



Planning and Regulatory Services Committee

Tuesday, 18 September 2018

SUPPLEMENTARY AGENDA

The undernoted reports have been added to the Agenda for the meeting of the **Planning and Regulatory Services Committee** to be held at **Council Chambers, Council Office, High Street, Elgin, IV30 1BX** on **Tuesday, 18 September 2018** at **09:30**.

BUSINESS

2a) Resolution

Consider, and if so decide, adopt the following resolution:
"That under Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, the public and media representatives be excluded from the meeting for Item 14 of business on the grounds that it involves the likely disclosure of exempt information of the class described in the relevant Paragraphs of Part 1 of Schedule 7A of the Act."

4a) Planning Application 17/01862/MIN

3 - 38

Report by Appointed Officer

4b) 18/00384/EIA

39 -
108

Report by Appointed Officer

Proposed extraction area to be used in conjunction with (and retention of) the existing processing area at Caysbriggs Quarry, Elgin, Lossiemouth, Moray for Tarmac Trading Ltd

**Item which the Committee may wish to consider with the
Press and Public excluded**

14 Unauthorised Business Near Forres [Para 13]

- Information relating to instructions to counsel any opinion of counsel and any advice received, information obtained or action to be taken in connection with any legal proceedings;

WARD 04_17

17/01862/MIN
7th December 2017

Establishment of a sand and gravel quarry including site restoration at Nether Dallachy Quarry Beaufighter Road Nether Dallachy Moray for Limehillock Quarries Ltd

Comments:

- A SITE VISIT has been carried out.
- Application is a “major” development as defined under the Hierarchy Regulations 2008 (and the approved Scheme of Delegation) because the development is subject to the EIA Regulations and the site area exceeds 2 hectares.
- Advertised under Schedule 3 of the Development Management Regulations 2013.
- Advertised for neighbour notification purposes.
- 2 objections received.

Procedure:

- None

Recommendation **Grant Planning Permission - Subject To The Following:-**

Conditions/Reasons

1. Unless otherwise agreed in writing with the Council, as Planning Authority, the approval hereby granted is for a limited period only expiring 15 years from the date of this consent.

Reason - In order to avoid ambiguity over the temporary nature of the permission hereby approved.

2. One year prior to the exhaustion of minerals in Phase 1 a finalised restoration plan for the whole site, based upon the approved conceptual restoration plan, must be submitted to and approved in writing by the Council, as Planning Authority (in consultation with SEPA). This plan must be accompanied by details of a finalised aftercare scheme including potential water management post-operation.

Reason - In order to ensure the timeous provision of the landscaping restoration and aftercare details.

3. Once mineral extraction has been exhausted or the permission duration expires (whichever is the sooner) the final restoration of the approved quarry shall be carried out in accordance with the approved final restoration plan referred to in the previous condition. The restoration works shall be carried out within 12 months of the quarry ceasing to operate.

Reason - In order to ensure, upon expiry of the mineral extraction, that the quarry is landscaped to minimise any long term visual impact and to encourage biodiversity back to the area.

4. Any trees or plants within the site and proposed on the finalised restoration plan (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 this Council, as Planning Authority gives written consent to any variation of this planning condition.

Reason - In order to ensure that the approved landscaping works are properly maintained in a manner to ensure the appropriate landscaping and quarry restoration is achieved.

5. Prior to any development works commencing:
 - i) a detailed drawing (scale 1:500) showing proposed road edge markings across the access of the site onto the U8E shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority; and
 - ii) the road markings shall be provided in accordance with the approved drawing prior to any quarrying works commencing

Reason - To enable an acceptable vehicular access is provided to the development in the interest of road safety.

6. Programme of archaeological works:

No works in connection with the development hereby approved shall commence unless an archaeological written scheme of investigation (WSI) has been submitted to and approved in writing by the Council, as Planning Authority and a programme of archaeological works has been carried out in accordance with the approved WSI. The WSI shall include details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the written scheme of investigation will be provided throughout the implementation of the programme of archaeological works. Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be brought into use unless a post-excavation research design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the Council, as Planning Authority. The PERD shall be carried out in complete accordance with the approved details.

Reason - To safeguard and record the archaeological potential of the area.

7. All quarry operations shall be carried out and permitted between 07:30-17:00 hours, Monday to Friday, and 07:30-12:00 hours on Saturday, and at no other times (including Bank and National Holidays) shall operations be undertaken without the prior written consent of the Council, as Planning Authority in consultation with the Environmental Health Manager.

Reason - In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

8. During the normal daytime working hours defined in the above condition, the free field Equivalent Continuous Noise Level (LAeq, 1hr.) for the period, excluding soil and overburden handling activity in connection with bund formation in Phases 1 and 2, shall not exceed 50 dB(A), as determined at any existing noise sensitive dwelling.

Reason - In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

9. Soil and overburden handling in connection with soil stripping operations in Phase 1 and 2, as referenced in Table 3.1 to 3.3 of the supporting document by Vibrock Limited, referenced as "Assessment of Environmental Impact of Noise at Nether Dallachy Quarry, Moray. Johnson Poole & Bloomer R17.9652/2/AF. Date of Report: 31 May 2017", shall not exceed the free field Equivalent Continuous Noise Level (LAeq, 1hr.) of 70 dB(A) at any existing noise sensitive receptor and be limited to a period not exceeding 8 weeks in a year.

Reason - In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to sensitive receptors in the area.

10. No quarry blasting operations are permitted at the development.

Reason - In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

11. At the reasonable request of the Planning Authority, following a complaint relating to noise from quarry operations at the development, the developer shall measure at its own expense noise emissions as they relate to the permitted consent limits, having regard to measurement locations and methodologies as detailed in Planning Advice Note "PAN 50, Annex A: The Control of Noise at Surface Mineral Workings". The results of such monitoring shall thereafter be forwarded to the Planning Authority. In the event that the results of the subsequent monitoring specified above records levels exceeding those specified in conditions 8 and 9 above further timeous mitigation measures will be required to be identified in a scheme agreed in writing by the Planning Authority, in consultation with the Environmental Health Manager, and thereafter implemented.

Reason – In order that adequate mitigation can be sought in the event of noise complaints, if found to be justified and in the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

12. Prior to the expiry of the first planting season following the grant of planning permission the 2 hectares of compensatory tree planting proposed at Bogend Quarry, Buckie must be planted in accordance with the 'Nether Dallachy – Proposed Compensatory Planting Areas' submitted on the 8 August 2018 in so far as it relates to Bogend Quarry, Buckie.

Reason – In order to compensate for the loss of woodland that will result from the development.

13. For the areas of compensatory planting off and on site, following planting, if any trees (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 this Council, as Planning Authority gives written consent to any variation of the planning condition.

Reason - In order to ensure that the approved areas of compensatory planting are managed and maintained until the new planting can establish itself.

14. Unless other suitable compensatory planting areas are agreed in writing with the Council, as Planning Authority (in consultation with the Forestry Commission) no extraction of any materials below the water table in Phase 1 shall be permitted to occur (no deeper than 5m below the current ground level). These areas, shall then be restored and planted with trees of a species, and density of planting that will have been agreed in writing in advance by the Council as Planning Authority. If off site compensatory planting and timescales are agreed for the area covered by Phase 1, then the extraction may occur to the depth as shown on approved 'Cross Sections' plan drawing no OG220/PA/F/02.

Reason – In order to compensate for the loss of woodland that will result from the development.

15. Unless other suitable compensatory planting areas are agreed in writing with the Council, as Planning Authority (in consultation with the Forestry Commission) no extraction of any materials below the water table in Phase 2 (no deeper than 5m below the current ground level). These areas, shall then be restored and planted with trees of a species, and density of planting that will have been agreed in writing in advance by the Council, as planning authority. The only exception to this shall be an area of 2 hectares within Phase 2, which shall be defined on an amended plan and cross section and agreed in writing with the Council, as planning authority prior to mineral extraction commencing on Phase 2. If off site compensatory planting is agreed for the area covered by Phase 2, then the extraction may occur to the depth as shown on approved 'Cross Sections' plan drawing no OG220/PA/F/02.

Reason – In order to compensate for the loss of woodland that will result from the development.

16. In the event that no other compensatory planting areas are proposed beyond the area agreed at Bogend Quarry, Buckie, prior to the commencement of each

phase, a revised cross section plan, and finalised restoration plan (also in accordance with the information required in condition 2 above) must be submitted to and approved in writing by the Council, as planning authority showing the revised quarry depths. The approved restoration plan shall be implemented in accordance with the details and timescales.

Reason - In order to avoid any ambiguity regarding the terms of the consent and to ensure the further consideration of the final site restoration details.

17. A radiological site walkover is required once tree felling has been completed for each phase. This will establish whether or not radium 226 is present within the top 20-30cm of soils on site and if present further radiological screening is required during the extraction of these soils to establish suitability for re-use on site. Findings of the radiological surveys (and if necessary proposals for further screening) must be submitted to the Council (in consultation with SEPA) for prior written approval before soils can be reused on site. If radium 226 is present the soils must be disposed of or treated to satisfaction of both SEPA and Moray Council.

Reason – In order to ensure that suitable checks for radioactive material are undertaken and suitable mitigation is undertaken if required given the historic use of the site as a military airfield.

18. Unless otherwise agreed in writing with the Council, as Planning Authority in consultation with SEPA there shall be no dewatering of the site.

Reason – To avoid impacts on groundwater flow.

19. Unless otherwise agreed in writing, no development shall commence until a strategy to assess and then, where subsequently appropriate, a strategy to deal with potential contamination on the site, including assessment of risk from explosive ordnance, have been submitted to, and accepted in writing by, the Council, as Planning Authority. The strategies shall be devised and overseen by an appropriately qualified person in accordance with relevant up-to-date authoritative technical guidance, e.g. BS10175 'The Investigation of Potentially Contaminated Sites - Code of Practice', and shall include:
- i) an appropriate level of characterisation of the type, nature and extent of contamination on the site and accompanying risk assessment as described in Planning Advice Note 33 Development of Contaminated Land (Revised 2000);
 - ii) how any identified contamination will be dealt with during construction works;
 - iii) details of remedial measures required to treat, remove or otherwise mitigate contamination to ensure that the site is suitable for the proposed use, and that it does not represent a risk to health or of pollution in the wider environment; and
 - iv) a means of verifying the condition of the site on completion of the remedial measures.

Thereafter, no development shall commence (other than those works required to investigate and remediate contamination on the site) until written confirmation has

been issued by the Council, as Planning Authority that the works have been implemented and completed in accordance with the agreed details.

Reason - To ensure that the site is suitable for the proposed use, and that risks to the wider environment and to users of neighbouring land from on-site contamination are appropriately assessed and managed.

Reason(s) for Decision

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

The proposal subject to the conditions recommended complies with the relevant policies of the Moray Local Development Plan 2015 and there were no other material considerations arising otherwise to prevent approval.

List of Informatives:

MANAGER (DEVELOPMENT MANAGEMENT) has commented that:-

While no consultation response was received from the Health and Safety Executive (Quarries), any separate licensing or modification of license required from the HSE Quarries should be obtained before the quarry expansion takes place.

In relation to the compensatory planting provided, any separate licenses or permissions that might be required from the Forestry Commission should be obtained prior to planting.

The applicant should adhere to the practices and means of operating the quarry and contained within the Extractive Waste Management Plan submitted as part of this application.

It is noted that an active squirrel drey was found on site, and prior to any works including tree felling at or within 30m of a drey, contact should be made with SNH regarding the possible prior need for a license to remove the drey.

All tree felling upon the site should take place outwith the bird breeding season (March-August) to minimise the impact on wildlife.

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

No deleterious materials of whatever nature shall be deposited onto the road from vehicles using the access, so as to create or be likely to create a danger or substantial inconvenience to road users. Failure to remove material as soon as reasonably practicable is committing an offence under Section 95 of the Roads (Scotland) Act 1984.

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.

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 ENVIRONMENTAL HEALTH MANAGER has commented that:-

The developer shall ensure dust emissions are suitably controlled so as not to give rise to a statutory nuisance in terms of the Environmental Protection Act 1990.

THE ARCHAEOLOGY SERVICE, ABERDEENSHIRE COUNCIL has commented that-

Application directly impacts upon the former WWII airfield of Dallachy (SMR Ref No NJ36SE0051). Please note that owing to the nature of this site, there is low potential for unexploded ordnance to be uncovered during quarrying works, and due caution should be taken in the event of this happening. I would recommend an appropriate plan of action is established as a precautionary measure, including evacuation and notification procedures.

MORAY FLOOD RISK MANAGEMENT TEAM have commented that:-

Should drainage be required at the accesses associated with this development, suitable Sustainable urban Drainage System (SuDS) adopting current best practice shall be applied and be achieved. Design calculations and drawings should be submitted.

THE SCOTTISH ENVIRONMENT PROTECTION AGENCY have commented that:-

Any radioactive wastes arising from the works should be addressed in accordance with the Radioactive Substances Act 1993 (and the associated exemption orders).

The submitted waste management plan (Management of Extractive Waste by Limehillock Quarries Limited) is acceptable and we have no further comments. Please refer to all of our standard advice on extractive waste management in our guidance - Standing Advice for Planning Authorities on Extractive Waste Management Plan consultations submitted under the Management of Extractive Waste (Scotland) Regulations 2010

Authorisation is required under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) to carry out engineering works in or in the vicinity of inland surface waters (other than groundwater) or wetlands. Inland water means all standing or flowing water on the surface of the land (e.g. rivers, lochs, canals, reservoirs). Please note that a licence will be required under CAR for any abstraction required for the infill of the worked site.

Management of surplus peat or soils may require an exemption under The Waste Management Licensing (Scotland) Regulations 2011. Proposed crushing or screening will require a permit under The Pollution Prevention and Control (Scotland) Regulations 2012. Consider if other environmental licences may be required for any installations or processes.

You may need to apply for a construction site licence under CAR for water management across the whole construction site. These will apply to sites of 4ha or more in area, sites 5 km or more in length or sites which contain more than 1ha of ground on a slope of 25 degrees or more or which cross over 500m of ground on a slope of 25 degrees or more. It is recommended that you have pre-application discussions with a member of the regulatory team in your local SEPA office.

Details of regulatory requirements and good practice advice for the applicant can be found on the Regulations section of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulatory team in your local SEPA office at: 28 Perimeter Road, Pinefield, Elgin, IV30 6AF, Tel: 01343 547663.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
OG220/PA/F/01	Site location plan
OG220/PA/F/06	Conceptual restoration plan
OG220/PA/F/02	Cross section
OG220/PA/F/03	Phase 1 extraction plan
OG220/PA/F/04	Phase 2 extraction plan



PLANNING APPLICATION COMMITTEE SITE PLAN

**Planning Application Ref Number:
17/01862/MIN**

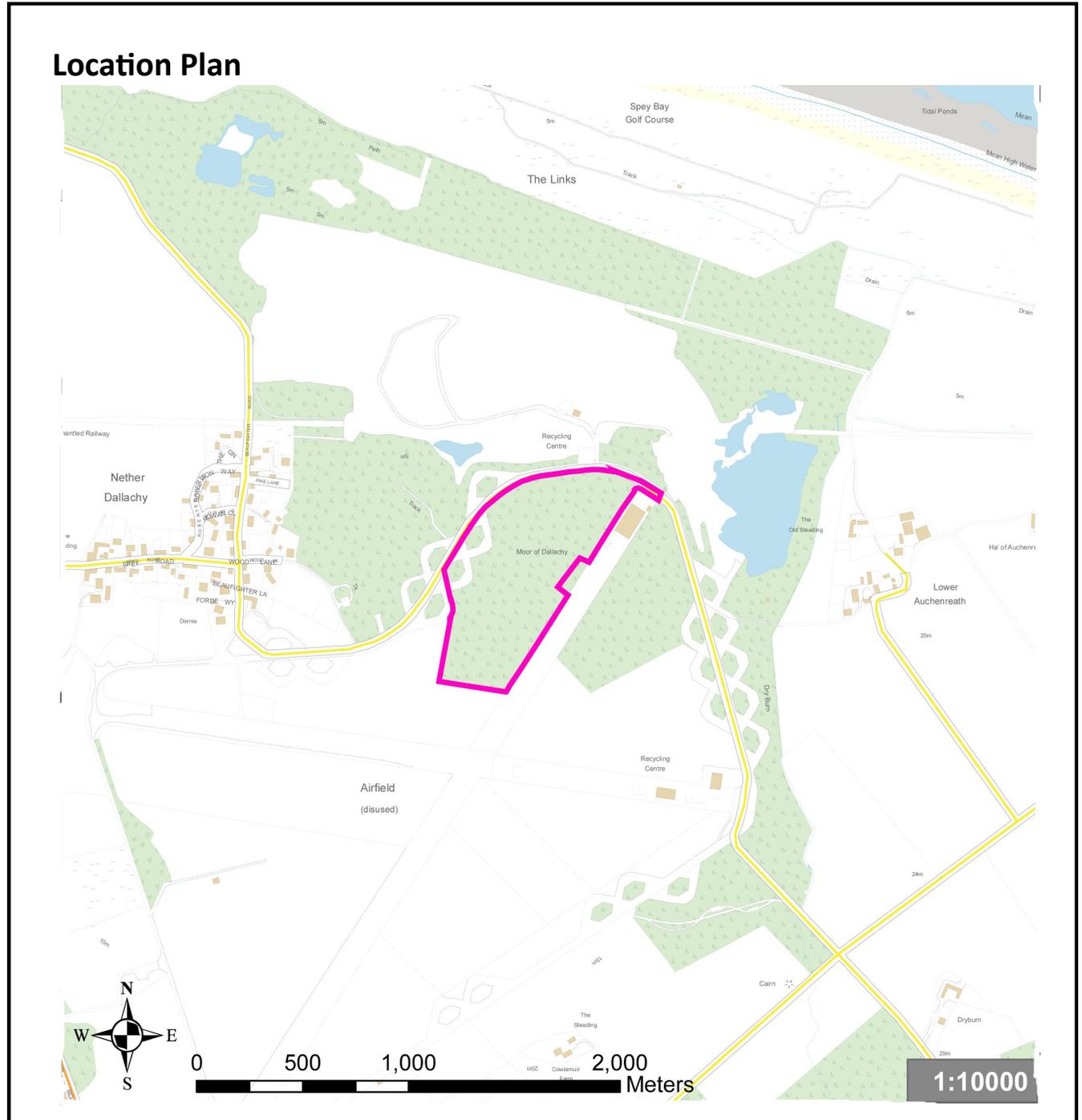
**Site Address:
Nether Dallachy Quarry
Beaufighter Road Nether Dallachy**

