identified in association with the development of sites and the most significant are shown on the Proposals Map as TSP's.
- d) Provide covered and secure facilities for cycle parking at all flats/apartments, retail, community, education, health and employment centres.
- e) Garages and parking provision must be designed to comply with Moray Council parking specifications see Appendix 2.
- f) The road layout must be designed to allow for the efficient mechanical sweeping of all roadways and channels, pavements, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of service vehicles, with hammerheads minimised in preference to turning areas such as road stubs or hatchets, and to provide adequate space for the collection of waste and movement of waste collection vehicles.
- g) The road and house layout in urban development should allow for communal refuse collection points where the design does not allow for individual storage within the curtilage and / or collections at kerbside. Communal collection points may either be for the temporary storage of containers taken by the individual householder or for the permanent storage of larger containers. The requirements for a communal storage area are stated within the Council's Kerbside Collection Policy, which will be a material consideration.
- h) Road signs should be minimised designed and placed at the back of footpaths to reduce street clutter, avoid obstructing pedestrian movements and safeguarding sightlines;
- i) Within communal parking areas there will be a requirement for electric car charging points. Parking spaces for car sharing must be provided where a need is identified by the Transportation Manager.

(iii) Water environment, pollution, contamination

- a) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water including temporary/ construction phase SUDS (see Policy EP12).
- b) New development should not be located in areas at flood risk or increase vulnerability to flooding (see Policy EP12). Exceptions to this would only be considered in specific circumstances, e.g. extension to an existing building or change of use to an equal or less vulnerable use. Where this exception is

applied the proposed development must include resilience measures such as raised floor levels and electrical sockets.

- c) Proposals must avoid major hazard sites and address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- d) Proposals must protect and wherever practicable enhance water features through for example naturalisation of watercourses by introducing a more natural planform and removing redundant or unnecessary structures.
- e) Proposals must address and sufficiently mitigate any contaminated land issues.
- f) Make acceptable arrangements for waste collection and management and encourage recycling.
- g) Avoid sterilising significant workable reserves of minerals, prime agricultural land or productive forestry.
- h) Proposals must avoid areas at risk of coastal erosion and coastal change.

DP2 HOUSING

- a) Proposals for development on all designated and windfall housing sites must include a design statement and shall include supporting information regarding the comprehensive layout and development of the whole site, addressing infrastructure, access for pedestrians, cyclists, public transport and service vehicles, landscaping, drainage, affordable and accessible housing and other matters as may be required by the planning authority, unless these requirements are not specified in the site designation or are considered not to be required.

Proposals must comply with Policy PP1, DP1, the site development requirements within the settlement plans, all other relevant policies within the Plan and must comply with the following requirements;

b) Piecemeal/ individual plot development proposals

Piecemeal and individual/ plot development proposals will only be acceptable where details for the comprehensive redevelopment of the site are provided to the satisfaction of the planning authority and proposals comply with the terms of Policy DP1, other relevant policies including access, affordable and accessible housing, landscaping and open space and where appropriate key design principles and site designation requirements are met.

Proposals for piecemeal/ plot development must be accompanied by a Delivery Plan setting out how the comprehensive development of the site will be achieved.

c) Housing density

Capacity figures indicated within site designations are indicative only. Proposed capacities will be considered through the Quality Auditing process against the characteristics of the site, character of the surrounding area, conformity with all policies and the requirements of good Placemaking as set out in Policies PP1 and DP1.

d) Affordable Housing

Proposals for all housing developments (including conversions) must provide a contribution towards the provision of affordable housing.

Proposals for new housing developments of 4 or more units (including conversions) must provide 25% of the total units as affordable housing in affordable tenures to be agreed by the Housing Strategy and Development Manager. For proposals of less than 4 market housing units a commuted payment will be required towards meeting housing needs in the local housing market area.

A higher percentage contribution will be considered subject to funding availability, as informed by the Local Housing Strategy. A lesser contribution or alternative in the form of off-site provision or a commuted payment will only be considered where exceptional site development costs or other project viability issues are demonstrated and agreed by the Housing Strategy and Development Manager and the Strategic Planning and Development Manager. Intermediate tenures will be considered in accordance with the HNDA and Local Housing Strategy, and agreed with the Housing Strategy and Development Manager.

Further detail on the implementation of this policy is provided in the Policy Guidance note on page 40.

e) Housing Mix and Tenure Integration

Proposals must demonstrate tenure integration and meet the following criteria;

- Architectural style and external finishes must ensure that homes are tenure blind
- The spatial mix must ensure communities are integrated to share school catchment areas, open spaces, play areas, sports areas, bus stops and other community facilities.

f) Accessible Housing

Housing proposals of 10 or more units incorporating affordable housing will be required to provide 10% of the private sector units to wheelchair accessible standard. Flexibility may be applied on sites where topography would be particularly challenging for wheelchair users.

Further detail on the implementation of this policy is provided in the Policy Guidance note on page 41.