**Applicant Name:
Limehillock Quarries Ltd**

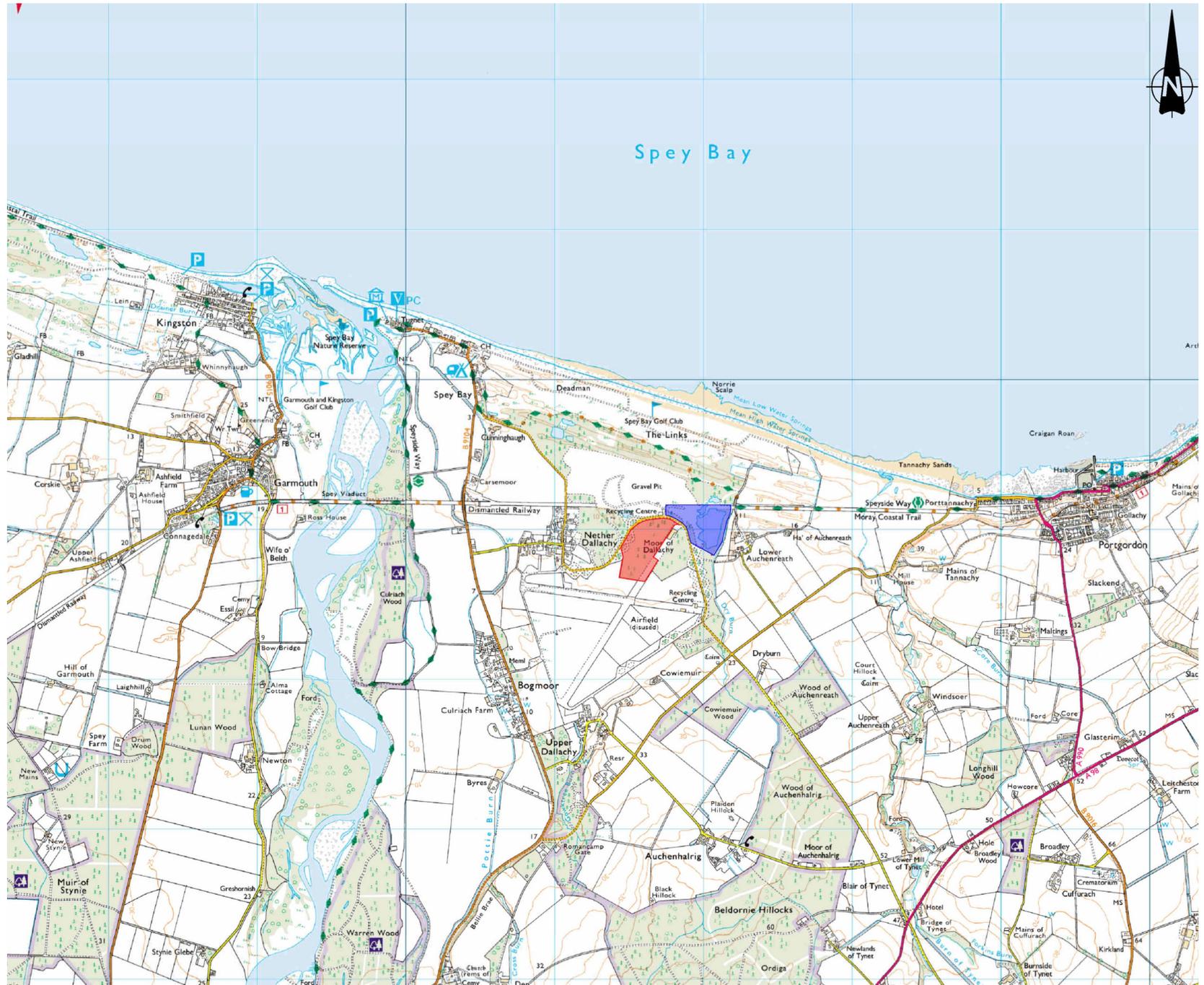
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Site Location



Site plan











PLANNING APPLICATION: 17/01862/MIN

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 to form a sand and gravel quarry to extract up to 65,000 tonnes per annum for a duration of 15 years. This amount may be less if compensatory planting is required to be provided on site, and extraction would not occur below the water table across 5.5 hectares of the site.
- The extraction would involve mechanical extraction only with no need for blasting. A mobile screening plant comprising a series of conveyors and screens would separate the material into the various products.
- The area of new extraction will cover 7.2 hectares, but the overall site area includes areas of bunding around the edges of the quarry. Existing banks of trees along the north west side of the quarry will be retained.
- Two phases, with the existing forestry cover to remain on Phase 2 until Phase 1 is exhausted.
- The quarry material will be used in conjunction with the existing neighbouring salvage and recycling business, located to the east of the site which also produces concrete, concrete blocks and other construction materials.
- The proposal includes the provision of an area of compensatory planting off site adjacent to Bogend Quarry, near Buckie (to account for 2 hectares of the felling) and conditions ensuring the provision of the balance of compensatory planting to be either replanted on site, if alternative off site provision cannot be found.
- A conceptual landscape restoration plan has been submitted which shows the intent to restore the site to include a substantial water feature, unless the site replanted as part of the compensatory planting requirement (see observations).
- The proposals include the felling of approximately 7.5 hectares of woodland.
- The applicants intend to work the quarry 5½ days a week excluding Sundays on hours that were similarly operated for Spey Bay Quarry nearby when it was operational.

THE SITE

- The site lies within the bounds of the former World War 2 fighter airfield at Nether Dallachy. Beaufighter Road which bounds the site to the north and west formed the northern edge of the airfield. The site is bound by a recycling/construction supply business to the east and by former airfield land to the south, now used as grazing land. The village of Nether Dallachy sits 300m to the west of the site. The previous Nether Dallachy Quarry, which has now been depleted and restored sits to the north east of the site.
- The site is predominantly covered in coniferous woodland, with some naturally seeded mixed woodland around the edges. The eastern part of the site covers an area of former runway, which is covered in concrete.

- The site applied for is approximately 9.7 hectares of which approximately 7.5 hectares will be excavated.
- There are no national or local environmental designations covering the site. Given its previous wartime use, there is an archaeological designation covering the site.
- The site is covered by the National Forest Inventory as being host to woodland.

HISTORY

On site;

16/01571/SCN - Screening Opinion request for proposed new sand and gravel quarry near Spey Bay Quarry, Spey Bay, Nether Dallachy. A screening opinion was issued by Moray Council in 2016 and did not seek requirement for the EIA process to be undertaken for the proposal.

17/00090/PAN – Proposal of Application Notice – submitted to the Council in February 2017.

On neighbouring land;

97/00372/FUL - Extension to the existing quarry to extract sand and gravel at Spey Bay Quarry, Nether Dallachy, Spey Bay. Approved in 2008 and the quarry has now been exhausted and restored. This quarry was located to the north east.

99/01552/FUL - Renewal of temporary consent (5 years) for proposed use of part of yard space for storage of building materials for bulk distribution and public works contractor's plant and material at Spey Bay Auto-Salvage, Nether Dallachy, Spey Bay, Fochabers, Moray. This site is located immediately east of the current application site on the former runway area.

00/00316/FUL - Proposed alterations and extension of existing building at Spey Bay Auto-Salvage, Nether Dallachy, Spey Bay, Fochabers, Moray. Approved in April 2000.

03/02682/FUL - Vary the working scheme approved under consent 97/00372/FUL at Caledonian Quarry Products Limited, Spey Bay Quarry, Nether Dallachy, Spey Bay approved in May 2004 (quarry now exhausted and restored). This site is located north east of application site.

05/00538/FUL - Proposed use of part of yard space for storage of building material for bulk distribution and for public works contractors' plant and materials at Spey Bay Auto-Salvage, Nether Dallachy, Spey Bay, Fochabers, Moray. Approved in May 2005. This consent sought the permanent approval of the temporary consent granted under 99/01552/FUL above.

POLICY - SEE APPENDIX

ADVERTISEMENTS

- Advertised for Neighbour Notification purposes.

- Advertised as a Schedule 3 Development (Development Management Regulations 2013 refer).

CONSULTATIONS

Development Plans – Identifies various policy issues, and in particular the absence of compensatory planting.

Transportation - No objection subject to a condition and informatives. It was noted in discussion with the applicant that the material from the site, would be used also in the adjoining established business which supplies building materials, screened quarried material and manufactures concrete blocks on site. This business currently imports minerals for this purpose, which will now be won from the adjoining quarry. The condition recommended relates to the provision of further details on the proposed access to the quarry.

Environmental Health - No objection subject to conditions and informative regarding noise, hours of operation and the avoidance of blasting are recommended.

Contaminated Land – A suspensive condition relating to contaminated land is required which includes the assessment of risk from explosive ordnance.

Moray Access Manager – No objections.

Archaeology - No objection subject to condition relating to a written scheme of investigation. A further informative regarding the sites previous use is also attached.

Moray Flood Risk Management - No objection, subject to an informative regarding surface water drainage.

Forestry Commission – Objection on the grounds of lack of compensatory planting. *Planning Officer Note* - subsequent consultation between the applicant and the Council, Forestry Commission and the applicant has led to the conditions now being recommended.

SNH - No objection, as it was noted they had no remit.

SEPA - No objection subject to conditions and informatives regarding protection of ground water and investigation of possible historic radioactive pollutants on the site soil.

Scottish Water - No objection.

Health and Safety Executive (Quarries) - No response received at the time of writing this report.

Lennox Community Council – No response received at the time of writing this 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 Data Protection Act (paragraph 3 of Minute, Planning & Regulatory Services Committee 16 September 2014).

LIST OF OBJECTIONS:

A total of 2 representations have been received from;-

[REDACTED]

Where issues raised are common to all representations, the below summary will not reiterate/repeat issues clearly stated at least once. All objections/representations have been read and where material, given the appropriate consideration prior to the recommendation now reached.

Headings of objection reasons selected by objectors from objection/representation weblink are as follows;-

- Affecting natural environment
- Dust
- Lack of landscaping
- Noise
- Poor design
- Procedures not followed correctly
- Road access
- Road safety
- Traffic

The specific grounds for objection are summarised as follows;-

Issue: Noise - The noise emanating from the existing Grays recycling centre when operational is a continuous drone and spoils the peace of the area, especially when blowing from a North or North Easterly direction.

Comment (PO): Noise concerns from existing neighbouring uses, would not be grounds to refuse the current application. It is acknowledged that proposal intends to utilise quarry related machinery in the adjoining land, which would contribute to noise in the area but this machine would otherwise still be used to crush/sort imported quarry materials. Conditions are recommended for the quarry to limit hours of operation and noise output.

Issue: Levels of HGV traffic using the road between the B9104 turn off and Portgordon (past the crossroad for Upper Dallachy and Auchenhalrig) are a concern. There are already a large number of these vehicles heading to and from the Gray's Recycling Centre, the landfill site and to the Murphys construction site (offshore cable instillation towards Portgordon).

Comment (PO): The proposal would see traffic turning east out of the proposed quarry and avoiding approach or departure via Nether Dallachy. The other roads leading to the B9104 and the A98 have previously been upgraded to deal with quarry HGV traffic and are considered to be acceptable to the Transportation Manager. It is further noted that

material from the quarry will partly be used within Grays Recycling building material fabrication, reducing the number of HGV's importing material to the location.

Issue: There have been road incidents close to the access to the proposed quarry on Beaufighter Road, when the road was icy in the winter which would be worse with more HGV's on the road. The road was not designed for HGV's.

Comment (PO): The Transportation Manager has not objected to the proposed use of the local road network. Any incidents of traffic accidents in the locality during periods of extreme winter weather and poor conditions would not be grounds to refuse the current application.

Issue: Dust - concerned about the levels of dust which will come from the quarry. The developers cite the fact that a previous quarry had been there for 30 years; the objector would counter this by saying that there were not as many residential properties in the area when the original site was started and operating.

Comment (PO): The point raised in terms of increase in rural housing in the wider locality is noted, but the proposed quarry is an adequate distance away from the nearest residences. Furthermore the predominant wind direction would take any dust away from Nether Dallachy eastward. See the observations section of the report.

Issue: Need - why allow this quarry when there are other quarries available and some are closing because they are not busy.

Comment (PO): Provision of competing quarries elsewhere would not be grounds for refusal. The observation section below considers the provision or over provision of mineral resources.

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 2015 (MLDP) unless material considerations indicate otherwise.

Scottish Planning Policy 2014 (SPP) gives further direction of mineral extraction proposals and the need to secure appropriate provision of mineral resources, subject to appropriate site restoration.

Also relevant to the application being for mineral extraction development is the advice contained within Planning Advice Note 50 Controlling the Environmental Effects of Surface Mineral Workings and its associated Annexes. The development would also be subject to consideration under The Management of Extractive Waste (Scotland) Regulations 2010.

Background

In terms of the Hierarchy for planning, as the quarry output and area exceeded 2 hectares, it qualifies as a 'major' development under the Hierarchy of Developments Regulations 2009. The application has therefore been subject to pre-application consultation, following submission of a Proposal of Application Notice. A public event was advertised in the local press (Northern Scot) and carried out in on 15 February 2017 at Spey Bay Village Hall. The event was attended by 16 members of the public and it is reported that while the proposal was generally well received there were a number of concerns regarding HGV vehicle movements, general quarrying activities potentially causing noise, dust,

disturbance and also the environmental impact. The applicant in the Pre-Application Report has demonstrated where possible how they sought to mitigate those impacts.

The applicant has carried out relevant investigations to inform their submission and in support of the planning application. Submission included various surveys/investigations including a Noise Assessment, Visual Impact Assessment, Supporting Statement (including Environmental Considerations), an Ecological Appraisal and Waste Management Plan.

The main issues are considered below.

Principle of proposed quarry (PP2, ER3, ER4 and IMP1)

Policy ER3 Safeguarding Mineral Reserves seeks to safeguard existing workable mineral reserves from incompatible development. The current proposal is to provide access to additional reserves and is therefore compliant with policy ER3. Policy PP2 seeks new development to be located in sustainable locations that make efficient use of land and infrastructure.

The proposal is being assessed as a new quarrying operation, although historic nearby quarrying activities in the area have had an impact upon the character of the area. The former Spey Bay quarry and previous large quarry (and now capped landfill site) adjacent to Nether Dallachy. Land to the north of the site is still used a Moray Council recycling centre.

The proposed development is subject to Policy ER4 Minerals which states that new sites for construction aggregates will only be permitted where it has been evidenced that there is less than the minimum 10 year supply available. A mineral audit in 2017 identified that there was an adequate supply of sand and/or gravel in Moray until 2029 which might bring into question the necessity for the proposal. However, the proposal is in a good, accessible location and would contribute towards long-term planning for the provision of construction aggregates in Moray. Scottish Planning Policy para 237 states that "Plans should support the maintenance of a landbank of permitted reserves for construction aggregates of at least 10 years at all times in all market areas through the identification of areas of search." While policy ER4 presumes against proposals for new mineral workings unless under a 10 year supply is available or has been exhausted or are no longer viable with specific reference to construction aggregates, in reality this quarry would not now become operational until 2019 at the earliest. The 2017 audit predicts that after 2029 the supply of sand and gravel (construction aggregates) would drop considerably whereupon supply is unlikely to meet demand. It is noted in the audit that several other sand and gravel quarries in Moray are predicted to be exhausted within the next 4-6 years, and while remaining supplies from the two remaining sand and gravel quarries would suffice until 2029, it would provide a more secure degree of supply if the proposed quarry were permitted to operate over and beyond this period.

The audit specifically makes reference to the recent exhaustion of Spey Bay Quarry and notes the current application nearby at Nether Dallachy would continue sand and gravel extraction in the same locality, it is therefore considered on balance that the proposal would comply with Policy ER4. As the predicted critical supply down turn would occur around 2029, the proposal (albeit just over 10 years from that time) would be established timeously to see the provision of a further local sand and gravel quarry to meet local and wider demand in the longer term.

It is further noted that there are a number of major developments underway (or consented) in Moray in both the private and public sector (including MoD, power/roads infrastructure and consented housing developments) that have and will likely call upon local mineral resources over the next 10-15 years. This demand may also increase notably once sections of the A96 duelling commence. This increase in construction activity will impact upon the required production capacity of construction aggregates and will reduce predicted reserves over the next 10 year period. This increase in production requirement is not currently accounted for in the 2017 Audit.

The proposed quarry is also specifically intended to supply the existing concrete batching and block plant based at the adjoining premises which makes products for the construction industry so there is a locational justification for the new quarry also.

On this basis, the proposal is considered acceptable under Policy ER4.

Visual impact of proposed quarry (ER4 and IMP1)

Policy ER4 Minerals and IMP1 Developer Requirements both require minerals application to give consideration to the landscape and visual impact.

In terms of landscape the quarry would be located in a very open and flat landscape and involves the downward excavation rather than any horizontal extraction of hillsides or sloping land. This means that views of the intrusive excavations are localised and limited to the immediate vicinity. The landscape does rise southward at Upper Dallachy and further to the south east, where there may be some limited views from elevated positions toward the proposed quarry. These will be limited however and will not be visually intrusive when viewed in the context of other ongoing uses at the airfield.

The applicant has carried out a visual appraisal of the proposed quarry activity. The proposed quarry would be obscured from site by surrounding woodland to the north west and east, and is bound to the north by a recycling centre/landfill site which itself is bound by an area of landscape planting. The more prevalent views are from the south and south west, and for passing vehicles, cyclists (Sustrans route) and pedestrians on Beaufighter Road. The applicants have shown the retention of a narrow belt of trees along the edge of Beaufighter Road on the north and northwest sides of the quarry. The subsequent bunding between Phase 1 and Phase 2 will further obscure views across the whole working area until such time as both phases are restored to provide a water environment, or possibly replanted with woodland if workings do not go below the water table.

The south and south west side of the quarry, during Phase 2 of the quarry extraction may be visible from the southern end of Nether Dallachy and from Upper Dallachy approximately 1km to the south. Over these longer distances, with the proposed earth bund along the south and south western corner of Phase 2, views of the operations, machinery and plant will be largely obscured from view.

Compensatory tree planting (E4 and ER2)

As the site proposes the felling of approximately 7.5 hectares of woodland, which is identified as lying within the national forest inventory, compensatory tree planting is required in accordance with policies E4 Trees and Development and ER2 Development in Woodlands. Policies E4 and ER2 seek to ensure, where a development removes an area of woodland (in this case active coniferous forestry land), it must be compensated for to ensure the woodland asset within Moray is not diminished or removed by development.

Replacement of this woodland would be an acceptable option where it is of limited value in terms of amenity, landscape, biodiversity, economic or recreational value where such woodland should possibly be retained in accordance with policy ER2.

The applicant has been in discussion with the Council and Forestry Commission regarding this requirement, and has secured an area at Bogend Quarry, Buckie not within the current forest inventory to provide 2 hectares of compensatory planting. This means the remaining balance of 5.5 hectares must be provided.

The applicants have committed that the remaining 5.5 hectares will be replanted on site, and that in order to facilitate this, working within an area of 5.5 hectares will not go below the water table. This would see the planting of 2 hectares at Buckie, and approximately 3.5 hectares on Phase 1 before excavations progressed substantially on Phase 2. The applicants have however asked if conditions could allow for the possibility of the provision of 5.5 hectares to be provided off-site, and conditions are recommended to allow for this possibility. Any alternative location would be subject of consideration and approval by the Moray Council in consultation with the Forestry Commission.

As the default remains that the compensatory planting would be provided between Bogend Quarry, Buckie and re-established on site post extraction, the proposals are considered to comply with the compensatory planting requirements of the above policies E4 and ER2.

Environmental issues (E3, ER4, and IMP1)

The applicant submitted for this application several assessments pertinent to the consideration of the impact upon the environment. Beyond the detailed planning statement, an ecology appraisal was submitted.

Whilst no longer operational, there have been a number of quarries historically in this location to the north of Beaufighter Road. The salvage and recycling company that operates on the adjoining land to the east and the site itself was subject to historic use as part of an airfield. The site does constitute a better habitat than the open, grassed areas and remaining concrete runways on the land to the south. Whilst the majority of the woodland is coniferous plantation, there is evidence of naturally seeded woodland at the periphery of the site which offers better biodiversity.

The ecological appraisal submitted concluded there were no signs of protected species but a squirrel drey was found and these animals are afforded protection under the Wildlife and Countryside Act 1981. Prior to tree felling the developer should obtain a license from Scottish Natural Heritage to remove the drey prior to any felling in its vicinity. The appraisal further recommended that felling should be undertaken outwith the bird nesting season and an informative is recommended to that effect given nesting birds are offered similar protection to squirrels under the Wildlife and Countryside Act 1981.

Blasting, noise, dust and other amenity issues (EP8, EP12, ER4 and IMP1)

Policy EP8 states that development likely to cause significant pollution such as noise must be supported by detailed assessment which also allows for a meaningful assessment of what mitigation could be provided.

In terms of dust, the application 'Supporting Statement and Environmental Considerations' document considers the circumstances when dust would possibly cause an amenity issue for properties in the localities, most settled areas are in excess of 700m away from the

proposed quarry, but Nether Dallachy sits only 300m to the west. The statement concludes however that the incidence of periods of dryness (required to trigger significant dust movement) would need to coincide with strong easterly winds (which are rare in this area) which would allow for a conclusion that wind blown dust will unlikely be experienced from the quarry at Nether Dallachy. Vegetation in the form of tree cover in the locality of the site to the west and east would further reduce the dust impact.

It is acknowledged that the site is bound to the north by a Sustrans Coastal Cycle path that follows Beaufighter Road and may be noticeable/audible from the core path further to the north. Given the long established character of this area for quarrying, recycling and former use as a landfill site, the impact upon the character or amenity of passers-by is not considered to be significant. Following the 15 year consent period, the site would be restored and would not detract in the long term from long established paths in the vicinity.

In terms of noise the Environmental Health Manager has recommended a number of conditions as informed by the Noise Assessment submitted by the applicant. The conditions recommended, including hours of operation, will ensure that noise levels can be controlled so as not to cause a nuisance to sensitive buildings (mainly dwellings) in the locality.

The proposal therefore accords with the requirements of policy EP8 pollution and EP12 Air Quality.

Contaminated Land and historic pollution (EP9)

Policy EP9 Contaminated Land is relevant to this site where its previous use may well contain contamination, including potentially explosive ordnance. As the site has been densely wooded over the past few decades, a visual inspection at this time will yield limited success.

A suspensive condition is recommended relating provision of a strategy for dealing with any ground contamination, or ordnance uncovered as the site is excavated. This would be similar to the vigilance required under the archaeological condition.

Drainage and flood issues (EP5 & EP7)

The site is not susceptible to any surface or river flooding at present.

Both SEPA and the Councils own Flood Risk Management team have been consulted and have had access to the supporting information. Following further discussion between the applicant and SEPA, SEPA have removed their previous objection in relation to ground water, and subject to the conditions recommended, raise no objection. These conditions include details of aftercare to ensure maintenance and management of any water features created. A condition restricting 'dewatering' on the site will also ensure that disturbed water is not moved or pumped elsewhere, potentially affecting ground water or drainage off site.

Vehicular Access (T2 and IMP1)

Policy T2 Provision of Access provides a suitable and safe access onto and from the public highway.

The proposed quarry is intended to supply an existing concrete batching and block plant on adjoining land which is currently supplied from remote quarries by HGV's at a rate of approximately 6 HGV deliveries per day. This would equate to 12 two-way HGV

movements per day. It is understood that the proposed quarry would feed the existing concrete plant and that quarried material would not be delivered offsite in raw form. It is also understood that there would not be an increase in production capacity associated with the existing batching and block plant therefore the proposals should result in a reduction in the number of HGV movements on the road network. The building material business approved on adjoining land was approved under 05/00538/FUL (see history section above).

The site is accessed via an access point at the north east corner of the site, but materials will be taken south down the former runway to the concrete and screening plant. Given the local road network leading to this location is well served from the south east and the C16E Byres - Tannachy Road leading to the A98 there is little incentive to travel through Nether Dallachy to the west of the site.

Even in the event that materials were screened and taken directly offsite, the local road network to the south east route which has been used for historic quarries in the area has not met with an objection from the Transportation Manager. The proposals therefore accord with Policy T2.

Extractive Waste Management (ER4, EP8)

The submission of the Extractive Waste Management Plan is a specific requirement of Policy ER4 Minerals. Policy EP8 Pollution seeks to ensure the possible pollution effects of a development have been considered and mitigated where necessary.

The quarry was previously assessed against the Extractive Waste Management (Scotland) Regulations and for the need for a waste management plan in 2011. The applicants have also submitted an Extractive Waste Management Plan with the proposal that concludes that due to the nature of the geology of the quarry, and the intent not to import any extractive waste from elsewhere, no significant action would be required other than the ongoing good practice and management of the quarrying operations. All materials would be inert and SEPA are content subject to conditions about no dewatering of the quarry floor and testing for historic radioactive materials that all topsoil would be stored in a safe manner and gradient.

Subject to the ongoing compliance with the Extractive Waste Management Plan, the proposal will comply with this aspect of policies EP8 and ER4.

Restoration (ER4)

As part of the Planning Statement and other submissions, the applicants have provided detailed information as to how they intend to restore the site once the mineral extraction phase comes to an end. The final restoration of the quarry for this site, may differ from the approved conceptual restoration only if the applicants cannot secure alternative areas of compensatory planting off site. If these cannot be secured off site, then excavations will only occur across the site up to a depth of 5m where compensatory planting has not been provided elsewhere. The exhausted area would be backfilled with the stored soil and replanted in woodland. Various conditions are recommended to ensure that the final restoration plan is given final consideration by Moray Council and SEPA.

Conclusion and Recommendation

Subject to the conditions recommended, inclusive of the provision of compensatory tree planting either on or off site, the proposed quarry will be acceptable in this location.

REASON(S) FOR DECISION

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

The proposal subject to the conditions recommended complies with the relevant policies of the Moray Local Development Plan 2015 and there were no other material considerations arising otherwise to prevent approval.

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Manager (Development Management)**

APPENDIX

POLICY

Adopted Moray Local Development Plan 2015

Primary Policy PP2: Climate Change

In order to contribute to reducing greenhouse gas emissions, developments of 10 or more houses and buildings in excess of 500 sq m should address the following:

- Be in sustainable locations that make efficient use of land and infrastructure
- Optimise accessibility to active travel options and public transport
- Create quality open spaces, landscaped areas and green wedges that are well connected
- Utilise sustainable construction techniques and materials and encourage energy efficiency through the orientation and design of buildings
- Where practical, install low and zero carbon generating technologies
- Prevent further development that would be at risk of flooding or coastal erosion
- Where practical, meet heat and energy requirements through decentralised and local renewable or low carbon sources of heat and power
- Minimise disturbance to carbon rich soils and, in cases where it is agreed that trees can be felled, to incorporate compensatory tree planting.

Proposals must be supported by a Sustainability Statement that sets out how the above objectives have been addressed within the development. This policy is supported by supplementary guidance on climate change.

Policy E3: Protected Species

Proposals which would have an adverse effect on a European protected species will not be approved unless;

- there is no satisfactory alternative; and
- the development is required to preserve public health or public safety, or for other reasons of overriding public interest, including those of a social or economic nature, and beneficial consequences of primary importance for the environment; and the development will not be detrimental to the maintenance of the population of species concerned at a favourable conservation status of the species concerned.

Proposals which would have an adverse effect on a nationally protected species of bird will not be approved unless;

- There is no other satisfactory solution
- The development is necessary to preserve public health or public safety
- The development will not be detrimental to the conservation status of the species concerned.

Proposals which would have an adverse effect on badgers or their setts must be accompanied by a Badger Protection Plan to avoid, minimise or compensate for impacts. A licence from Scottish Natural Heritage may be required as well as planning permission. Where a protected species may be affected a species survey should be prepared to accompany the application to demonstrate how any offence under the relevant legislation will be avoided.

Policy E4: Trees and Development

The Council will serve Tree Preservation Orders (TPO's) on potentially vulnerable trees which are of significant amenity value to the community as a whole, 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 protection should be replaced, unless otherwise agreed with the Council.

Woodland removal will only be permitted where it would achieve significant and clearly defined additional public benefits. Where woodland is removed in association with development, developers will generally be expected to provide compensatory planting. The Council may attach conditions on planning consents ensuring that existing trees and hedges are retained or replaced.

Development proposals will be required to meet the requirements set out in the Council's Trees and Development Supplementary Guidance. This includes carrying out a tree survey to identify trees on site and those to be protected. A safeguarding distance should be retained between mature trees and proposed developments.

When imposing planting or landscaping conditions, native species should be used and the Council will seek to promote green corridors.

Proposals affecting woodland will be considered against Policy ER2.

Policy EP5: Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS)

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

Specific arrangements should be made to avoid the issue of permanent SUD features becoming silted-up with construction phase runoff. Care must be taken to avoid the introduction of invasive non-native species during the construction of all SUD features.

Applicants must agree provisions for long term maintenance of the SUDS scheme to the satisfaction of the Council in consultation with SEPA and Scottish Water as appropriate.

A Drainage Assessment (DA) will be required for developments of 10 houses or more, industrial uses, and non-residential proposals of 500 sq metres and above.

The Council's Flood Team will prepare Supplementary Guidance on surface water drainage and flooding.

Policy EP7: Control of Development in Flood Risk Areas

New development should not take place if it would be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere. 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 National Guidance and to the satisfaction of both the Scottish Environment Protection Agency and the Council is provided by the applicant. This assessment must demonstrate that any risk from flooding can be satisfactorily mitigated without increasing flood risk elsewhere. 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.

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 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 extreme 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 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

- Job related accommodation e.g. for caretakers or operational staff.

Areas within these risk categories will generally not be suitable:

- 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 flow), and
- An alternative, lower risk location is not available and
- 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 should be used where appropriate. Elevated buildings on structures such as stilts are unlikely to be acceptable.

Policy EP8: Pollution

Planning applications for developments that may cause significant pollution in terms of noise (including RAF aircraft noise), air, water and light emissions will only be approved where a detailed assessment report on the levels, character and transmission of the potential pollution is provided by the applicant. The assessment should also demonstrate how the pollution can be appropriately mitigated. Where the Council applies conditions to the consent to deal with pollution matters these may include subsequent independent monitoring of pollution levels.

Policy EP9: Contaminated Land

Development proposals on potentially contaminated land will be approved provided that:

- a) 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
- b) 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.

The Council recommends early contact with the Environmental Health Section, which can advise what level of information will need to be supplied.

Policy EP12: Air Quality

Development proposals, which, individually or cumulatively, may adversely affect the air quality in an area to a level which could cause harm to human health and wellbeing or the natural environment must be accompanied by appropriate provisions (deemed satisfactory

to the Council and Scottish Environment Protection Agency as appropriate) which demonstrate how such impacts will be mitigated.

Some existing land uses may have a localised detrimental effect on air quality, any proposals to locate development in the vicinity of uses and therefore introduce receptors to these areas (e.g. housing adjacent to busy roads) must consider whether this would result in conflict with the existing land use. Proposals which would result in an unacceptable conflict with existing land use and air quality will not be approved.

Policy ER2: Development in Woodlands

All woodlands

Development which involves the loss of woodlands will be refused where the development would result in unacceptable adverse effects on the amenity, landscape, biodiversity, economic or recreational value of the woodland or prejudice the management of the forest. Woodland removal will only be supported where it can be demonstrated that the impact on the woodland is clearly outweighed by social or economic benefits of national, regional and local importance, and if a programme of proportionate compensatory planting has been agreed with the Planning Authority.

Protected Woodlands

Woodland removal within native woodlands, ancient semi natural and woodlands within sites protected under the terms of policies E1 and E2 will not be supported.

Tree surveys and new planting

Development proposals must take account of the Council's Trees and Development supplementary guidance. The Council will require the provision of compensatory planting to mitigate the effects of woodland removal.

Where appropriate the Council will seek opportunities to create new woodland and plant native trees in new development proposals. If a development would result in the severing or impairment of connectivity between important woodland habitats, mitigation measures should be identified and implemented to support the wider green network.

Policy ER4: Minerals

The Council will support, in principle, mineral extraction in the following circumstances;

- Extension to existing operations/sites,
- Reopening of a dormant quarry,
- A reserve underlying a proposed development where it would be beneficial to extract prior to development.

New minerals sites will only be permitted where it has been demonstrated that existing reserves have been exhausted or are no longer viable and for construction aggregates it has been evidenced that there is less than the minimum 10 year supply available.

Borrow pits will be supported to allow the extraction of minerals near to or on the site of associated development (e.g. wind farm and roads construction, forestry and agriculture) provided it can be demonstrated that the operational, community and environmental

benefits of the proposal can be evidenced. These consents will be time limited, tied to the proposal and must be accompanied by full restoration proposals and aftercare.

Taking into account PAN 50 Controlling the Environmental Effects of Surface Minerals Workings sufficient information should be provided to enable a full assessment of the likely effects of the mineral development together with proposals for appropriate control, mitigation and monitoring.

Minerals developments should avoid or satisfactorily mitigate impacts, in determining proposals the Council will give consideration to the following issues;

- Impact on natural heritage and historic environment including landscape and visual impact,
- Disturbance and disruption from noise, blasting vibration, and potential pollution of land, air and water,
- Effect on communities,
- Cumulative impact,
- Transport impacts,
- Restoration and aftercare proposals.

Once a mineral working has ceased the land should be reinstated at the earliest opportunity. Restoration should be designed and implemented to the highest standard and after uses should result in environmental improvement and add to the cultural, recreational or environmental assets of the area. If operators cannot demonstrate that their programme of restoration (including the necessary financing, phasing and aftercare of the sites) is sufficient a financial guarantee may be sought;

Proposals should be accompanied by an Extractive Waste Management plan.

Policy T2: Provision of Access

The Council will require that new development proposals are designed to provide the highest level of access for end users including residents, visitors, and deliveries appropriate to the type of development and location. Development must meet the following criteria:

- Proposals must maximise connections and routes for pedestrian and cyclists, including links to active travel and core path routes, to reduce travel demands and provide a safe and realistic choice of access.
- Provide access to public transport services and bus stop infrastructure where appropriate.
- Provide appropriate vehicle connections to the development, including appropriate number and type of junctions.

- Provide safe entry and exit from the development for all road users including ensuring appropriate visibility for vehicles at junctions and bends.
- Provide appropriate mitigation/modification to existing transport networks where required to address the impacts of new development on the safety and efficiency of the transport network. This may include but would not be limited to, the following measures, passing places, road widening, junction enhancement, bus stop infrastructure and drainage infrastructure. A number of potential road improvements have been identified in association with the development of sites the most significant of these have been shown on the Settlement Map as TSPs.
- Proposals must avoid or mitigate against any unacceptable adverse landscape or environmental impacts.

Developers should give consideration to aspirational core paths (under Policy 2 of the Core Paths Plan) and active travel audits when preparing proposals.

New development proposals should enhance permeability and connectivity, and ensure that opportunities for sustainable and active travel are protected and improved.

The practicality of use of public transport in more remote rural areas will be taken into account however applicants should consider innovative solutions for access to public transport.

When considered appropriate by the planning authority developers will be asked to submit a Transport Assessment and Travel Plan.

Significant travel generating proposals will only be supported where:

- Direct links to walking and cycling networks are available;
- Access to public transport networks would involve walking no more than 400m;
- It would not have a detrimental effect on the capacity of the strategic road and/or rail network; and
- A Transport Assessment identifies satisfactory mechanisms for meeting sustainable transport requirements and no detrimental impact to the performance of the overall network.

Access proposals that have a significant adverse impact on the surrounding landscape and environment that cannot be mitigated will be refused.

Policy IMP1: Developer Requirements

New development will require to be sensitively sited, designed and serviced appropriate to the amenity of the surrounding area. It should comply with the following criteria

- a) The scale, density and character must be appropriate to the surrounding area.
- b) The development must be integrated into the surrounding landscape

- c) Road, cycling, footpath and public transport must be provided at a level appropriate to the development. Core paths; long distance footpaths; national cycle routes must not be adversely affected.
- d) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water.
- e) Where of an appropriate scale, developments should demonstrate how they will incorporate renewable energy systems, and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria.
- f) Make provision for additional areas of open space within developments.
- g) Details of arrangements for the long term maintenance of landscape areas and amenity open spaces must be provided along with Planning applications.
- h) Conservation and where possible enhancement of natural and built environmental resources must be achieved, including details of any impacts arising from the disturbance of carbon rich soil.
- i) Avoid areas at risk of flooding, and where necessary carry out flood management measures.
- j) Address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- k) Address and sufficiently mitigate any contaminated land issues
- l) Does not sterilise significant workable reserves of minerals or prime quality agricultural land.
- m) Make acceptable arrangements for waste management.

Policy IMP3: Developer Obligations

Contributions will be sought from developers in cases where, in the Council's view, a development would have a measurable adverse or negative impact upon existing infrastructure, community facilities or amenity, and such contributions would have to be appropriate to reduce, eliminate or compensate for that impact.