POLICY GUIDANCE NOTE- AFFORDABLE AND ACCESSIBLE HOUSING

Affordable Housing

Providing affordable housing is a key priority for Moray Council and this is reflected in the Local Outcomes Improvement Plan (LOIP) and the Local Housing Strategy (LHS). The Council's Housing Need and Demand Assessment 2017 highlights the significant requirement for affordable housing in Moray, which is a national issue, resulting from a number of factors including affordability issues, downturn in the economy and the shortage of public and private sector rented houses.

Planning policies assist with the provision of affordable housing, which is defined in Scottish Planning Policy (SPP) as;

"housing of a reasonable quality that is affordable to people on modest incomes. Affordable housing may be provided in the form of social rented accommodation, mid-market rented accommodation, shared ownership housing, shared equity housing, housing sold at a discount (including plots for self-build and low cost housing without subsidy." This local development plan regards lower quartile earnings as "modest incomes".

The 2017 HNDA identified a requirement for 56% of all need and demand to be affordable units in Moray between 2017 and 2035. This Local Development Plan has lowered the threshold so that individual house proposals are required to make a contribution towards affordable housing provision, which is intended to ensure proposals do not circumnavigate the policy and provide a fair and transparent process.

A number of variables influence affordability of housing, including mortgage deposit requirements, mortgage interest rates, lower quartile house prices, lower quartile private rents, lower quartile full time gross earnings. Changes in these variables will affect the affordability of housing in Moray. The maximum affordable rent and maximum affordable house purchase prices is published on the Council's website at http://www.moray.gov.uk/moray_standard/page_90100.html. The current Local Housing Allowance will be used as a proxy for average private sector rents. Affordable housing should be provided on site and as part of a mixed development of private and affordable units. To meet the need for affordable housing there may be proposals for 100% provision of affordable housing and these will be acceptable as part of a wider mixed community, provided all other Local Development Plan policies are met.

The policy requires single house proposals to make a commuted sum payment as a developer obligation towards affordable housing, with the cost figure published annually on the Council website at http://www.moray.gov.uk/moray_standard/page_94665.html and determined by the District Valuer's assessment of the value of serviced land for affordable housing in Moray. This allows developers to be clear at the outset of a project about the potential cost of commuted payments and should be reflected in land values.

The type of affordable housing to be provided will be determined by the Housing and Property service. Developers should contact Housing and Property as early as possible. Housing and Property will decide whether a commuted payment or affordable units will be required on a site by site basis. Housing and Property will provide developers with an affordable housing mix, detailing the size and type of housing required based on HNDA/LHS requirements.

The Council will consider the following categories of affordable housing within the context of the needs identified in the HNDA/ LHS;

- Social rented accommodation- housing provided by an affordable rent managed by a Registered Social Landlord such as a housing association or another body regulated by the Scottish Housing Regulator, including Moray Council.
- Mid-market rent accommodation- housing with rents set at a level higher than purely social rent, but lower than market rent levels and affordable by households in housing need. Mid-market rent housing can be provided by the private and social housing sectors.

- Shared equity housing- sales to low income households, administered through a Scottish Government scheme e.g. Low-cost initiative for First Time Buyers (LIFT).

Any proposals to provide affordable housing in a form other than those listed above, must demonstrate that the cost to the householder is "affordable" in the Moray context and that the property will remain "affordable" in perpetuity.

Affordable housing requirement figures will be rounded up.

The Strategic Housing Investment Plan (SHIP) is produced annually by the Council and identifies details of the proposed delivery of affordable housing.

Accessible housing

Scottish Planning Policy states (para 28) that "the aim is to achieve the right development in the right place; it is not to allow development at any cost" and "that policies and decisions should be.....supporting delivery of accessible housing."

Policy DP2 aims to;

- Assist the Council, the NHS and the Health and Social Care Moray to meet the challenges presented by our ageing population and the shared aim of helping people to live well at home or in a homely setting. The HNDA 2017 demonstrates that Moray's population is ageing and there is a trend towards older and smaller households.
- Provide increased choice of tenure to people with physical disabilities or mobility impairments, by increasing the supply of accessible housing in the private sector. There is currently a mismatch between the size and type of housing required and the size and type of housing available across all tenures. This mismatch, along with increasing housing needs associated with physical disability, are the likely drivers of owner occupiers seeking public sector accessible housing to meet medical needs.

Accessible/ adapted housing can promote independence and wellbeing for older or disabled people, can facilitate self- care, informal care and unpaid care, potentially prevent falls and hospital admissions and can delay entry into residential care.

Policy DP2 requires that housing proposals of 10 or more units incorporating affordable housing must provide 10% of the private sector units to wheelchair accessible standard where all the rooms are accessible to a wheelchair user.

This applies to new build and conversion/ redevelopment projects. Flexibility may apply where there is extremely challenging topography or where the site is in a remote location. For the purposes of Policy DP2, "remote" locations are defined as being rural areas outside settlement and Rural Grouping boundaries as defined in the Local Development Plan.

Accessible units should be in a location which provides convenient access, in terms of distance, gradient and available public transport, to reach the facilities needed for independent living. Small, low maintenance gardens are generally regarded as a positive feature by this customer group.