Where the necessary contributions can be secured satisfactorily by means of planning conditions attached to a planning permission, this should be done, and only where this cannot be achieved, for whatever reason, the required contributions should be secured through a planning agreement.

The Council will prepare supplementary guidance to explain how the approach will be implemented in accordance with Circular 3/2012 on Planning Obligations. This will detail the necessary facilities and infrastructure and the scale of contributions likely to be required.

In terms of affordable housing, developments of 4 or more units will be expected to make a 25% contribution, as outlined in policy H8.

WARD 05_17

18/00384/EIA
2nd April 2018

**Proposed extraction area to be used in conjunction with
 (and the retention of) the existing processing area at
 Caysbriggs Quarry Elgin Lossiemouth Moray
 for Tarmac Trading Ltd**

Comments:

- A SITE VISIT has been carried out.
- Application is a major development as defined under the Hierarchy Regulations 2009 and the approved Scheme of Delegation because the development is subject to the EIA Regulations and the site area exceeds 2 ha.
- Advertised as a departure from the development plan.
- Advertised under the EIA Regulations 2017.
- Advertised under Schedule 3 of the Development Management Regulations 2013.
- Advertised for neighbour notification purposes.
- No objections/representations received.

Procedure:

None

Recommendation Grant Planning Permission - Subject to the following:-

The following Conditions 1 – 1 inclusive apply to both the extraction and processing areas hereby approved:

1. The permission hereby granted shall be for a limited period only and shall cease to have effect on 1 October 2044 (the 'cessation date') by which time and prior to that cessation date, the application site (both excavation and processing areas) shall be cleared of all development approved or involved in implementing the terms of the permission hereby granted (including all mobile plant and machinery, any ancillary works, infrastructure, fixtures and fittings, etc.), and the site shall be re-instated in accordance with a restoration and aftercare scheme which shall previously have been submitted to and approved in writing by the Council, as Planning Authority (see Condition 12 below).

Reason: To ensure an acceptable form of development enabling the development to progress in accordance with the applicant's submitted particulars to allow for full extraction of available resources and site restoration thereafter, and to retain control over the use of the site and enable further consideration to be given to the operations, effects and impact of the use upon the amenity, character and

appearance of the site and surrounding area together with securing removal of all site infrastructure used in the extraction process prior to embarking upon the restoration of the site.

2. Except where otherwise provided for, or agreed and/or amended by the terms of this permission, the applicant/developer shall operate the development in accordance with the provisions of the application, the Environmental Impact Assessment Report (EIA Report) and the plans hereby approved including:
 - a) the extraction of cobbles, pebbles and sand within the proposed extraction area at Inchbroom Road, and the processing of the extracted material (screening and sorting) within the processing area at Caysbriggs quarry;
 - b) the extraction of not more than 40,000 tonnes of cobbles, pebbles and sand (combined) annually or extraction operations to take place on not more than 60 days per year (whichever is the greater), with the operator to maintain records of daily output/production from the extraction area, which shall be made available to the Council, as Planning Authority at any time on request;
 - c) in terms of the development of the site (Chapter 3 of EIA Report refers), extraction and restoration of the site shall be undertaken progressively across the site (Phases 1 – 11 in that order) in accordance with all elements associated with the phasing and woodland replanting details as identified on drawing nos. C165-00038-04, 05 and 06; including the incorporation and provision of a protective margin/retained tree buffer around the site, additional tree planting along the north/northeastern/western (part) boundaries and construction of a 2m high screen bund along the northern/western (part) perimeter of the site as shown, and all elements shall be implemented prior to commencement of extraction operations and maintained in situ for the duration of all phases of extraction operations;
 - d) the adoption and commitment to implement all proposed and required mitigation measures as identified in the EIA Report (and summarised in Table 14.1, Volume 1 contained therein);
 - e) no extraction until soils (top and sub-soil) have been stripped to their full depth within the proposed operational extraction areas in advance of any extraction commencing within each phase and stored on site for re-use progressively as part of the site restoration arrangements and no material shall be deposited or brought onto the site from elsewhere;
 - f) no extraction of cobbles, pebbles and sand above the levels shown on the submitted drawings;
 - g) all stockpiles of extracted cobbles and pebbles (pre- and post- processing) shall be located within the processing area only; and no stockpiling is permitted in the extraction area;
 - h) upon restoration, the land shall be restored to woodland/habitats and agricultural land and to finished levels as identified within the EIA Report;
 - i) all woodland planting (additional and replacement following each worked phase) shall be provided in accordance with the approved plans and details contained within Chapter 13 'Woodland' (EIA Report, Vol 1 and 2 refers) and associated Appendix 13.2 Forestry Report prepared by Scottish Woodlands, dated November 2017 (EIA Report, Vol 3 refers);
 - j) extraction operations shall be undertaken by a single wheeled shovel loader or excavator only; and all fixed and mobile plant used for processing operations shall be located only within the processing area.

Reason: To ensure an acceptable form of development in accordance with the submitted particulars and in order to safeguard the amenities, character and appearance of the locality within which the proposal is located.

3. Notwithstanding the details submitted (which are not accepted):
 - i) prior to works commencing on any part of the development details shall be submitted and approved by the Council, as Planning Authority in consultation with the Roads Authority regarding a detailed drawing (scale 1:1000) which shall include details to demonstrate control of the land) showing the visibility splay 4.5 metres by 215 metres in both directions from the Oakenhead access track junction onto the B9103, all boundary walls/fences/hedges set back to a position behind the required visibility splay, and a schedule of maintenance for the splay area; and
 - ii) thereafter, the visibility splay shall be provided in accordance with the approved drawing prior to any works commencing (except for those works associated with the provision of the visibility splay); and
 - iii) the visibility splay shall be maintained at all times free from any obstruction exceeding 1.0 metres above the level of the carriageway in accordance with the agreed schedule of maintenance.

Reason: To enable drivers of vehicles entering or exiting the site to have a clear view so that they can undertake the manoeuvre safely and with the minimum interference to the safety and free flow of traffic on the public road.

4. Notwithstanding the details submitted (which are not accepted) and prior to works commencing on any part of the development, the following details shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority:
 - i) a detailed plan (scale 1:500 min) showing the first 25 metres of the access track to the site from the B9103 widened to 7.3 metres, constructed to the Moray Council specification and surfaced with bituminous macadam and with a gradient of not more than 1:20 for the first 10m, measured from the edge of the public carriageway; and
 - ii) a plan (scale 1:200 min) showing resurfacing (using Hot Rolled Asphalt (HRA)) of the full width of the B9103 road 20 metres in both directions from the centreline of the Oakenhead access; and
 - iii) thereafter, the improvements both to the access track and resurfacing of the B9103 shall be completed in accordance with the approved details prior to the commencement of any other part of the development.

Reason: To ensure an acceptable form of development in the interest of road safety.

5. No works shall commence on site 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:
 - evidence to confirm that a Wear and Tear Agreement has been agreed with the Council, as Roads Authority, to include the length of the B9103 and

C21E between the proposed quarry and the processing site, a schedule for monitoring surveys (bi-annually minimum), and arrangements for undertaking works to mitigate against damage to the public road due to quarry traffic.

- measures to be put in place to safeguard the movements of pedestrians; and
- instructions to drivers and details of specific routes to be used for access.

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.

6. No works shall commence on site until details have been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority to ensure that no water or loose material shall drain or be carried onto the public footpath/carriageway for the life-time of the development.

Reason - To ensure the safety and free flow of traffic on the public road and access to the site by minimising the road safety impact from extraneous material and surface water in the vicinity of the new access.

7. No works in connection with the development hereby approved shall commence unless an archaeological written scheme of investigation (WSI) has been submitted to and approved in writing by the Council, as Planning Authority in consultation with Aberdeenshire Archaeology Services and a programme of archaeological works has been carried out in accordance with the approved WSI.

The WSI shall include details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the written scheme of investigation will be provided throughout the implementation of the programme of archaeological works. In the event that the archaeological works reveal the need for post excavation analysis, the development hereby approved shall not be brought into use unless a post-excavation research design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the Council, as Planning Authority in consultation with Aberdeenshire Archaeology Services. The PERD shall be carried out in complete accordance with the approved details.

Reason: To safeguard and record the archaeological potential of the area.

8. In the event of a complaint being received of the existence of any negative effect(s) on private water supplies (in terms of either quality or quantity) as a result of the development, then within two weeks of being notified by the Council, as Planning Authority, in consultation with the Environmental Health Manager (or within a longer period as the Council may allow) the applicant/quarry operator shall submit to the Council as Planning Authority, in consultation with the Environmental Health Manager for its approval, proposals to secure the protection of that supply and urgent restorative mitigation measures to remedy the effects,

including timescale(s) for their implementation. Thereafter, these proposals shall be carried out in accordance with the approved details.

Reason: To protect the adequacy and wholesomeness of any private water supplies which may be affected by the development hereby approved.

9. Notwithstanding the provisions of Classes 55 and 56 of the Town & Country Planning (General Permitted) (Development) (Scotland) Order 1992 (as amended, or as revoked or re-enacted; with or without modification) no buildings, plant or machinery (other than the single wheeled shovel loader or excavator within the extraction area and/or similar fixed/mobile plant, machinery and buildings located with the processing area), shall be installed or operated within the site without the prior approval of the Council, as Planning Authority.

Reason: In order to retain effective control over future development within the application site so that it is carefully managed and does not result in over-development or adversely impact on the amenity or character of the area.

10. Where proposed as part of extraction and/or site restoration operations, any proposed infilling including partial infill of excavated quarry voids shall only be undertaken using material sourced on the site and no part of the permission hereby granted shall authorise or permit at any time the removal of top or sub-soil from the site or the import of material from outwith the site.

Reason: To prevent pollution of the water environment.

11. Not less than 12 months prior to completion of mineral workings (including extraction within Phase 11, details shall be submitted to and approved by the Council, as Planning Authority in consultation with the SEPA (and others where appropriate) regarding:
- a) a detailed restoration plan and aftercare scheme for both the processing area and extraction area hereby approved to include:
 - i) the arrangement for the removal of all buildings and structures (both mobile and fixed plant, etc.) from each area;
 - ii) details of the finalised landform to be provided on site, including all water/pond areas and all areas of site mounding or moulding of excavated material to be retained or provided as part of the landform together with elevations, cross and long sections and existing and finished levels details (relative to a fixed datum) etc. to describe the finalised landform;
 - iii) the provisions for re-instatement for after-uses to include woodland, arable land and habitat creation (wetland/pond) as proposed within the EIA Report including sections and finished ground levels to show the finished profile of the re-instated ground;
 - iv) landscaping and planting/seeding information associated with the proposed formation of all identified habitats, including woodland planting and the formal landscaped area opposite the Cemetery;
 - v) details of the location, route and construction of the new footpath to be formed within and through the excavation area which would link the

- footpath along the western site boundary with the Oakenhead access track to the east;
- v) information on the effects of restoration upon the water environment including ground water quality and quantity;
 - vii) the arrangements for the monitoring and aftercare scheme (see Condition 12 below) which shall specify all the steps to be taken and the time periods within which the steps will be taken; and
- b) thereafter, the restoration of the site and aftercare shall be carried out in accordance with the approved details.

Reason: To ensure that both the processing and extraction sites are appropriately restored in the interests of the protection of the environment and that the final landform and uses are in keeping with the existing amenities and appearance of the surrounding area, as these details are currently lacking from the application.

12. Following restoration works (whether for each individual Phase or upon completion of Phase 11, and thereafter for the whole quarry site (including both the extraction and processing areas), the approved restoration works within the site (Condition 11) shall be subject to a monitoring and aftercare scheme for a period of 5 years, the method statement and specification for which shall be submitted to and approved by the Council, as Planning Authority in consultation with SEPA and others as appropriate not less than 2 months prior to undertaking the restoration works.

Thereafter, the agreed scheme shall be implemented in accordance with the agreed details and any seeding, trees or shrubs that die or become seriously damaged or diseased within 5 years of planting shall be removed and replaced by others of a similar size and species within the next planting season.

Reason: In order to monitor the condition of the site after restoration.

13. Prior to the commencement of development a bird hazard management plan shall be submitted to and approved in writing by the Council, as Planning Authority in consultation with the Ministry of Defence and SNH. The submitted plan shall include details as to how birds are to be managed on site for the period of extraction and shall contain specific measures as detailed below:
- i) to ensure that there are no more than 20 gulls, waders (Lapwing, Golden Plover, Oystercatcher and Curlew) or corvids on the site at any one time;
 - ii) where 20 or more of the above named species are observed on site, details of measures to ensure that the species are to be dispersed in a controlled manner; and
 - iii) the arrangements for the site operator to notify RAF Lossiemouth in writing at least 24 hours prior to any active bird control measures being undertaken to ensure that they are not dispersed into the path of an aircraft.

Thereafter, the agreed measures shall be implemented in full for the lifetime of the development.

Reason: To avoid endangering the safe movement of aircraft and the operation of RAF Lossiemouth aerodrome as a result of a potential increase in bird strike risk

during the period of extraction.

The following Conditions 14 to 21 inclusive apply to the extraction area only:

14. No development shall commence until details have been submitted to and approved by the Council, as Planning Authority in consultation with the Environmental Health Manager, regarding a detailed dust management plan, as referred to in Section 11.63 of the EIA Report: Volume 1, dated March 2018 and titled 'Caysbriggs Quarry, Inchbroom Road, Lossiemouth, Moray IV31 6RU'.

Reason: To ensure that an acceptable plan with monitoring is in place from the start of the development in accordance with the submitted EIA Report, to address/mitigate dust impacts upon neighbouring property.

15. Extraction operations shall be undertaken by a single wheeled shovel loader or excavator only and no screening plant or blasting operations are permitted.

Reason: To ensure an acceptable form of development in accordance with the submitted EIA Report and to limit the impact of noise associated with on-site extraction upon the amenities of the locality and neighbouring property.

16. All quarry operations within the extraction area shall be carried out and permitted between 08:00 to 17:00 hours, Monday to Friday, at 08:00 to 13:00 hours on Saturday only, and at no other times (including Bank and National Holidays) shall such operations be undertaken without prior written consent of the Council, as Planning Authority in consultation with the Environmental Health Manager.

Reason: To control/restrict the impact of noise emissions resulting from such operations upon the amenities of the locality and neighbouring property.

17. Noise emissions associated with soil and overburden handling in connection with soil stripping operations in all phases, and the provision of the 2m high bund associated with Phase 1, as highlighted in drawing number C165-00038-05 of the EIA Report: Volume 2, dated March 2018 and titled 'Caysbriggs Quarry, Inchbroom Road, Lossiemouth, Moray IV31 6RU', shall not exceed the free-field Equivalent Continuous Noise Level (L Aeq, 1 hr) of 70dB(A) at any noise sensitive dwelling, and all such noise emissions shall be limited to a period not exceeding 8 weeks in any year at any one dwelling.

Reason: To control/restrict the impact of noise emissions resulting from such operations upon the amenities of the locality, including neighbouring property.

18. No development shall commence until details have been submitted to and approved by the Council, as Planning Authority in consultation with the Environmental Health Manager, regarding a noise mitigation scheme, as referred to in Section 10.82 of Tarmac's Environmental Impact Assessment Report: Volume 1, dated March 2018 and titled 'Caysbriggs Quarry, Inchbroom Road, Lossiemouth, Moray IV31 6RU'. The scheme, shall include, amongst other measures, details of community liaison protocols on planned burials proposed in conjunction with the Moray Council Registrar Service and commemorative

services/ceremonies proposed in conjunction with the Commonwealth War Graves Commission at the adjacent Lossiemouth Cemetery, during which all quarry, including excavation operations shall cease.

Reason: To ensure an acceptable form of development in accordance with the submitted EIA Report and to limit/mitigate the impact of noise associated with on-site extraction upon the amenities of the locality, including neighbouring property and events to be undertaken at Lossiemouth Cemetery.

19. No development shall commence until details have been submitted to and approved by the Council, as Planning Authority in consultation with the Environmental Health Manager, regarding a scheme of compliance noise monitoring (to be undertaken at or close to sensitive noise receptors), as referred to in Section 10.79 of the EIA Report: Volume 1, dated March 2018 and titled 'Caysbriggs Quarry, Inchbroom Road, Lossiemouth, Moray IV31 6RU'.

Reason: To ensure an acceptable form of development in accordance with the submitted EIA Report and to limit/mitigate the impact of noise associated with on-site extraction upon the amenities of the locality and neighbouring property; with further mitigation measures to be agreed and implemented where such impacts are identified as a result of the compliance noise monitoring.

20. During normal daytime working hours defined in Condition 16 above, the free-field Equivalent Continuous Noise Level (L Aeq, 1 hr) for the period associated with quarry operations, excluding soil and overburden handling activity referred to in Condition 7 above, shall not exceed 45 dB(A) at any noise sensitive dwelling and within the grounds of Lossiemouth Cemetery.

The exception to this noise limit is in respect of Caysbriggs Farm, which shall be subject to a free-field Equivalent Continuous Noise Level (L Aeq, 1 hr) of 52 dB(A), as referred to in Section 10.62 of Tarmac's Environmental Impact Assessment Report: Volume 1, dated March 2018 and titled 'Caysbriggs Quarry, Inchbroom Road, Lossiemouth, Moray IV31 6RU'.

Reason: To regulate/restrict the impact of noise emissions resulting from such operations upon the amenities of the locality and neighbouring property.

21. Prior to the commencement of development, a scheme identifying all mitigation measures to safeguard existing Scottish Water assets on the site shall be submitted to and approved in writing by the Council, as Planning Authority in consultation with Scottish Water.

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

Reason: To ensure that Scottish Water assets and infrastructure within the extraction area are adequately protected during the lifetime of the development.

The following Conditions 22 to 25 inclusive apply to the processing area only:

22. The processing area shall not be used for the development hereby permitted before 0700 hours on weekdays and 0700 hours on Saturdays, nor after 1700 hours on weekdays and 1500 hours on Saturdays, nor at any time on Sundays other than essential maintenance work between the hours of 0800 and 1200 hours by prior agreement with the Council, as Planning Authority in consultation with the Environmental Health Manager.

Reason: To regulate/restrict the impact of noise emissions resulting from processing operations upon the amenities of the locality and neighbouring property.

23. Noise emissions from plant and machinery within the processing area shall not exceed an Leq of 52dB(A), 1 hour (free-field) at the nearest noise sensitive dwelling. The reference period shall be 1 hour, where 1 hour means any of the 1 hour periods during the defined working day (0700 - 1900 hours).

Reason: To regulate/restrict the impact of noise emissions resulting from such operations upon the amenities of the locality and neighbouring property.

24. Prior to the commencement of development, a dust management scheme shall be agreed with the Council, as Planning Authority in consultation with the Environmental Health Manager. This scheme shall be monitored by the developer on an annual basis and arising from this, any additional measures required to manage dust shall be immediately incorporated into the dust management procedures in accordance with details which shall previously have been agreed with by the Council, as Planning Authority, in consultation with the Environmental Health Manager.

Reason: To ensure that an acceptable plan with monitoring is in place from the start of the development in accordance with the submitted EIA Report, to address and mitigate dust impacts upon neighbouring property.

25. Prior to the commencement of development, a detailed site layout plan drawn to scale showing the processing area shall be submitted to and approved in writing by the Council, as Planning Authority. The plan shall identify the location and height of all fixed/mobile plant, machinery or other structures, stock pile areas and buildings, the location of water treatment lagoons, foul/surface water drainage arrangements, parking areas, access arrangements, screen bund and planting (existing and new).

Thereafter, the processing area shall be maintained in accordance with these approved details.

Reason: To ensure an acceptable form of development appropriate to the surrounding area and provide an up-to-date record of the site layout and features, as these details are currently lacking from the application.

Reason(s) for Decision

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

The extraction area, being located immediately adjacent to the Lossiemouth settlement boundary would represent a departure from Policy E9, but can be supported having regard to the nature and impact of the proposed excavation activity would not prejudice the objectives of that policy. In all other respects, including landscape and visual, transportation, drainage, pollution prevention, cultural and natural heritage, etc. interests, the proposal is considered to accord with the provisions of the development plan and there are no material considerations that indicate otherwise.

Reasoned conclusion on the significant effects of the development on the environment (Regulation 29 of the EIA Regulations 2017)

Moray Council, as Planning Authority has taken account of all relevant information, consider that the proposal can be supported having regard to the nature and impact of the proposed extraction and processing activity, and that it's location is appropriate in local and national planning policy terms.

The Council has considered, fully and carefully, the environmental information as presented and concludes that the development will not give rise to any significant adverse environmental effects, as the proposal incorporates the necessary environmental design and mitigation measures to minimise such effects and impacts. These include measures to address impacts upon the landscape and visual effects, biodiversity (wildlife and ecology), hydrology and hydrogeology, cultural heritage (archaeology), noise, air and climate (dust), traffic, transportation, aviation and woodland. With progressive site restoration and woodland re-planting, there would also be positive (beneficial) impacts in terms of ecology and biodiversity.

In the absence of any unacceptable or significant environmental impacts and subject to conditions as recommended, the proposal is acceptable in EIA terms. Where consultees have proposed conditions to mitigate/monitor impacts these have been secured by conditions attached to the consent. Conditions to secure the monitoring of impacts in relation to noise, biodiversity, aviation etc. have also been attached to the consent.

The Council is satisfied that this reasoned conclusion is up-to-date.

Description of the Development

The Development comprises a mineral extraction area to be used in conjunction with (and the retention of) an existing processing area at a site known as Caysbriggs Quarry, Inchbroom Road, Lossiemouth, within the administrative area of Moray Council, all as specified in the application and accompanying Environmental Impact Assessment Report submitted on 13th March 2018. This is subject to the conditions as contained within the decision notice granting planning permission for the development.

The principle components of the proposal comprise:

- The extraction of cobbles, pebbles and sand from the extraction area (at the rate of approximately 30,000 to 40,000 tonnes per annum), which are transported to an existing nearby processing area for processing, stockpiling and dispatch to

market.

- Planning consent is sought for 26 years, and the total estimated reserve is 800,000 tonnes giving an estimated life of 20 to 26 years.
- Construction of an access track within the extraction area, and widening/upgrading of an existing access track onto the public road to accommodate HGVs.
- Extraction would be to a depth of approximately 7 metres.
- The extraction area would comprise 11 phases, each covering approximately 1 hectare and with each phase, on average, equating to two years of production.
- Progressive restoration of the ground profile earthworks and woodland re-planting would be undertaken upon completion of each phase.
- Incorporation of a protective margin around the extraction area perimeter, where vegetation will be retained, with additional trees to be planted along the north and northeast boundaries of the site.
- Construction of a 2 metre high bund along the north and west (part) boundaries of the extraction area with additional planting and screening vegetation.

List of Informatives:

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

No deleterious materials of whatever nature shall be deposited onto the road from vehicles using the access, so as to create or be likely to create a danger or substantial inconvenience to road users. Failure to remove material as soon as reasonably practicable is committing an offence under Section 95 of the Roads (Scotland) Act 1984.

Before commencing development, the applicant is obliged to apply for Technical Approval in accordance with Section 56 of the Roads (Scotland) Act 1984. Advice on this matter can be obtained from the Moray Council web site or by emailing road.maint@moray.gov.uk.

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.

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 ENVIRONMENTAL HEALTH MANAGER, DEVELOPMENT SERVICES, has commented that:-

- In relation to the above condition 18 regarding a noise mitigation scheme we would anticipate this condition would account for such matters including the use of vehicle reverse alarms and community liaison protocols on planned burials and other services at the adjacent Lossiemouth Cemetery.

- This Section is supportive of a suitably worded condition by the Planning Authority limiting the extraction rate and/or number of extraction days to be worked at the new extraction site, as stated in the Environmental Impact Assessment supporting document, in order to prevent an intensification of working of the site.

THE CONTAMINATED LAND SECTION has commented that:-

This development has been identified from the 1975 Ordnance Survey map as being 50 metres to the east of a former refuse tip. Investigations by Moray Council indicate that landfill gas generation is ongoing. Safe development is the responsibility of the developer. You should carry out assessment of gas risk prior to proceeding with the proposed works.

MANAGER (DEVELOPMENT MANAGEMENT) has commented that:-

All conditions attached to previous consents 89/0849/FUL dated 4th October 1990 and 90/00408/FUL dated 4th October 1990 insofar as they relate to the processing area are hereby applied.

The SCOTTISH ENVIRONMENT PROTECTION AGENCY has commented that:-

See attached consultation responses dated 19 April, 30 May, 13 August 2018.

SCOTTISH NATURAL HERITAGE has commented that:-

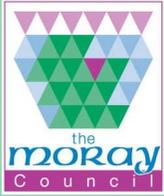
See attached consultation response dated 23 April 2018.

The DEFENCE INFRASTRUCTURE ORGANISATION has commented that:-

See attached consultation response dated 28 August 2018.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
105808-1-GA-001	General arrangement
105808-1-GA-002	Swept path analysis
105808-1-VS-001	Visibility splay
105808-1-VS-002	Visibility splay
FIGURE 8 _ 6	Restoration plan
C165-00038-04	Figure 3_3 Phasing plan
C165-00038-05	Figure 3_4 Phasing plan Phase 1
C165-00038-06	Figure 3_5 Phasing plans Phase 6
C165-00038-07	Figure 3_6 Phasing plan Phase 11
C165-00038-09	Figure 3_8 Phasing sections A-C
C165-00038-10	Figure 3_9 Illustrative sections

C165-00038-03	Figure 3_2 Aerial context plan
C165 00032 A	Lease plan B
3.1 A	Location plan - Proposed extraction
3.1 B	Location plan - Processing area



PLANNING APPLICATION COMMITTEE SITE PLAN

**Planning Application Ref Number:
18/00384/EIA**

**Site Address:
Caysbriggs Quarry
Lossiemouth**

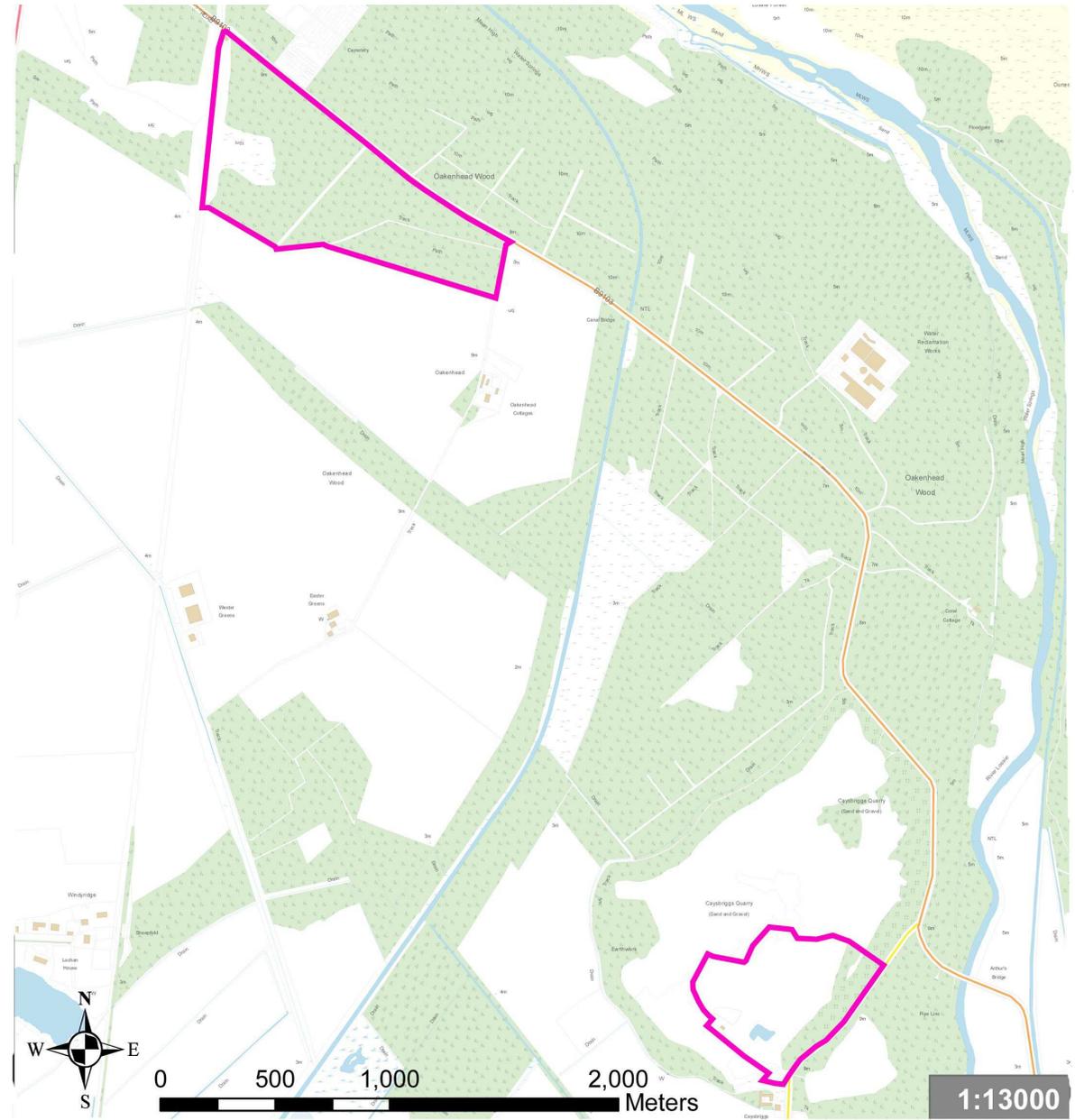
**Applicant Name:
Tarmac Trading Limited**

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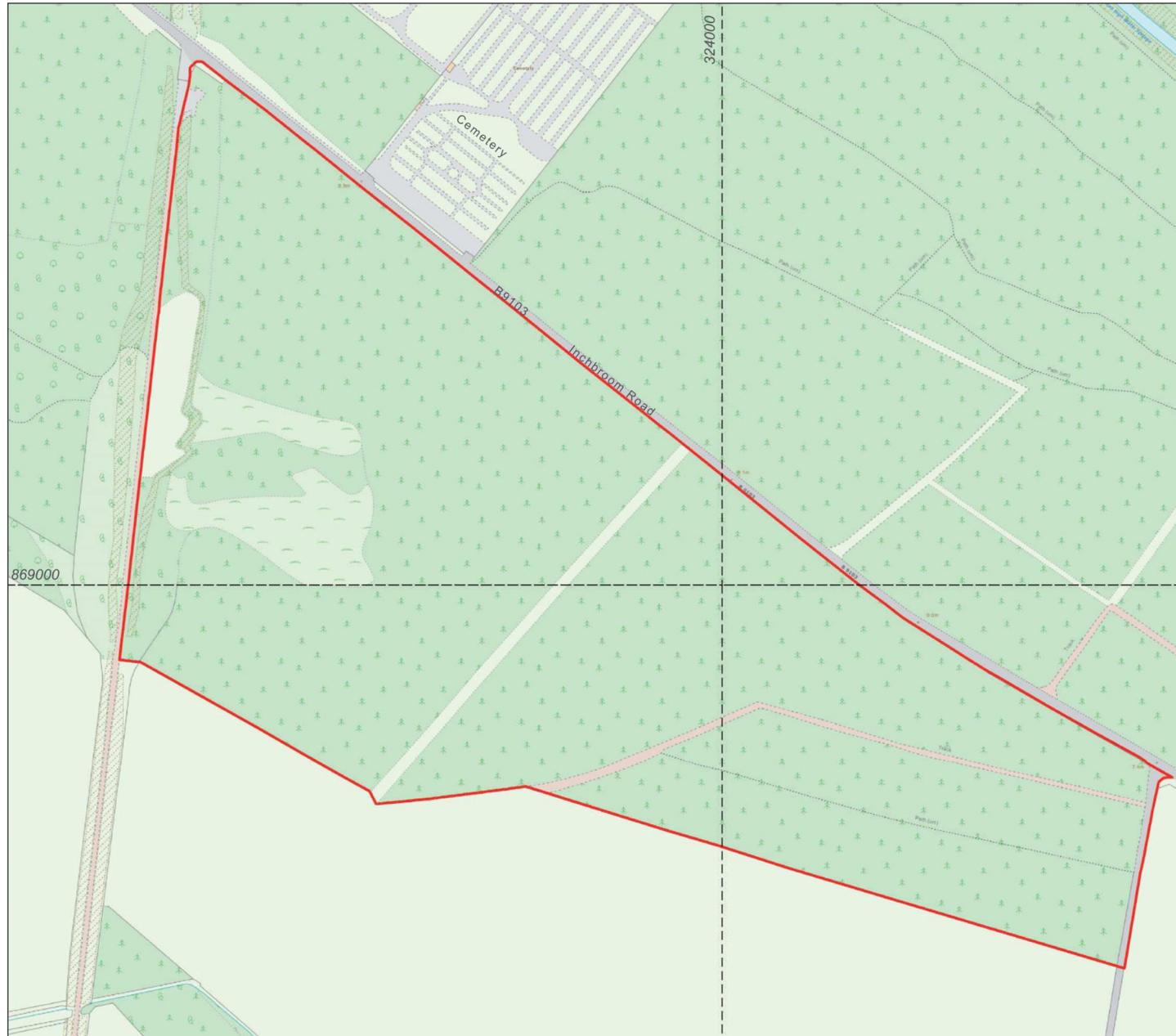
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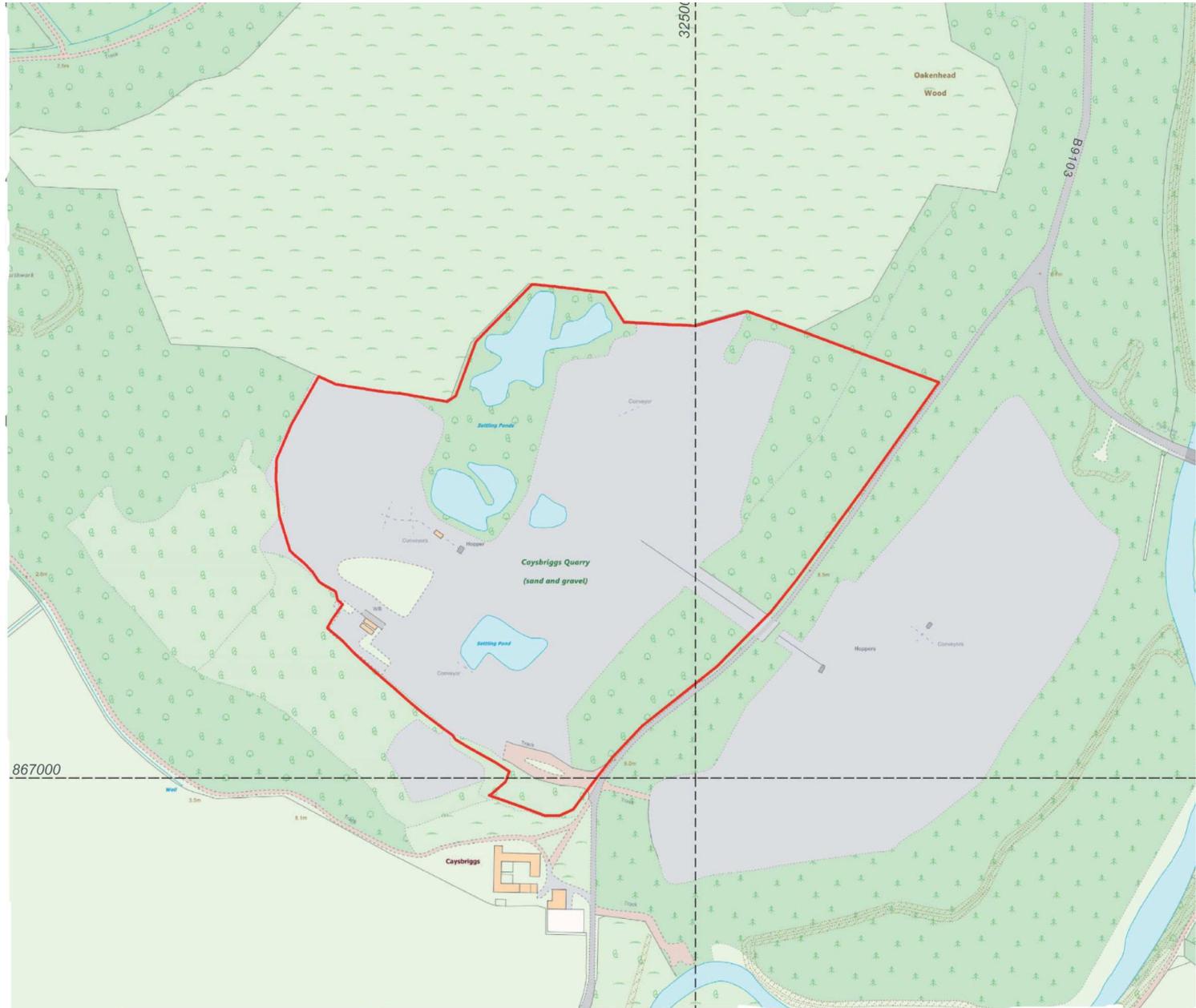
Location Plan