New wheelchair accessible housing in any tenure must comply with Housing for Varying Needs Standards (HfVNs), including the standards specific to dwellings for wheelchair

users. HfVNs is available at

http://webarchive.nationalarchives.gov.uk/20131205115152uo_/http://www.archive2.official-documents.co.uk/document/deps/cs/HousingOutput/start.htm

The specific design specification required to meet the terms of this policy are;

External requirements

- location(s) convenient for amenities and facilities e.g. public transport, local shops etc
- car parking space as close as possible to the entrance door and at a maximum distance of 15m (HfVNs para 7.13.4 refers).
- Step free paths within curtilage, ramp gradients preferably of 1:20 but no steeper than 1:12 (HfVNs para 7.7.1 refers)

Internal requirements

- Hallways- minimum 1200mm wide (HfVNs para 10.2.3 refers)
- Door frames- minimum 926mm wide door leaf, giving a clear width of 870mm (HfVNs para 10.5.7 refers)
- Bathrooms/ wet rooms- 1500mm wheelchair turning circle required (HfVNs para 14.9.2 refers)

Accessible housing requirement figures will be rounded down.

All proposals for new build or converted housing should set out details of how they will comply with this policy in their planning application.

DP6 MIXED USE (MU) AND OPPORTUNITY SITES (OPP)

a) Mixed Use (MU) sites

Proposals for Mixed Use sites will be considered favourably where evidence is provided to the authority's satisfaction that the proposed mix will support delivery of the whole development and will support the suitable uses and site specific requirements set out in the settlement statements and comply with all other policy requirements.

A Development Framework that shows the layout of the whole site, range of uses, landscaping, open space and site specific design requirements must be provided. Where a minimum level of industrial use is specified within designations, this must be achieved on the site and not compromised through the mix of other uses.

b) Opportunity sites (OPP)

Proposals to redevelop these often vacant or derelict sites will be considered favourably where they are compatible with surrounding uses and meet all other policy requirements. A Development Framework that shows the layout of the whole site, range of uses, landscaping, open space and site specific design requirements must be provided.

OPP1 Caroline Street 1.5 ha

Suitable Uses

Residential, Commercial or Retail

Site specific requirements

- Transport Assessment required.
- Improvements to footpaths and crossings in existing local streets required.
- Landscaped boundary required along north of site.
- Contamination Assessment required.
- Flood Risk Assessment (FRA) required.

EP1 NATURAL HERITAGE DESIGNATIONS

a) European Site designations

Development likely to have a significant effect on a European Site and which is not directly connected with or necessary to the conservation management of that site must be subject to an appropriate assessment of the implications for its conservation objectives. Proposals will only be approved where the appropriate assessment has ascertained that there will be no adverse effect on the integrity of the site.

In exceptional circumstances, proposals that could affect the integrity of a European Site may be approved where:

- i) There are no alternative solutions, and
- ii) There are imperative reasons of over-riding public interest including those of a social or economic nature, and
- iii) Compensatory measures are provided to ensure that the overall coherence of the Natura network is protected.

For European Sites hosting a priority habitat or species (as defined in Article 1 of the The Conservation (Natural Habitat & c.) Regulations 1994), prior consultation with the European Commission via Scottish Ministers is required unless the imperative reasons of overriding public interest relate to human health, public safety or beneficial consequences of primary importance to the environment.

b) National designations

Development proposals which will affect a National Park, National Scenic Area (NSA), Site of Special Scientific Interest (SSSI) or National Nature Reserve will only be permitted where:

- i) The objectives of designation and the overall integrity of the area will not be compromised; or
- ii) Any significant adverse effects on the qualities for which the site has been designated are clearly outweighed by social, environmental or economic benefits of national importance.

c) Local Designations

Development proposals likely to have a significant adverse effect on Local Nature Reserves, wildlife sites or other valuable local habitats will be refused unless it can be demonstrated that;

- i) Public benefits clearly outweigh the nature conservation value of the site, and
- ii) There is a specific locational requirement for the development, and
- iii) Any potential impacts can be satisfactorily mitigated to conserve and enhance the site's residual conservation interest.

d) European Protected Species

European Protected Species are identified in the Habitats Regulations 1994 (as amended in Scotland). Where a European Protected Species may be present or

affected by development or activity arising from development, a species survey and where necessary a Species Protection Plan should be prepared to accompany the planning application, to demonstrate how the Regulations will be complied with. The survey should be carried out by a suitably experienced and licensed ecological surveyor.

Proposals that would have an adverse effect on European Protected Species will not be approved unless;

- The need for development is one that is possible for SNH to grant a license for under the Regulations (e.g. to preserve public health or public safety).
- There is no satisfactory alternative to the development.
- The development will not be detrimental to the maintenance of the favourable conservation status of the species.

e) Other protected species

Wild birds and a variety of other animals are protected under domestic legislation, such as the Wildlife and Countryside Act 1981 (as amended in Scotland by the Nature Conservation (Scotland) Act 2004 and the Wildlife and Natural Environment (Scotland) Act 2011), Protection of Badgers Act 1992 and Marine (Scotland) Act 2010. Where a protected species may be present or affected by development or activity arising from development, a species survey and where necessary a Species Protection Plan should be prepared to accompany the planning application to demonstrate how legislation will be complied with. The survey should be carried out by a suitably experienced ecological surveyor, who may also need to be licensed depending on the species being surveyed for.

Proposals which would have an adverse effect on badgers or their setts must be accompanied by a Badger Protection Plan demonstrating how impacts will be avoided, mitigated, minimised or compensated for.

EP2 BIODIVERSITY

All development proposals must, where possible, retain, protect and enhance features of biological interest and provide for their appropriate management. Development must safeguard and where physically possible extend or enhance wildlife corridors and green/blue networks and prevent fragmentation of existing habitats.

Development should integrate measures to enhance biodiversity as part of multi-functional spaces/ routes.

Proposals for 4 or more housing units or 1000 m² or more of commercial floorspace must create new or, where appropriate, enhance natural habitats of ecological and amenity value.

Developers must demonstrate, through a Placemaking Statement where required by Policy PP1 which incorporates a Biodiversity Plan, that they have included biodiversity features in the design of the development. Habitat creation can be achieved by providing links into existing green and blue networks, wildlife friendly features such as wildflower verges and meadows, bird and bat boxes, amphibian friendly kerbing, wildlife crossing points such as hedgehog highways and planting to encourage pollination, wildlife friendly climbing plants, use of hedges rather than fences, incorporating biodiversity measures into SUDS and retaining some standing or lying dead wood, allotments, orchards and woodlands.

Where development would result in loss of natural habitats of ecological amenity value, compensatory habitat creation will be required where deemed appropriate.

EP5 OPEN SPACE

a) Existing Open Space (ENV's and Amenity Land)

Development which would result in a change of use of a site identified under the ENV designation in settlement statements or amenity land designations in rural groupings to anything other than open space use will be refused. Proposals that would result in a change of use of an ENV4 Sports Area to any other use (including other ENV categories) will be refused. The only exceptions are where the proposal is for essential community infrastructure required to deliver the key objectives of the Council and its Community Planning Partners, excluding housing, or for a site specific opportunity identified within the settlement statement. Where one of these exceptions applies, proposals must:

- Be sited and designed to minimise adverse impacts on the principal function of the space and the key qualities and features identified in the Moray Open Space Strategy Supplementary Guidance.
- Demonstrate that there is a clear excess of the type of ENV and the loss of the open space will not negatively impact upon the quality, accessibility and quantity of open space provision and does not fragment green networks (with reference to the Moray Open Space Strategy Supplementary Guidance, green network mapping and for ENV4 Sports Area in consultation with SportScotland) or replacement open space provision of equivalent function, quality and accessibility is made.

The temporary use of unused or underused land as green infrastructure is encouraged, this will not prevent any future development potential which has been identified from being realised. Proposals that would result in a change of use of an ENV4 Sports Area to any other use (including other ENV categories) will be refused.

Proposals for allotments or community growing on existing open space will be supported where they do not adversely affect the primary function of the space or the key qualities and features identified in the Moray Open Space Strategy Supplementary Guidance and a locational requirement has been identified in the Council's Food Growing Strategy. Consideration will include related aspects such as access, layout, design and car parking requirements.

Any new/proposed extension to existing cemetery sites requiring an intrusive ground investigation must be undertaken in accordance with SEPA's guidance on assessing the impacts of cemeteries on groundwater before any development occurs at the site.

Areas identified in Settlement Statements as ENV are categorised based on their primary function as set out below. These are defined in the Open Space Strategy Supplementary Guidance.

- ENV 1** Public Parks and Gardens
- ENV 2** Amenity Greenspace
- ENV 3** Playspace for children and teenagers

- ENV 4** Sports Areas
- ENV 5** Green Corridors
- ENV 6** Natural/Semi-Natural Greenspace
- ENV 7** Civic Space
- ENV 8** Allotments
- ENV 9** Cemeteries and proposed extensions
- ENV 10** Private Gardens and Grounds
- ENV 11** Other Functional Greenspace

b) Green Infrastructure and Open Space in New Development

New development must incorporate accessible multifunctional open space of appropriate quantity and quality to meet the needs of development and must provide green infrastructure to connect to wider green/blue networks. In Elgin, Buckie and Forres green infrastructure must be provided as required in the green network mapping. Blue drainage infrastructure will require to be incorporated within green open space. The blue-green context of the site will require to be considered from the very outset of the design phase to reduce fragmentation and maximize the multi-benefits arising from this infrastructure.