Site Location — proposed extraction



Site location — processing area





PHOTOGRAPH 3: VIEW WEST FROM B9103 (APPROXIMATE 40 DEGREE INCLUDED ANGLE)



PHOTOGRAPH 4: VIEW NORTH EAST FROM MUIRTON (APPROXIMATE 40 DEGREE INCLUDED ANGLE)



PHOTOGRAPH 1: VIEW SOUTH FROM LOSSIEMOUTH CEMETERY (APPROXIMATE 120 DEGREE INCLUDED ANGLE)



PHOTOGRAPH 2: VIEW NORTH EAST FROM FOOTPATH ADJACENT TO SITE (APPROXIMATE 110 DEGREE INCLUDED ANGLE)

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

- Application for planning permission for proposed mineral extraction area to be used in conjunction with (and the retention of) the existing processing area at Caysbriggs Quarry, Inchbroom Road, Lossiemouth.
- Planning permission is sought for a 26 year period for use of both extraction and processing activities.
- For the extraction area, the proposal comprises the following:
 - Cobbles, pebbles and sand would be extracted from the proposed area at the rate of approximately 30,000 to 40,000 tonnes per annum (combined) (similar to previous levels at the existing site) and then transported to the existing processing area approx. 1.5km to the southeast.
 - Total estimated reserve is 800,000 tonnes giving an estimated life of 20 to 26 years.
 - Extraction would take place approximately 60 days per annum.
 - Quarry activities within the extraction area would comprise 11 phases, each covering approximately 1 hectare (100m x 100m), with each phase on average equating to two years of production.
 - Phase 1 would commence in the south-western area of the site, furthest from the B9103 road and Lossiemouth Cemetery, and the extraction area would then be worked in accordance with the phasing plan, with all phases generally worked in a northern and eastern direction.
- The existing processing area would continue to be used to screen, sort and stockpile cobbles, pebbles and sand before dispatch to market until the mineral reserve within the proposed extraction area is exhausted.
- Access to the extraction area would be via the existing Oakenhead private access track, which extends along the eastern site boundary and will be upgraded and widened, to accommodate two-way Heavy Goods Vehicle (HGV) movements and maintain safe access for pedestrians accessing Oakenhead, and provide the required visibility onto the B9103 road.
- Progressive restoration of the ground profile earthworks and woodland re-planting would be undertaken upon completion of each phase, apart from the access tracks.
- Proposed depth of excavation would be to approx. 7 metres.
- In terms of potential noise and visual impacts which require mitigation, the following measures have been incorporated into the working scheme:
 - 1) incorporation of a protective margin, 20m in width, where vegetation will be retained and no operations will take place. This margin increases to approx. 50m in the north-western corner of the site, opposite the cemetery.
 - 2) additional trees to be planted along the north and northeast boundaries of the site.
 - 3) a 2m high bund to be constructed along the north and west (part) boundaries of

the extraction area which will be planted with screening vegetation, to provide additional visual screening to the workings and noise attenuation during the extraction processes.

- 4) plant equipment to be used for extraction will be limited to a single wheeled shovel loader or excavator directly loading into HGVs at any one time.
 - 5) no processing of excavated material will take place within the extraction area and all processing would take place elsewhere at the current processing area.
 - 6) no buildings are proposed within the new area proposed for extraction.
- According to the submitted Environmental Impact Assessment Report (EIA Report) and Planning Statement (PS), working of the proposed extraction area would follow established practices as employed at Caysbriggs Quarry for approx. 35 years.
 - Operations would be undertaken by a single shovel loader or excavator which would open and progress a face of mineral working from the base level of the extraction area, with all phases generally working north and eastwards, to ensure that the loader mainly sits on the floor of the excavation at the base of the face, thus providing screening to receptors to the north and minimise visual and noise impacts.
 - At the predicted annual production rate of 30,000 to 40,000 tonnes, 2,000 HGVs are expected to depart the extraction area per year, which assuming a 250 day working year equates to an average of 8 HGVs per day. As it is not economical or sustainable to operate at such a low intensity, extraction would more likely take place at a faster rate for up to 60 days per year.
 - Working at the proposed extraction area would involve digging and loading the natural deposit, which would then be transported back to the existing processing area to be washed and screened. This relocation of the screening process to the processing area would mitigate a potential noise source from the proposed area. Screened sand would be brought back to site by returning HGVs for use in restoration (i.e. no extra vehicle trips would be involved).
 - No screening plant or buildings would be required in the proposed extraction area.
 - Screening and processing operations at the existing Caysbriggs site would remain unchanged and continue as they do at present. The processing area would also retain the existing office cabins, car parking area, stockpiling areas and water treatment lagoons. Similarly, no changes are proposed to the layout of the area, plant configuration, access arrangements or restoration plan for the area.
 - HGV vehicles leaving the proposed extraction area would turn right from the upgraded/widened junction onto the adjacent B9013 and travel east to the existing processing area. HGVs returning from the processing area would follow the same route in reverse.
 - The processing area will be accessed from an established bellmouth junction from the adjacent C21E road which runs north to its junction with the B9013 at Arthurs Bridge.
 - Processed material (cobbles and pebbles) would be transported to the market via the B9103, travelling southeast from the processing area before joining onto the A96 (which is the current route used).
 - Proposed operating hours at the processing area will continue (as they do at present) to be between 0700 to 1700 hours Monday to Friday, 0700 to 1500 hours on Saturdays, with no working on Sundays, with the exception of maintenance between 0800 and 1200 hours where previously agreed with the Council as Planning Authority.
 - Proposed operating hours at the proposed extraction area will be between 0800 to 1700 hours, Monday - Friday and 0800 to 1300 hours, Saturdays, and at no other times (including back holidays and National Holidays) unless otherwise agreed.

- The quarry currently employs 15 people who also support operations at Tarmac quarries in Elgin and Keith, in addition to supporting a range of jobs, including transport, machinery maintenance and other contracted services. The proposal would maintain this level of employment throughout its operational phase.
- The current processing area would be restored to agricultural land with conservation margins in accordance with the existing site restoration plan.
- A Restoration Plan has been prepared for the proposed extraction area, which entails restoration progressively following completion of each phase to allow for the gradual re-establishment and maturation of woodland as the remaining deposits are worked.
- Prior to woodland planting, levels are to be restored to gentle slopes utilising materials from the screened process (sand, small cobbles and soil), and then planted with native species trees similar to surrounding woodland. The timescale for removal of current trees to planting with new trees within each phase is anticipated to be 2 to 3 years. Upon completion of all extraction and site restoration activities, a formal landscaped area with association to the cemetery opposite and footpath are also proposed for the extraction area. The latter would link the footpath along the western boundary with the Oakenhead access track to the east).
- The application is accompanied by supporting documents including an Environmental Impact Assessment Report (EIA Report) [3 volumes plus Non-Technical Summary (NTS)] as prepared under the Environmental Impact Assessment Regulations 2017, a Planning Statement (PS), a Pre-Application Consultation Report (Non-Statutory), a Gas Risk Assessment Report and a request to waive the requirement for an Extractive Waste Management Plan.

THE SITE AND SURROUNDINGS

- The application site comprises two areas, a 'proposed extraction area' and the 'current processing area' associated with the operational Caysbriggs Quarry, extending to 27.3 hectares in total.
- The current processing area lies approximately 2.6km to the southeast of Lossiemouth and covers an area of 8.9 hectares. It will continue to be utilised for mineral processing in addition to stockpiling, office accommodation, site car parking and water treatment. Access is via the C21E which runs northwards to its junction with the B9013.
- Caysbriggs farmhouse and agricultural land lie to the south, woodland and scrub to the west, restored agricultural land to the north (formerly quarry land) and woodland and the current extraction area to the east. A conveyor belt links, and is used to transport mineral deposits from, this area to the processing area via a tunnel located under the C21E road.
- The proposed extraction area lies approximately 1.5km to the northeast of the existing processing area and immediately to the east/southeast of the adjacent Lossiemouth settlement boundary. The land within this site boundary covers 18.4 hectares in total, of which approximately 12 hectares would be utilised for extraction with the remainder being kept around the perimeter as a margin for visual screening purposes. This area lies at an elevation of circa 10m AOD sloping gently to 4m AOD at the south-western corner. It is currently covered by sparse Scots pine woodland, gorse, rough grasses and scrub.
- This extraction area is bound by Inchbroom Road (B9013) to the north, the Oakenhead private track to the east (from which access is proposed) and a public

foot/cycle path (former railway line) to the west. The surrounding land comprises agricultural land and arable fields to the south/southeast/southwest, and Scots pine woodland to the north/northeast and northwest. Lossiemouth Cemetery and a Commonwealth War Grave Commission war grave are also located to the north.

- The closest residential properties to the proposed extraction area include Oakenhead Farm located approx. 160m to the south, Tree Tops approx. 260m to the northwest, and the closest planned property within Phase 2 of a housing development on Inchbroom Road is approx. 230m to the north.
- No nationally or internationally designated sites of ecological importance are located on, or within immediate proximity to the proposed development (both extraction area and processing area). The Lossiemouth Quarry SSSI lies 1.3km to the north and the Loch Synie SSSI/SPA/Ramsar is located approx. 1.6km to the south of the proposed extraction area (and 0.8km to the southwest of the existing processing area).
- There are also no known cultural heritage assets located within either the extraction or processing area, however non-designated assets lie to the north and south of the extraction area, in particular Lossiemouth Cemetery and crop marks.
- SEPA flood maps indicate that both extraction and processing area sites are located within areas identified as being at 'little or no risk' of river or coastal flooding, however an area of land immediately to the south of the proposed extraction area and to the northwest, west and south of the existing processing area is identified as being at 'medium risk' of coastal flooding.
- SEPA flood maps also indicate that the majority of both areas are at very low risk from surface water flooding, however small localised areas are identified, as being at 'low, medium or high risk' of flooding, due to naturally occurring surface depressions within the areas.
- The extraction area is located immediately adjacent, and to the east of the Lossiemouth settlement boundary as identified in the Moray Local Development Plan (MLDP) 2015. It is also located within the Countryside Around Towns (CAT) designation which bounds this part of Lossiemouth. Open space ENV6 Green Corridors/Natural/Semi Natural Greenspaces (Inchbroom Road/Sunbank East) and ENV11 Lossiemouth Cemetery designations are also located to the west and north of the site respectively. An 'Area of Great Landscape Value' lies 1.6km to the northwest, west of Lossiemouth.
- The Innes House Garden and Designed Landscape lies approximately 3.5km to the southeast of the processing area.
- Two small areas within the western part of the extraction area fall within the Ministry of Defence Safeguarding Area for RAF Lossiemouth.

HISTORY

For the development as proposed (including extraction and processing areas):

17/01713/SCO - Scoping Opinion issued for new excavation area to be used in conjunction with (and retention of) existing processing area at Caysbriggs Quarry. Response dated 28 November 2017 confirmed that EIA was required and environmental issues and potential impacts to be taken into account were identified.

17/00958/PAN – Proposal of Application Notice for new excavation area to be used in conjunction with (and retention of) existing processing area at Caysbriggs Quarry. Responses dated 11 July and 13 September 2017 confirmed consultation arrangements and publicity event to be acceptable, and provided feedback from the Council's Planning

and Regulatory Services Committee to be taken into account in the development of the application. This feedback highlighted the lack of provision for a weighbridge or mention of a road structure survey within the proposal, whether the bridge over Spynie Canal could sustain the heavy vehicles crossing the bridge, and the location of the development directly opposite the cemetery which would potentially disrupt funerals and members of the public paying their respects. Further comments cited the location of the development directly opposite a new housing development, that the development was not considered to be an extension to the existing quarry 1.5 km away and that at that time, there had been no meeting with Lossiemouth Community Council since March 2017.

17/00888/PE – Pre-application advice issued (following pre-application meeting) for proposal involving retention of processing yard within existing quarry and new extension area at Caysgriggs Quarry. Response dated 18 August 2017 confirmed proposal would be a major application as defined within the Hierarchy Regulations 2009, together with requirements for formal Pre-Application Consultation (PAC) procedures and the potential impacts of the development and planning matters to be addressed within any future planning application.

For the existing processing area:

MP/654/83 – Planning consent for extraction of sand and gravel at Caysgriggs Quarry – granted on 16th November 1983.

MP/425/84 – Planning consent for extension to existing sand and gravel workings at Caysgriggs Quarry – granted on 25th September 1984.

89/00849/FUL – Renewal of temporary consent (MP/654/83) to extract gravel and stone for a further 10 year period – granted 4th October 1990 (expired 10th October 2000).

90/00408/FUL – Planning consent for extraction of cobbles at Caysgriggs Quarry for a 10 year period – granted 4th October 1990 (expired 10th October 2000).

00/01474/FUL – Planning consent for a time extension to 89/00849/FUL and 90/00408/FUL for a further 10 years – granted on 4th December 2000 (extended to run until 30th November 2010). This lapsed 1st December 2010 and was not renewed. Most of this site has been restored to agricultural land. The remaining area does not have the benefit of an extant consent and currently forms the processing area subject of this application.

For the area to the east of the existing processing area:

01/00233/MIN – Planning consent for further extraction of cobbles, gravel and sand extraction in the eastern extension area for 6 years - approved 30th May 2001. This included installation of a conveyor and tunnel under the adjacent C21E road to transport mineral deposit from the worked area to the processing area. This site lies immediately to the east of the current processing area and covers approximately 8.8 hectares.

06/00757/FUL – Renewal of planning permission 01/00233/MIN for a further 6 years – granted 26th May 2006 (expired 31st May 2013).

13/00573/APP – Renewal of planning permission 06/00757/FUL for a further 6 years - granted 25th July 2013, (expiring 31st May 2019). Current extraction within this area is nearing completion, with sufficient permitted reserves to last until mid to late 2018.

POLICY - SEE APPENDIX 1

ADVERTISEMENTS

- Advertised under the Environmental Impact Regulations 2017.
- Advertised under Schedule 3 of the Development Management Regulations 2013.
- Advertised for neighbour notification purposes.
- Advertised as a departure from the development plan.

CONSULTATIONS

Development Plans – The development is for a new extraction area which is acceptable under Policy ER4 as reserves of the specialised, decorative pebbles and cobbles at Caysbriggs Quarry will be exhausted by mid-2018. The site is within the Lossiemouth CAT, however the proposal complies with Policy E10 (b) as the proposal is allowed for under the terms of other MLDP policies, in this case Policy ER4.

The proposal is a departure from Policies E4 and ER2 as the proposed removal of woodland would not achieve significant and clearly defined additional public benefits (as it would remove public access to the woodland), nor is it clearly outweighed by social or economic benefits of national, regional and local importance (notwithstanding the provision of a restoration plan and compensatory planting).

In order to comply with Policies ER4 and IMP1 (b) and mitigate any potential visual impact, the 20m buffer of tree planting around the boundary must be retained and supplementary tree planting must be planted in advance of development commencing.

The proposed site is immediately outwith the settlement boundary of Lossiemouth. As it is not a designated 'LONG' term development site, the proposal is a departure from Policy E9, but taking into consideration the following material considerations, the proposal is considered to be an acceptable departure from Policy E9:-

- Low intensity of operations;
- Extraction of a specialised decorative product;
- Sufficient landscaping;
- Adjacent to ENV6 which acts as a buffer between the proposal and the existing urban area; and
- Noise and pollution concerns addressed.

(Officer Note: Following discussion agreement has been reached that as the proposed replanting is phased Policies E4 and ER2 are complied with and not compromised as there would be no permanent loss of woodland.)

Environmental Health - No objections subject to conditions, as recommended.

For the proposed extraction area these include submission/approval of a dust management plan; extraction operations to be limited to a single wheeled shovel loader or excavator; no screening plant or blasting permitted; operation hours permitted only between 0800 to 1700 hours, Monday - Friday and 0800 to 1300 hours, Saturdays, and at no other times (including back holidays and National Holidays) unless otherwise agreed; noise emissions not to exceed specified levels for soil stripping and overburden handling in all phases and bund formation; submission/approval of a Noise Mitigation Scheme and monitoring scheme of noise emissions; and noise emissions not to exceed specified levels for quarry operations (excluding soil and overburden handling).

For the existing processing area, operation hours permitted only between 0700 to 1700 hours, Monday – Friday, and 0700 to 1500 hours, Saturdays, unless otherwise agreed; noise emissions not to exceed specified levels from plant and machinery; and submission/approval of a dust management scheme.

Environmental Health, Contaminated Land – No objections however, informative recommended highlighting the location of a former refuse tip 50m to the east of the site. With landfill gas generation on-going and safe working being the responsibility of the applicant, and after review of the Gas Risk Assessment Report, the applicant should carry out an assessment of gas risk prior to works proceeding which should be in line with the report recommendations.

Environmental Health, Private Water Supplies – No objection subject to a condition as recommended requiring urgent, restorative, remedial work to be undertaken on any private supply where negative effect(s) on water quality or quantity are caused by the development.

Environmental Protection – Neither object to or support the proposal. Issues raised include affecting natural environment, dust, lack of landscaping, litter, loss of privacy and noise, and the various documents which set out the mitigation measures to address noise/dust/litter and landscaping impacts are noted. With the location of proposed quarry adjacent to a very busy cemetery, the control methods need to be rigorously enforced as the cemetery is designed as a place of tranquillity and reflection, and there are concerns that an industrial site like this immediately opposite the entrance to the cemetery will not be easy to reconcile. Although a formal landscaped area opposite the cemetery is proposed, would rather see it removed and the wooded area heavily under-planted to screen off the workings from public view. The original quarry (processing area) is visible from the public road and whilst the proposed quarry workings may be acceptable due to its comparatively isolated location, they would not be acceptable here.

Moray Access Manager – No objections.

Transportation Manager - No objections subject to conditions as recommended requiring submission/approval of detailed drawings showing the upgrading and widening of the Oakenhead access track junction onto the B9103 with appropriate visibility splays; access widening; surfacing with bituminous macadam and drainage to Moray Council specification; requisite swept paths at the site access; resurfacing of the B9103 (20m in both directions from the access) and a Construction Traffic Management Plan to include evidence of a 'Wear and Tear' agreement for the length of the B9013 and C21E road between the proposed extraction area and existing processing area, monitoring surveys

(bi-annually minimum) and mitigation works to rectify any damage to the public road due to quarry traffic; measures to protect pedestrians; instructions to drivers and details of routes to be used for access.

Moray Flood Risk Management - No objections.

Developer Obligations – No developer obligations sought.