Open space provision in new developments must meet the accessibility, quality and quantity standards set out below and meet the requirements of policy PP1 Placemaking, EP2 Biodiversity, other relevant policies and any site specific requirements within the Settlement Statements. Developers must demonstrate through a Placemaking Statement that they have considered these standards in the design of the open space, this must include submission of a wider analysis plan that details existing open space outwith the site, key community facilities in the area and wider path networks.

i) Accessibility Standard

Everyone will live within a five minute walk of a publicly usable space of at least 0.2ha.

ii) Quality Standard

All new development proposals will be assessed and must achieve a very good quality score of no less than 75%. Quality will be assessed by planning officers at the planning application stage against the five criteria below using the bullet point prompts. Each criterion will be scored on a scale of 0 (poor) to 5 (very good) with an overall score for the whole development expressed as a percentage.

Accessible and well connected

- Allows movement in and between places, consideration to be given to reflecting desire lines, permeable boundaries, and multiple access points
- Accessible entrances in the right places.
- Accessible for all generations and mobility's, including consideration of gradient and path surfaces.
- Provide appropriately surfaced, inclusive, high quality paths.
- Connects with paths, active travel routes and other transport modes including bus routes.
- Offers connecting path network with legible waymarking and signage.

Attractive and Appealing Places

- Attractive with positive image created through character and quality elements.
- Attractive setting for urban areas.
- Quality materials, equipment and furniture.
- Attractive plants and landscape elements that support character, including providing seasonal and sensory variation and food production.
- Welcoming boundaries and entrance areas.
- Adequate bin provision.
- Long term maintenance measures in place. ▸

Biodiverse supporting ecological networks (see Policy EP2 Biodiversity)

- Contribute positively to biodiversity through the creation of new natural habitats for ecological and amenity value.
- Large enough to sustain wildlife populations, including green/blue networks and landscaping.
- Offers a diversity of habitats.
- Landscaping and open space form part of wider landscape structure and setting.
- Connects with wider blue/green networks Provide connections to existing green/blue networks and avoids fragmentation of existing habitats.
- Ensure a balance between areas managed positively for biodiversity and areas managed primarily for other activities e.g. play, sport.
- Resource efficient, including ensuring open space has a clear function and is not "left over".

Promotes activity, health and well being

- Provides multifunctional open space for a range of outdoor physical activities reflecting user needs and location.
- Provides diverse play, sport, and recreational facilities for a range of ages and user groups.
- Providing places for social interaction, including supporting furniture to provide seating and resting opportunities.
- Appropriate high quality facilities meeting needs and reflecting the site location and site.
- Carefully sited facilities for a range of ages with consideration to be given to existing facilities, overlooking, and ease of access for users.
- Open space is flexible to accommodate changing needs.

Safe, Welcoming and contributing to Character and Identity

- Safe and welcoming.
- Good levels of natural surveillance.
- Discourage anti-social behaviour.
- Appropriate lighting levels.
- Sense of local identity and place.
- Good routes to wider community facilities e.g connecting to schools, shops, or transport nodes.
- Distinctive and memorable places that support local culture and identity. ▸
- Catering for a range of functions and activities providing a multi-functional space meeting needs.
- Community involvement in management.

iii) **Quantity Standard**

Unless otherwise stated in site designations, the following quantity standards will apply.

- Residential sites less than 10 units - landscaping to be determined under the terms of Policy DP1 Development Principles to integrate the new development.
- Residential sites 10-50 units and new industrial sites- minimum 15% open space
- Residential sites 51-200 units- minimum 20% open space
- Residential sites 201 units and above and Business Parks- minimum 30% open space which must include allotments, formal parks and playspaces within residential sites.

In meeting the quantity requirements, only spaces which have a clear multi benefit function will be counted. Structure and boundary landscaping areas must make provision for public access and link into adjacent green corridors. The quantity standard must be met within the designation boundaries. For windfall sites the quantity standard must be new open space provision within the application boundaries.

Open Spaces approved in new developments will be classed as ENV spaces upon granting of consent.

Proposals must also comply with the Council's Open Space Strategy Supplementary Guidance.

EP7 FORESTRY, WOODLANDS AND TREES

a) Moray Forestry and Woodland Strategy

Proposals which support the economic, social and environmental objectives and projects identified in the Moray Forestry and Woodlands Strategy will be supported where they meet the requirements of other relevant Local Development Plan policies. The council will consult Scottish Forestry on proposals which are considered to adversely affect forests and woodland. Development proposals must give consideration to the relationship with existing woodland and trees including shading, leaf/needle cast, branch cast, wind blow, water table impacts and commercial forestry operations.

b) Tree Retention and Survey

Proposals must retain healthy trees and incorporate them within the proposal unless it is technically unfeasible to retain these. Where trees exist on or bordering a development site, a tree survey, tree protection plan and mitigation plan must be provided with the planning application if the trees or trees bordering the site (or their roots) have the potential to be affected by development and construction activity. Proposals must identify a safeguarding distance to ensure construction works, including access and drainage arrangements, will not damage or interfere with the root systems in the short or longer term. A landscaped buffer may be required where the council considers that this is required to maintain an appropriate long term relationship between proposed development and existing trees and woodland.

Where it is technically unfeasible to retain trees, compensatory planting on a one for one basis must be provided in accordance with (e) below.

c) Control of Woodland Removal

In support of the Scottish Government's Control of Woodland Removal Policy, Woodland removal within native woodlands identified as a feature of sites protected under Policy EP1 or woodland identified as Ancient Woodland will not be supported.