SEPA – No objections, subject to conditions as recommended regarding timely/on-going implementation of all restoration proposals and adherence to mitigation measures as set out within the EIA Report. SEPA is satisfied that there will be limited impact on the surface water and ground water environment from the proposed excavation site. There are no private water supplies identified within the survey radius, and that whilst in places the proposed quarry floor lies below maximum ground water levels (GWL) no dewatering is proposed (see officer note below). The nearby cemetery is noted, however it anticipates no hydrogeological issues from its close proximity as groundwater is not expected to be intercepted. No engineering works are proposed within or near the water environment and there are no Groundwater Dependent Terrestrial Ecosystems identified in the Phase 1 Habitat Survey. There is no identified unacceptable risk of fluvial flooding and no active surface water management is proposed, and as peat is not present within the site no further assessment is required. The forestry felling and replanting proposals are acceptable; and there are no apparent waste issues in terms of SEPA interests.

(Officer Note: The response also includes other regulatory advice for the applicant. In relation to further information confirming that across the majority of the site (Phases 1 to 10), mineral extraction will take place above the water table and dewatering or other forms of water management are not required, and within Phase 11, excavation within the eastern area will be above the water level such that there is no interaction with groundwater and therefore no dewatering is required. Having reviewed this information, SEPA is satisfied that there will be limited impact the on the groundwater environment).

Scottish Natural Heritage – Proposal will not impact on any protected areas. Chapter 7 in the applicant's EIA Report identifies that mitigation will be incorporated into the proposal to afford protection to biodiversity. SNH agrees with the findings of this chapter and considers that the mitigation measures listed within the EIA Report will help to avoid impacts to wildlife and habitats on site.

RSPB Scotland – No concerns regarding the proposal and accepts the conclusion drawn in the EIA Report that the potential impact on birds is not likely to be significant. RSPB agrees that the proposed mitigation measures in the EIA Report (Chapter 7) will help avoid impacts on breeding birds and other wildlife.

Forestry Commission Scotland – No objection, if the recommendations set out in the woodland plan produced by Scottish Woodlands and the subsequent restoration plan by Stephenson Halliday are satisfied then these proposals will ultimately scope out Forestry Commission concerns.

Scottish Water – No objections subject to informative comments confirming sufficient capacity currently within water and waste water treatment works, although further investigations may be required once a formal application is submitted to Scottish Water. The proposal will impact on existing Scottish Water assets, namely water and waste water pipework which runs through the excavation area site boundary and that the applicant

should contact the Asset Impact Team. Any conflict with assets as identified may be subject to restrictions on proximity of construction.

(Officer Note: The applicant has consulted with the Asset Impact Team at Scottish Water to determine the potential impact on assets (HGVs crossing pipework) and information required to facilitate assessment. Scottish Water has agreed that the matter may be addressed by a planning condition.)

Health and Safety Executive – No response received at time of writing report.

Scottish Executive (for Environmental Report only) – Notes the submission of the Environmental Report to Moray Council, with no further comments to make.

Historic Environment Scotland – No objections in terms of statutory remit for world heritage sites, scheduled monuments, category A-listed buildings and their settings, inventory gardens and designed landscapes, and historic battlefields. The proposal does not raise any historic environment issues of national significance. The EIA Report contains sufficient information to allow HES to come to a view on the application, and for the most part, the methodology used is appropriate for HES interests.

(Officer Note: Additional comments regarding the EIA methodology used and lack of being consulted on the EIA Scoping were provided for clarity, but these do not affect the response or require further information.)

Transport Scotland – No objections.

Aberdeenshire Archaeology Service – No objection subject to a condition requiring submission and approval of a programme of archaeological works for the recording/recovery of archaeological resources found at the site, to safeguard and record the archaeological potential of the area.

MOD Safeguarding – No safeguarding objection subject to a condition requiring the implementation of a bird hazard management plan to mitigate against potential birdstrike risks to aircraft operations at RAF Lossiemouth.

Lossiemouth Community Council – Response refers to pre-application discussions with the applicant, a site visit to Caysbriggs Quarry and PAN public display event, with helpful responses from the applicant to any comments/concerns of the Community Council.

Various concerns are highlighted which relate to possible environmental impacts from quarrying noise, dust and HGV traffic on housing in the surrounding area and cemetery, and the need for liaison with the community, both to cease excavation works during committals and the commitment to construct a footpath along the Oakenhead track.

Previous discussions looked at possibility of providing additional car parking on the cemetery side of the road but as there is no mention of this in the application, clarification is welcomed.

Tarmac's willingness to work with community is appreciated but the Community Council, in turn, has a responsibility to the community to ensure that the proposals are clear and to be able to reassure residents of the proposed development, in particular that noise and dust will be minimal and that traffic on the road will not be excessive. The Community Council

hope that Moray Council and the Planning Committee will also be confident in re-assuring residents of our community that all possible steps will be taken to mitigate possible negative effects of a quarry should this planning application be granted.

(Officer Note: In relation to the additional car parking, the applicant has confirmed that whilst supportive of the request and agreed in principle by Pitgavney Estate, this would require further detailed investigation/formal consent of the Estate and be subject to a separate planning application.)

Commonwealth War Graves Commission (CWGC) – From previous consultation with the applicant/agent, phases 3 and 5 will have the most impact on the Cemetery as they are closest in proximity. The agent has provided assurances to the Commission that a buffer zone, widening to approximately 50 meters opposite the cemetery, will be in place to mitigate visual and noise impacts to the cemetery, and that excavation and loading will take place below the horizon.

The Commission understands that no haulage will pass by the cemetery as the route from the excavation area will take all traffic away from the cemetery by the eastern boundary. The agent has confirmed that noise and dust at the cemetery are assessed in the Environmental Impact Assessment with no significant impacts detected.

As the Commission has a large commitment at the cemetery and ceremonies take place, particularly around Armistice Day, the agent has provided assurances that Tarmac will cease operations on days where CWGC ceremonies are to be held and will work with the Commission to ensure no disruption will occur.

The Commission does not wish to make any representations in relation to this matter, but asks the local authority to note the conditions/comments, above.

OBJECTIONS-REPRESENTATIONS

None received.

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 2015 (MLDP) unless material considerations indicate otherwise. In this case the main planning issues are considered below.

The application is a major development under the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, as the proposal is subject to EIA Regulations and the proposed mineral extraction area exceeds 2 hectares.

As required under the Planning etc. (Scotland) Act 2006, the proposal has been the subject of pre-application consultation (PAC) procedures with the local community in the lead up to submission of the current application, in accordance with the associated Proposal of Application Notice 17/00958/PAN.

The application, involving the development of a quarry with a combined application site area in excess of 25 hectares, falls within Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017, and is accompanied by the requisite Environmental Impact Assessment (EIA) Report. A formal Scoping Opinion was undertaken (17/01713/SCO), to determine the matters to be taken into account in assessing the environmental effects of the development. The submitted EIA Report takes account of, and has been informed by, that Opinion.

SUPPORTING DOCUMENTS

The **ENVIRONMENTAL IMPACT ASSESSMENT Report** (EIA Report) assesses the likely significance of environmental effects of the proposed development on a range of aspects (Chapters 6-13 of EIA Report refer) determined through scoping, pre-application discussion and investigation. These include landscape and visual impact, biodiversity (wildlife and ecology), hydrology and hydrogeology, cultural heritage (archaeology), noise, air and climate (dust), traffic and transportation and woodland.

The EIA process involves the systematic identification of potential impacts associated with each aspect of the development and evaluating the significance of those impacts together with identifying appropriate mitigation measures to manage or reduce these effects/impacts including any residual effects during both the operational and restorative phases of the development. Within the EIA report, a similar process is followed for each topic chapter to identify and evaluate environmental impacts, including identification of baseline data (current environmental conditions/constraints of the site and surrounding area), the methodology used to assess each impact and the criteria used to evaluate the significance of the impact. Where required, measures to mitigate the environmental effects are also proposed/identified.

This assessment is run alongside consideration of the scheme design and the resultant process has allowed for environmental design measures to be incorporated as mitigation measures which also seek to minimise/control any identified impacts. In this case the measures include incorporating a protective margin around the site where vegetation would be retained and no excavation would take place, additional tree planting, construction of a 2 meter high bund, limiting extraction plant and machinery to one loading shovel or excavator directly loading HGVs, the processing excavated material off the extraction area and taken back to the current processing area which is remote from the extraction area, and the controlled phasing of the extractive workings together with progressive restorative ground profile earthworks and woodland replanting on completion of each phase.

The EIA report identifies no significant (adverse) environmental effects occurring as a consequence of the proposal in relation to all the various matters covered, namely landscape and visual impact, biodiversity (wildlife and ecology), hydrology and hydrogeology, cultural heritage (archaeology), noise, air and climate (dust), traffic and transportation and woodland.

As required under the EIA Regulations, the submitted Report also includes a description of the alternatives considered having regard to location, design, size, and technology chosen (Chapter 4 refers).

In terms of location, the report highlights that geology dictates that minerals can only be worked where they exist (and are of sufficient quality and quantity), and that this is the key

limitation for quarry location choices, with matters such as statutory designations, public use, biodiversity and neighbours still then to be considered. Four nearby areas were assessed (see EIA Report Volume 2, Figure 4.1) and the proposed site was selected for the following reasons: 1) the site is by far the preferable deposit geographically, which is the prime selection criteria for mineral sites, 2) other areas could have yielded deposits but the thickness and grading of the deposits would have meant larger areas to be disturbed and larger volumes transported/processed, 3) the chosen site is the only option identified which is not listed on the Inventory of Ancient Woodland which is protected, 4) there is no formal and little evidence of informal public use of the area, and 5) the condition of the woodland is markedly poorer compared to the other options considered.

In relation to size and design, the report advises that the working area (excavation) of the proposal has been reduced by one third from that possible to minimise visual impact, it incorporates a 20 metre wide exclusion area where no excavations will take place, extending to 50m opposite Lossiemouth Cemetery, and additional tree planting and a landscaped bund are proposed to minimise visual impact and noise impacts. According to the EIA report, the size and sequence of the working phases were developed to enable progressive restoration and maximise the period of tree growth prior to the phases closest to the cemetery being worked.

With regard to technology, the report outlines that initial consideration was given to the relocation of the processing plant to the proposed extraction area (which would have been economically favourable) but given the need to minimise potential visual and noise impacts upon the Cemetery and housing at Inchbroom, processing operations will take place at the existing site. The EIA report also highlights that material would be extracted by a single shovel loader or excavator, and rather than be sorted on site, material would be loaded directly onto HGVs for transportation back to the current processing area, in turn reducing potential noise from plant on the excavation area.

The **PLANNING STATEMENT** (PS) identifies the key planning considerations relating to the proposal, and assesses its compliance with relevant provisions of the development plan, Scottish Government policy and advice, and any other material considerations.

The PS highlights that the following inform consideration of the proposal:

- Caysbriggs is a small and low key output quarry which produces, markets, and sells a distinct local Lossiemouth product, the continued operation of which will support a significant number of local jobs (both directly and indirectly).
- The proposal essentially involves continuation of the processing operations at a long established site which has operated for many years without environmental, planning or public issues
- The new extraction area will be low key and of low intensity, i.e. working and restoring progressively from one small working phase to another with limited activity (no processing or screening) and during limited periods of the year activity.
- The EIA process has been thorough and robust, and has included the consideration of other sites wherein the application site is the least constrained option which avoids areas identified within Scotland's Inventory of Ancient Woodland.
- The EIA has benefitted from pre-application discussions with statutory stakeholders, and the assessments and EIA Report have not identified any significant residual adverse environmental effects.
- The location of the proposed extraction area close to Lossiemouth Cemetery is a clear sensitivity, which has been recognised from the outset in the design of the proposal

including the excavation, boundaries, phasing plan and working direction/level, and by limiting the type of activity to minimise visual and noise impacts.

- Noise levels at the Cemetery can be effectively monitored and controlled by an appropriately worded planning condition.
- The applicant has consulted with the Commonwealth War Graves Commission who are content with the proposal.
- Lossiemouth Community Council has requested if operations could be halted on days when extraction might coincide with a burial or other service. The applicant is happy to agree a protocol to do this. This would involve receiving notification from the Registrar Service of planned burials and halting work (similar to current arrangements with RAF Lossiemouth).
- Progressive restoration of the application site will enhance woodland habitat and biodiversity, which has been successfully achieved on the previous restored Caysbriggs extraction area and elsewhere in Moray.

In summary, the PS asserts that the proposal is essential and urgent to allow continuation of a local business and marketing of a local product, accords with the Development Plan and national planning policy and will result in no significant residual adverse effects on the environment. It further contends that the applicant has undertaken meaningful community consultation and that in the absence of any material considerations indicating otherwise planning permission should be granted in this case.

The **PLANNING PRE-APPLICATION CONSULTATION REPORT (PAC)** provides detail on the PAC consultation exercise, comments received and how these have been addressed.

In this case, this has involved notification of residents through a newspaper advertisement, submission of letters to residents within 500m of the site boundary (101 properties), a public exhibition event and consultation with the Community Council (including a visit to the current site). The PAC notes that the majority of feedback regarding the event was positive and that the main comments raised were in relation to potential noise and transport impacts, with particular reference to Lossiemouth Cemetery. This has resulted in a number of in-built mitigation measures designed to reduce potential impacts, including the re-sequencing of the phases of the proposal in order to increase the time between commencing and extraction taking place opposite the Cemetery, to allow a greater time period for the establishment of planting and further reduce the potential visual impact of the proposal from the cemetery.

THE DEVELOPMENT PLAN

Moray Local Development Plan 2015

The Moray Local Development Plan (MLDP) 2015 forms the basis for determination of this application and represents the most up-to-date development plan policy for Moray. The relevant policies (see Appendix) and guidance are as follows:

Policy ER4 *Minerals* is supportive of proposals for mineral extraction provided they meet criteria, as outlined within the policy. For new minerals sites, this includes the requirement for applicants/operators to demonstrate that existing reserves have been exhausted or are no longer viable and for construction aggregates, that there is less than a minimum 10 year supply available. This latter requirement is not applicable in this case as the proposed extracted mineral is a decorative product and not a construction aggregate. The policy requires provision of sufficient information to enable full assessment of the likely effects of the development together with proposals for appropriate control, mitigation and

monitoring. It states that minerals developments should avoid or satisfactorily mitigate impacts, and in determining proposals, the Council will give consideration to issues including impact on natural heritage and historic environment including landscape and visual impact; disturbance and disruption from noise, blasting vibration and potential pollution of land, air and water; effect on communities; cumulative impact; transport impacts and restoration and aftercare proposals. The policy states that once mineral working has ceased, the land should be reinstated at the earliest opportunity, with restoration designed/implemented to the highest standard, after uses should result in environmental improvements and provision of a financial guarantee should be considered where restoration arrangements are insufficient. The policy also outlines that proposals should be accompanied by an Extractive Waste Management Plan.

Policy PP1 *Sustainable Economic Growth* supports development which contributes to the delivery of sustainable economic growth where the quality of the natural and built environment is safeguarded and relevant policies and site requirements are met.

Policy IMP1 *Developer Requirements* requires new development to be sensitively sited, designed and serviced appropriate to the amenity of the area. This policy requires developments to be of a scale, density and character that reflects the surrounding area, and integrates with the surrounding landscape.

In terms of these policy requirements, the applicant has confirmed that mineral deposits of the pebbles and cobbles at the existing quarry site are exhausted, with extraction nearing completion and sufficient reserves lasting until mid to late 2018. This is consistent with information previously supplied as part of the Minerals Audit 2017, where it was confirmed that reserves will be exhausted by mid-2018. With this in mind, and in order to facilitate continued operations at this long established site, the new extraction area with appropriate mitigation and conditions is considered acceptable under the terms of policy ER4. The proposal includes sufficient supporting information to enable a full assessment of the likely impacts of the proposal, together with appropriate mitigation measures and restoration arrangements. Subject to conditions where recommended, the proposal accords with policy ER4, PP1 and IMP1.

In terms of waste management, the application also includes a submission which adequately demonstrates that the proposals for the management/storage of soils are appropriate and that further requirements for the management of waste under the Extractive Waste Management (Scotland) Regulations 2010 can be waived as the extractive waste associated with the proposal will be managed without endangering human health or the environment; the overburden extracted from the site/used for restoration is a non-waste by-product and that there are no other materials which constitute Extractive Waste. Taking these matters together, a waiver to remove the requirement for a Waste Management Plan under the Regulations can be accepted.

The proposed extraction area is located within the Lossiemouth Countryside Around Towns (CAT) designation. Policy E10 stipulates that proposals within a CAT will be refused unless they involve the rehabilitation/conversion/change of use of existing buildings, are necessary for the purposes of agriculture/forestry/low intensity recreational or tourism use or are specifically allowed under the terms of other policies, or are a designated 'LONG' term housing site.

In this case the proposal complies with Policy E10 (b) in that the proposal is allowed for under the terms of other Local Development Plan policies, in this case, policy ER4 (see

above). The proposal would also be consistent with other quarries which currently operate within other CATs.

Departure from the development plan

The proposed site (extraction area) lies immediately outwith the settlement boundary of Lossiemouth and is subject to policy E9 *Settlement Boundaries*. Justification text for this provision states that settlement boundaries are defined for the purpose of guiding development to the towns and villages, preventing ribbon development and to maintain a clear distinction between the built up area and the countryside. It also refers to the CAT designations around the five main towns which restrict development in the vicinity of the settlement boundary. The policy also states that proposals immediately outwith settlement boundaries will not be acceptable unless the site is a designated 'LONG' term development site which is being released for development under the terms of policy H2. This proposal is not a designated 'LONG' term development site and therefore in terms of location departs from Policy E9.

Whilst the above departure issue is acknowledged, it is considered that there are material considerations in this instance which offer support to the proposal and allow it to be considered as an acceptable departure from the development plan. These include; 1) the policy support afforded to the proposal within the designated CAT under the terms of policy E10 (b), which will be restored to woodland with biodiversity benefits; 2) the location of the site itself adjacent to ENV6 which would provide a buffer between the proposal and the existing urban area; 3) the incorporation of sufficient landscaping and a retained woodland margin around the site to offset any adverse visual impacts; 4) the low intensity temporary nature of the operations involving extraction of a specialised decorative product; 5) noise and pollution impacts would be addressed by mitigation measures embedded within the design and by planning conditions; and 6) the proposal does not promote (residential) development and may act to constrain future development in this locality.

Other local development plan policies relevant to the proposal are considered within the report below and identified in the Appendix 1.