In all other woodlands development which involves permanent woodland removal will only be permitted where it would achieve significant and clearly defined additional public benefits (excluding housing) and where removal will not result in unacceptable adverse effects on the amenity, landscape, biodiversity, economic or recreational value of the woodland or prejudice the management of the woodland.

Where it is proposed to remove woodland, compensatory planting at least equal to the area to be felled must be provided in accordance with e) below.

d) Tree Preservation Orders and Conservation Areas

The council will serve Tree Preservation Orders (TPO's) on potentially vulnerable trees which are of significant amenity value to the community as whole, trees that contribute to the distinctiveness of a place or trees of significant biodiversity value.

Within Conservation Areas, the council will only agree to the felling of dead, dying, or dangerous trees. Trees felled within Conservation Areas or subject to TPO must be replaced, unless otherwise agreed by the council.

e) Compensatory Planting

Where trees or woodland are removed in association with development, developers must provide compensatory planting to be agreed with the planning authority either on site, or an alternative site in Moray which is in the applicant's control or through a commuted payment to the planning authority to deliver compensatory planting and recreational greenspace.

GUIDANCE TREES AND DEVELOPMENT

Trees are an important part of Moray's towns and villages and surrounding countryside, adding colour and interest to the townscape and a sense of nature in our built environment. They contribute to the diversity of the countryside, in terms of landscape, wildlife habitat and shelterbelts. Trees also have a key role to play in terms of climate change by helping to absorb carbon dioxide which is one of the main greenhouse gases that cause global warming.

The cumulative loss of woodlands to development can result in significant loss of woodland cover. In compliance with the Scottish Government Control of Woodland Removal policy, woodland removal should only be allowed where it would achieve significant and clearly defined additional public benefits. In appropriate cases a proposal for compensatory planting may form part of this balance. Where woodland is to be removed then the Council will require compensatory planting to be provided on site, on another site in Moray within the applicant's control or through a commuted payment to the Council towards woodland and greenspace creation and enhancement. Developers proposing compensatory planting are asked to follow the guidance for site assessment and woodland design as laid out in Scottish Forestry's "Woodland Creation, Application Guidance" and its subsequent updates, when preparing their proposal.

The Council requires a Tree Survey and Tree Protection Plan to be submitted by the applicant with any planning application for detailed permission on designated or windfall sites which have trees on them. The survey should include a schedule of trees and/or groups of trees and a plan showing their location, along with the following details;

- Reference number for each tree or group of trees.
- Scientific and common names.
- Height and canopy spread in metres (including consideration of full height and spread).
- Root protection area.
- Crown clearance in metres.
- Trunk diameters in metres (measures at 1.5m above adjacent ground level for single stem trees or immediately above the root flare for multi stemmed trees).
- Age and life expectancy.
- Condition (physiological and structural).
- Management works required.
- Category rating for all trees within the site (U, A, B or C *). This arboricultural assessment will be used to identify which trees are suitable for retention within the proposed development.

*BS5837 provides a cascading quality assessment process for categorisation of trees which tree surveys must follow. An appropriately scaled tree survey plan needs to accompany the schedule. The plan should be annotated with the details of the tree survey, showing the location, both within and adjacent to the site, of existing trees, shrubs and hedgerows. Each numbered tree or groups of trees should show the root protection area and its category U, A, B, C.

Based on the guidance in BS5837, only category U trees are discounted from the Tree Survey and Tree Protection Plan process. Trees in category A and B must be retained, with category C trees retained as far as practicable and appropriate. Trees proposed for removal should be replaced with appropriate planting in a landscape plan which should accompany the application. Trees to be retained will likely be set out in planning conditions, if not already covered by a Tree Preservation Order.

If a tree with habitat value is removed, then measures for habitat reinstatement must be included in the landscape plan. It is noted that in line with part b) of policy EP7 where woodland is removed compensatory planting must be provided regardless of tree categorisation."

A Tree Protection Plan (TPP) must also be submitted with planning applications, comprising a plan and schedule showing;

- Proposed design/ layout of final development, including accesses and services.
- Trees to be retained- with those requiring remedial work indicated.
- Trees to be removed.
- Location (and specification) of protective fencing around those trees to be retained based on the Root Protection Area.

The TPP should show how the tree survey information has informed the design/ layout explaining the reasoning for any removal of trees.

Landscape Scheme

Where appropriate a landscape scheme must be submitted with planning applications, clearly setting out details of what species of trees, shrubs and grass are proposed, where, what standard and when planting will take place. Landscape schemes must aim to deliver multiple benefits in terms of biodiversity, amenity, drainage and recreation as set out in policy.

The scheme should also set out the maintenance plan. Applicants/ developers will be required to replace any trees, shrubs or hedges on the site which die, or are dying, severely damaged or diseased which will be specified in planning conditions.

Tree species native to Scotland are recommended for planting in new development - Alder, Aspen, Birch, Bird Cherry, Blackthorn, Crab Apple, Elm, Gellan, Hawthorn, Hazel, Holly, Juniper, Sessile Oak, Rowan, Scots Pine, Whitebeam, Willow.

EP8 HISTORIC ENVIRONMENT

a) Scheduled Monuments and Unscheduled Archaeological Sites of Potential National Importance.

Where a proposed development potentially has a direct impact on a Scheduled Monument, Scheduled Monument Consent (SMC) is required, in addition to any other necessary consents. Historic Environment Scotland manage these consents.

Development proposals will be refused where they adversely affect the integrity of the setting of Scheduled Monuments and unscheduled archaeological sites of potential national importance unless the developer proves that any significant adverse effects are clearly outweighed by exceptional circumstances, including social or economic benefits of national importance.

b) Local Designations

Development proposals which adversely affect sites of local archaeological importance or the integrity of their settings will be refused unless;

- Local public benefits clearly outweigh the archaeological value of the site, and
- Consideration has been given to alternative sites for the development and preservation in situ is not possible.
- Where possible any adverse effects can be satisfactorily mitigated at the developer's expense.

The Council will consult Historic Environment Scotland and the Regional Archaeologist on development proposals which may affect Scheduled Monuments, nationally important archaeological sites and locally important archaeological sites.

EP12 MANAGEMENT AND ENHANCEMENT OF THE WATER ENVIRONMENT

a) Flooding

New development will not be supported if it would be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere. For development at or near coastal locations, this includes consideration of future flooding that may be caused by sea level rise and/or coastal change eroding existing natural defences in the medium and long term.

Proposals for development in areas considered to be at risk from flooding will only be permitted where a flood risk assessment to comply with the recommendations of Scottish Planning Policy and to the satisfaction of Scottish Environment Protection Agency and the Council is provided by the applicant.

There are different levels of flood risk assessment dependent on the nature of the flood risk. The level of assessment should be discussed with the Council prior to submitting a planning application.

Level 1 - a flood statement with basic information with regard to flood risk.

Level 2 - full flood risk assessment providing details of flood risk from all sources, results of hydrological and hydraulic studies and any appropriate proposed mitigation.

Assessments must demonstrate that the development is not at risk of flooding and would not increase the probability of flooding elsewhere. Level 2 flood risk assessments must be signed off by a competent professional. The Flood Risk Assessment and Drainage Impact Assessment for New Development Supplementary Guidance provides further detail on the information required.

Due to continuing changes in climatic patterns, the precautionary principle will apply when reviewing any application for an area at risk from inundation by floodwater. Proposed development in coastal areas must consider the impact of tidal events and wave action when assessing potential flood risk.

The following limitations on development will also be applied to take account of the degree of flooding as defined in Scottish Planning Policy;

- a) In areas of little to no risk (less than 0.1%), there will be no general constraint to development.
- b) Areas of low to medium risk (0.1% to 0.5%) will be considered suitable for most development. A flood risk assessment may be required at the upper end of the probability range i.e. (close to 0.5%) and for essential civil infrastructure and the most vulnerable uses. Water resistant materials and construction may be required. Areas within this risk category will generally not be suitable for civil infrastructure. Where civil infrastructure must be located in these areas or is being substantially extended, it should be designed to be capable of remaining operational and accessible during flooding events.
- c) Areas of medium to high risk (0.5% or above) may be suitable for:
 - Residential, institutional, commercial and industrial development within built up areas provided that flood protection measures to the appropriate standard already exist and are maintained, are under construction, or are a planned measure in a current flood management plan.
 - Essential infrastructure within built up areas, designed and constructed to remain operational during floods and not impede water flow.
 - Some recreational, sport, amenity and nature conservation uses, provided appropriate evacuation procedures are in place, and
 - Employment related accommodation e.g. caretakers or operational staff.

Areas within these risk categories will generally not be suitable for the following uses and where an alternative/lower risk location is not available;

- Civil infrastructure and most vulnerable uses.

- Additional development in undeveloped and sparsely developed areas, unless a location is essential for operational reasons e.g. for navigation and water based recreation, agriculture, transport or utilities infrastructure (which should be designed to be operational during floods and not impede water flows).
- New caravan and camping sites

Where development is permitted, measures to protect against or manage flood risk will be required and any loss of flood storage capacity mitigated to achieve a neutral or better outcome. Water resistant materials and construction must be used where appropriate. Land raising and elevated buildings on structures such as stilts are unlikely to be acceptable.

b) Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS)

Surface water from development must be dealt with in a sustainable manner that has a neutral effect on flooding or which reduces the risk of flooding. The method of dealing with surface water must also avoid pollution and promote habitat enhancement and amenity. All sites must be drained by a sustainable drainage system (SUDS) designed in line with current CIRIA guidance. Drainage systems must contribute to enhancing existing "blue" and "green" networks while contributing to place-making, biodiversity, recreational, flood risk and climate change objectives.

When considering the appropriate SUDS design for the development the most sustainable methods, such as rainwater harvesting, green roofs, bio retention systems, soakaways, and permeable pavements must be considered first. If it is necessary to include surface water attenuation as part of the drainage system, only above ground attenuation solutions will be considered, unless this is not possible due to site constraints.

If below ground attenuation is proposed the developer must provide a robust justification for this proposal. Over development of a site or a justification on economic grounds will not be acceptable. When investigating appropriate SUDS solutions developers must integrate the SUDS with allocated green space, green networks and active travel routes to maximise amenity and biodiversity benefits.

Specific arrangements must be made to avoid the issue of permanent SUDS features becoming silted-up with run-off. Care must be taken to avoid the spreading and/or introduction of invasive non-native species during the construction of all SUDS features. On completion of SUDS construction the developer must submit a comprehensive Operation and Maintenance Manual. The ongoing maintenance of SUDS for all new development will be undertaken through a factoring agreement, the details of which must be supplied to the Planning Authority.

All developments of less than 3 houses or a non-householder extension under 100 square metres must provide a Drainage Statement. A Drainage Assessment will be required for all developments other than those identified above.

c) Water Environment

Proposals, including associated construction works, must be designed to avoid adverse impacts upon the water environment including Ground Water Dependent Terrestrial Ecosystems and should seek opportunities for restoration and/or enhancement, if appropriate. The Council will only approve proposals impacting on

water features where the applicant provides a report to the satisfaction of the Council that demonstrates that any impact (including cumulative) on water quality, water quantity, physical form (morphology), river hydrology, sediment transport and erosion, coastal processes (where relevant) nature conservation (including protected species), fisheries, recreational, landscape, amenity and economic and social impact can be adequately mitigated.

The report must consider existing and potential impacts up and downstream of the development particularly in respect of potential flooding. The Council operates a presumption against the culverting of watercourses and any unnecessary engineering works in the water environment.

A buffer strip of at least 6 metres between any new development and all water features is required and should be proportional to the bank width and functional river corridor (see table on page 96). This must achieve the minimum width within the specified range as a standard, however, the actual required width within the range should be calculated on a case by case basis by an appropriately qualified individual. These must be designed to link with blue and green networks, including appropriate native riparian vegetation and can contribute to open space requirements.

Developers may be required to make improvements to the water environment as part of the development. Where a Water Framework Directive (WFD) water body specific objective is within the development boundary, or in proximity, developers will need to address this within the planning submission through assessment of potential measures to address the objective and implementation, unless adequate justification is provided. Where there is no WFD objective the applicant should still investigate the potential for watercourse restoration along straightened sections or removal of redundant structures and implement these measures where viable.

Width to watercourse (top of bank)	Width of buffer strip (either side)
Less than 1m	6m
1-5m	6-12m
5-15m	12-20m
15m+	20m+

The Flood Risk Assessment and Drainage Impact Assessment for New Development Supplementary Guidance provides further detail on the information required to support proposals.

EP13 FOUL DRAINAGE

All development within or close to settlements (as defined in the Local Development Plan) of more than 2,000 population must connect to the public sewerage system unless connection is not permitted due to lack of capacity. In such circumstances, temporary provision of private sewerage systems may be allowed provided Scottish Water has confirmed investment to address this constraint has been allocated within its investment Programme and the following requirements have been met;

- Systems must not have an adverse effect on the water environment
- Systems must be designed and built to a standard which will allow adoption by Scottish Water

- Systems must be designed such that they can be easily connected to a public sewer in the future. Typically this will mean providing a drainage line up to a likely point of connection.

All development within or close to settlements (as above) of less than 2,000 population will require to connect to public sewerage except where a compelling case is made otherwise. Factors to be considered in such a case will include size of the proposed development, whether the development would jeopardise delivery of public sewerage infrastructure and existing drainage problems within the area.

Where a compelling case is made, a private system may be acceptable provided it does not pose or add a risk of detrimental effects, including cumulative, to the natural and built environment, surrounding uses or amenity of the general area.

Where a private system is deemed to be acceptable, within settlements as above or small scale development in the countryside, a discharge to land, either full soakaway or raised mound soakaway, compatible with Technical Handbooks (which sets out guidance on how proposals may meet the Building Regulations) must be explored prior to considering a discharge to surface waters.

EP14 POLLUTION, CONTAMINATION & HAZARDS

a) Pollution

Development proposals which may cause significant air, water, soil, light or noise pollution or exacerbate existing issues must be accompanied by a detailed assessment report on the levels, character and transmission of the potential pollution with measures to mitigate impacts. Where significant or unacceptable impacts cannot be mitigated, proposals will be refused.

b) Contamination

Development proposals on potentially contaminated land will be approved where they comply with other relevant policies and;

- i) The applicant can demonstrate through site investigations and risk assessment, that the site is in a condition suitable for the proposed development and is not causing significant pollution of the environment; and
- ii) Where necessary, effective remediation measures are agreed to ensure the site is made suitable for the new use and to ensure appropriate disposal and/ or treatment of any hazardous material.

c) Hazardous sites

Development proposals must avoid and not impact upon hazardous sites or result in public safety concerns due to proximity or use in the vicinity of hazardous sites.