Supplementary Guidance

Supplementary Guidance (SG) which is relevant to the proposal comprises:

- 'Trees and Development' - This supports the implementation of policy E4 *Trees and Development* and provides appropriate standards and guidance in relation to development that may affect trees.
- 'Moray Woodland and Forestry Strategy (2018)' – This supports the policies of the Moray Local Development (MLDP) 2015, identifies key issues affecting forestry in Moray and guides woodland creation to appropriate locations across the area.
- Developer Obligations (2018) – This supports policy IMP3 Developer Obligations to address negative impacts associated with the development, and provides guidance on the developer obligations process, infrastructure and facility requirements, assessment methodology and governance.

Other Material Considerations

Other material considerations relevant to the proposal (and also highlighted within the EIA Report and PS) include the following:

National Planning Framework (NPF) 3 – This sets out the long-term strategy for development in Scotland and provides a framework for implementing the spatial aspects

of the Scottish Government's Economic Strategy by encouraging economic activity and investment, whilst protecting natural and cultural assets. Paragraph 3.25 of NPF3 acknowledges that maintaining an adequate supply of locally sourced minerals for construction continues to be important for new development and the economy.

Scottish Planning Policy (SPP) 2014 – This outlines Scottish Government policy on how nationally important land use planning matters should be addressed and it promotes the use of the plan-led system to provide a practical framework for decision making on planning applications. At paragraph 234, the SPP acknowledges the important contribution that minerals make to the economy, providing materials for construction, energy and other uses, and supporting employment; and that planning should safeguard mineral resources and facilitate their responsible use. Paragraph 235 further states that the planning system should *inter alia*, safeguard workable resources and ensure an adequate steady supply is available for the construction and other sectors, minimise impacts of extraction on local communities, the environment and the built and natural heritage, and secure the sustainable restoration of sites to beneficial after-use after working has ceased. These matters are considered in this report below.

Scottish Government's Policy on Control of Woodland Removal – This provides policy direction for decisions on woodland removal through *inter alia* provision of a strategic framework for appropriate woodland removal and support for maintenance and expansion of forest cover. It supports the Government's Scottish Forestry Strategy, to protect and expand Scotland's forests and woodland and increase their value to society and the environment. This policy defines woodland removal as the permanent removal of woodland for the purposes of conversion to another type of land use.

PAN 50 'Controlling the Environmental Effects of Surface Mineral Workings' provides advice on the significant effects resulting from mineral working operations, such as road traffic, noise, dust, visual and landscape impacts and contamination of surface water. The PAN also contains advice on how to consider these impacts and ways in which these can be controlled or minimised to ensure that sites are designed and operated to environmentally acceptable standards.

PAN 64 'Reclamation of Surface Mineral Workings' contains advice for Planning Authorities and mineral operators with regard to restoration of surface mineral workings. This includes reference to the use of conditions covering restoration and aftercare.

ASSESSMENT OF PROPOSAL

Landscape and Visual Impacts (ER4, ED7, E9, E10 and IMP1)

MLDP Policy ER4 permits proposals for new minerals sites where they *inter alia*, include sufficient information to enable full assessment of the likely effects of the development together with proposals for appropriate control, mitigation and monitoring; avoid or satisfactorily mitigate impacts including landscape, visual or cumulative impacts; and incorporate acceptable restoration and aftercare proposals. Policy ED7 supports proposals for economic development and employment in rural areas provided they fit into the environment and can be adequately serviced. Policies E9 and E10 through defined settlement boundaries and CAT designations seek to guide development to appropriate locations and maintain a clear distinction between the built up area and the countryside. Policy IMP1 requires any development to be sensitively sited, designed and serviced, and integrated into the surrounding landscape. Policy IMP2 also indicates that where appropriate assessments may be required to confirm the compatibility of the proposal including a formal environmental impact assessment.

The EIA Report (Chapter 6) assesses the predicted landscape and visual effects of the proposal, during both the extraction and processing, and restoration phases of the scheme. The Landscape and Visual Impact Assessment (LVIA) including its methodology and visualisations follows current best practice guidance, and applies reasoned professional judgement. A Zone of Theoretical Visibility (ZVT) map is included to show the potential visibility of the proposal taking into account screening effects of surrounding mature woodland within a 1, 2 and 3km radii from the site boundary.

The EIA Report/LVIA predicts that no significant landscape and visual effects to both the extraction and processing areas would occur due to the extent of woodland cover in the surrounding landscape and subject to mitigation measures identified within the EIA Report being implemented. Visibility of the retained processing area would be limited due to existing surrounding woodland cover, and that continued processing operations would not result in any significant effects. For the proposed extraction area, this would be largely screened by surrounding woodland, with operations contained within a retained woodland buffer of existing woodland cover, a screening bund and advanced perimeter woodland planting to be established along the northern and eastern boundaries during initial operations.

In the absence of any likely substantive cumulative effects with other development in the surrounding area, and as agreed during the scoping process, no detailed cumulative impact assessment has been undertaken.

Landscape Effects

The EIA Report predicts that any effects upon the landscape during the operation of the proposed extraction area would be limited in both scale and extent, with no significant direct or indirect landscape effects occurring. Although woodland removal will occur and ground would be disturbed within the proposed extraction area, the phased operations will involve only a relatively small part of the site being worked at any one time which would then be restored and replanted. On completion of the works, the extraction area would be progressively restored to woodland with a diverse mix of tree and woodland edge species, recreational opportunities, and a formal landscaped area associated with the cemetery which, in turn, would bring permanent beneficial landscape impacts. The site would integrate with the surrounding landscape, and as a result no significant residual landscape effects are predicted.

The proposal does not lie within any national or local landscape designation and due to intervening distance, landform and vegetation cover is not considered to adversely affect any nearby national or local landscape designation, the nearest being an Area of Great Landscape Value 1.6km to the northwest. The development in terms of its location and acceptability within the Lossiemouth CAT has already been accepted, and the proposed extraction area would not have a significant adverse landscape (and visual) impact upon the CAT.

In landscape terms, the site (extraction and processing) lies within a "coastal forest" landscape character area, as defined in the Moray & Nairn Landscape Character Assessment 1998, and revised draft SNH landscape character assessment (due to be completed late 2018). It also lies within "coastal margin" landscape character type 1-3 of the Moray Wind Energy Landscape Capacity Assessment Study (MWELCS) 2017, although as this is specific to wind energy developments it has not been included as part

of the LVIA for this mineral proposal. The “coastal farmland” landscape character type 4 of the MWELCS lies immediately to the south and southwest of the site.

The landscape in which the proposal is located is characterised by a mixture of woodland plantation blocks within coastal margins to the north, flat arable farmland to the south/southeast and the settlement to the northwest. The continued use of the processing area and the addition of the new extraction area (with mitigation) would maintain this character.

During the site operations, the proposal would result in changes to the landscape due to tree felling and the extraction process for cobblestones etc. within the proposed new extraction area. However, with progressive restoration/tree re-planting proposed, and with only approx. 1ha of the site being worked at a time, any direct (residual) effects upon the landscape fabric would be minimised and without mitigation are predicted to be moderate/minor, not significant.

Whilst cumulatively, the proposed phased extraction would continue for 26 years, this would be reversible and as a result any residual effects on the landscape would be moderate/slight, not significant. The extended operations at the processing area, which is limited in area and would also be restored, would result in minor/negligible, not significant (residual) effects on the landscape fabric.

Visual Effects

The Zone of Theoretical Visibility ZVT with Woodland Blocks (EIA Report, Vol 2, Figure 6.3) shows theoretical visibility mainly extending to the south, west and east of the proposed extraction site within the immediate vicinity of the application site, becoming more broken in extent with distance. In the wider area, visibility would be shielded by the surrounding plantation woodland and landform, with the exception of an elevated part of Lossiemouth to the northwest. For the existing processing area, this shows theoretical visibility occurring to the north and south, due to screening effects of mature surrounding woodland.

In terms of effects upon visual receptors, due to the position of the extraction and processing sites within established woodland, extent of forestry within the surrounding landscape and proposed design mitigation measures (retention/enhancement of a peripheral woodland edge strip and 2m high vegetated screen bund), mineral extraction and processing operations would be visually contained. Whilst initial tree planting operations and earthworks to form the vegetated bund and access track would be visible from the adjacent B9103, Cemetery car park, Core Path LM27 and the former railway line footpath to the north/east/west (see photograph locations 1, 2 and 3, Vol 2 of EIA report), views would become filtered and screened as the phases progress and new tree planting, once established, matures. The proposed phased extraction/restoration, a restriction of operational plant to a single wheel shovel loader or an excavator during extraction and phase design pattern/direction of working, so that the shovel loader is mainly at the bottom of the face when viewed from the north, would also provide further visual mitigation to the proposed extraction area.

The movement of HGVs at the access entrance to the proposed extraction area and along the access track within the south-eastern part of the site would be the main operational element visible from a short section of the B9103 road to the east and north of the extension area, and to residents at Oakenhead Farm and Cottages to the southeast.

However, this would occur for short temporary periods on days when extraction activities are carried out and is not considered to be significant effect in EIA terms.

Intervening woodland plantation tree cover would also limit potential effects on the wider landscape study area. Heavily filtered views of site operations i.e. vehicular movements and phased excavation/tree removal within the extension would be potentially obtained from dwellings at Muirton and Core Path LM19, approx. 1.2km southwest of the extension area (see photograph location 4, Vol 2). This would occupy a relatively small extent of the view and as woodland removal would progress slowly over the duration of the development, the composition and wooded character of the view would remain largely unaltered.

Open panoramic long-range views of the extension and associated phased tree removal would also be possible from dwellings in an elevated part of Lossiemouth around Prospect Terrace 1.5km to the northwest (see photograph location 5, Vol 2). Again, as this would occupy a small extent of a wider panoramic view and as woodland removal would progress slowly over the duration of the development, the composition and wooded nature of the view would remain largely unchanged. Similarly, views from the Phase 2 housing development on Inchbroom Road to the northwest currently being developed would be predominantly shielded by intervening mature woodland.

The EIA Report concludes that operational landscape and visual effects from both the existing processing and proposed extraction areas would be limited, not significant in scale and extent due to the surrounding woodland cover and the proposed mitigation embedded with the design. No significant direct or indirect landscape effects are predicted.

On completion of works, the extraction area would be restored to mixed woodland with diverse species to enhance bio-diversity and afford recreational opportunities (including a formal landscaped area) and the processing area would revert to agricultural land with conservation margins, thereby suggesting permanent beneficial but not significant (residual) effects. No significant visual effects would arise from either the operational or restoration phases of the proposal, and the extent of woodland cover in the surrounding landscape would limit visibility of the extension site.

From the above observations, the proposal is considered acceptable and capable of being accommodated within the landscape. Any impacts would be limited to the duration of the extraction phases and with restoration, the site would revert back towards its existing appearance and character in landscape and visual terms. In light of the above, and subject to conditions where recommended, the proposal is acceptable. In the absence of any identified significant unacceptable landscape and visual effects and would not conflict with the aims of planning policies ER4, ED7, E9, E10 and IMP1 where landscape and visual interests are a consideration.

Impacts on Ecology and Biodiversity (ER4, E1, E2, E3, IMP1 and IMP2)

MLDP Policy ER4 permits proposals for new minerals sites where they avoid or satisfactorily mitigate impacts, including natural heritage/ecological impacts. Policy E1 Natura 2000 Sites and National Nature Conservation Sites permits development where, after appropriate assessment, there is no adverse effect on the integrity of the designation and its objectives are not compromised. Policy E2 Local Nature Conservation Sites and Biodiversity provides criteria to safeguard sites and species including raised peat bog, wetlands, protected species, wildlife sites and other valuable local habitat. Except in

certain circumstances, Policy E3 Protected Species states that proposals having adverse effects on protected species will not be approved and together with a species survey, proposals should identify mitigation to address impacts. Policy IMP1 h) requires developments to achieve conservation and where possible, enhancement of natural environmental resources. Policy IMP2 requires proposals to be supported by appropriate assessments to confirm the compatibility of the proposal.

There are no statutory or non-statutory nature conservation designations located within the application site (both extraction and processing areas). The closest statutory designation is Loch Spynie, which is designated as a Special Protected Area (SPA), SSSI and Ramsar Site for its important nature conservation interests associated with its diverse wetland habitats. It lies approx. 1.6km to the south of the proposed extraction area, and 0.8km to the southwest of the current processing area. The Spey Bay SSSI and the Lower River Spey – Spey Bay Special Area of Conservation (SAC) are located approx. 2.5km to the northeast of the extraction area and 2km to northeast of the processing area.

Chapter 7 of the EIA Report assesses the effects of the development on biodiversity and ecology both on and around each area of the site. The EIA Report predicts no significant effects or adverse impacts, including cumulative effects due to mitigation incorporated within the proposal and measures outlined within the EIA Report.

The assessment identifies that the proposal would have no adverse effects on the Loch Spynie SPA, SSSI and Ramsar Site to the south/southwest as there are no hydrological connections (water courses or drainage ditches) between the proposed extraction area/existing processing area and Loch Spynie. Similarly, no impacts on the Spey Bay SSSI and the Lower River Spey – Spey Bay SAC to the northeast are identified.

For terrestrial and aquatic habitats, no significant effects are predicted due to the general mix of habitats present on site which are mainly coniferous plantation woodland/scattered coniferous trees over a semi-improved grassland, scrub/acid grassland and exposed cobbles area, which is considered to be at a low ecological value. As the woodland within and surrounding the extraction area is dry acid woodland, no Ground Water Dependent Terrestrial Ecosystems (GWDTEs) have been identified or will be affected, and whilst more mature and biodiverse coniferous plantations (ancient semi-natural woodlands) are present in the local area, the impact of the loss of the woodland habitat on the site itself is predicted to be low, not significant.

With regard to protected species, surveys of badger, otter, breeding birds, bats, red squirrel and pine martin were undertaken within the proposed extension area and in surrounding areas to inform detailed assessment. These found evidence of badgers and a total of 25 species of possible/probable breeding birds within the survey area, with potential impacts requiring mitigation (see below). Evidence of bats commuting and foraging was also recorded along with potential roost features within certain trees, however, following further survey work, no bat roosts were found. Of the remaining species (otter, red squirrel and pine martin) no evidence of their presence was detected during the surveys.

A range of mitigation and enhancement measures, adopted within the design of the proposal, are identified in the EIA Report to minimise impacts and enhance habitats. These include the phased clearance of vegetation towards retained habitat to mitigate for the presence of reptiles; sensitive restoration involving re-grading excavated ground and re-planting of Scots Pine, with an emphasis on natural regeneration; installation of

hibernation sites for reptiles as well as for bat and bird boxes once replanted trees become established; applying a 30m standoff from the proposed extraction area perimeter, with sensitive directional lighting arrangements and working staff briefed to ensure protection of protected species; completion of nesting bird checks all year round and installation of an appropriate buffer around active nests, within which no works can occur until chicks have fledged and/or the nest is confirmed as inactive; and lastly, an ecological walk-over check/survey prior to any activity on site commencing to confirm that protected species will not be impacted, as identified by previous surveys, etc.

Following consultation, Scottish Natural Heritage has advised that the proposal will not impact on any statutory protected areas, and the EIA report identifies appropriate mitigation to be incorporated into the proposal to afford protection to biodiversity. SNH further confirms that it agrees with the findings of the Report and considers that the mitigation measures listed will help to avoid unacceptable impacts to wildlife and habitats on the site.

Similarly, RSPB Scotland has raised no concerns regarding this proposal and accepts the conclusions within the EIA report that the potential impact on birds is not likely to be significant. It further agrees that the proposed mitigation measures in the EIA Report (Chapter 7) will assist to avoid impacts on breeding birds and other wildlife.

From the above considerations and subject to conditions where recommended, the proposal is not considered to result in unacceptable or significant adverse effects on any ecological interests, and would accord with relevant development plan policy and guidance.

Impacts on Hydrology and Hydrogeology (ER4, EP4, EP5, EP6, EP7, EP8, EP9, EP12, IMP1, IMP2)

Policy ER4 permits proposals for new minerals sites where they avoid or satisfactorily mitigate impacts, including potential impacts on water. Policy EP4 seeks achievement of a wholesome and adequate private water supply and consideration of environmental and pollution impacts. Policy EP5 requires surface water to be addressed in a sustainable manner, avoid pollution and promote habitat enhancement and amenity with consideration of SUDs during development. Policy EP6 requires proposals to be designed to avoid adverse impacts on the water environment and identify opportunities for restoration with any impact adequately mitigated. From Policy EP7, new development should not occur if it would be at significant risk of flooding from any source or materially increase the possibility of flooding elsewhere. Policy EP8 and EP9 require proposals to demonstrate how any significant pollution can be appropriately mitigated and addressed including potential contamination of land by investigation and remediation. Policy EP12 aims to protect air quality and mitigate the effects of proposals in order to protect human health and well-being. Policy IMP1 requires proposals to d) provide acceptable water and drainage arrangements including SUDs; i) avoid areas at risk of flooding; j) avoid any potential risk of pollution including groundwater contamination; k) mitigate any contaminated land issues; and m) make acceptable arrangements for waste. Policy IMP2 requires proposals to be supported by appropriate assessments to confirm the compatibility of the proposal.

Chapter 8 the EIA Report assesses the effects of the proposal on the water environment in the vicinity of both existing processing and proposed extraction areas during the operational and post-restoration phases. The assessment predicts that the proposal would not have any unacceptable significant or adverse effects on surface water or ground water

receptors within the catchment area of the application site, nor be subject to flood risk or increase the risk of flooding elsewhere due to locational factors, measures embedded in the design, and adoption of standard good working methods to ensure protection of the local water environment.

The proposal is located within the surface water catchment of the Spynie Canal, a man-made channel (designed to drain Loch Spynie and its low lying surrounds) which flows northwards between the existing quarry/processing site and proposed extension area. The River Lossie runs to the east and north of the existing site and proposed extraction area, which then discharges into the sea approx. 1km to the north. A water body formed within an area of former mineral extraction lies approx. 0.8km to the northwest of the proposed extraction area, and a silt sediment lagoon is located adjacent to wash plant within the current processing area. Loch Spynie lies approx. 670m to the southwest of the current area. The proposed extraction area is free draining due to the nature of the deposit and overlying material, with very little surface water present. No known springs, wells or licenced water abstractions are identified as being within either the processing or excavation area, although there are a number wells and a water abstraction in the wider area.

Based on SEPA's (indicative) flood maps both the extraction and processing areas are located within areas identified as being at 'little or no risk' of river or coastal flooding, however an area of land immediately to the south of the proposed extraction area and to the northwest, west and south of the existing processing area are identified as being at 'medium risk' of coastal flooding. SEPA's flood maps also indicate that the majority of each area is at very low risk from surface water flooding, although small localised areas are identified as being at 'low, medium or high risk' of flooding, due to naturally occurring surface depressions within these areas.

The main potential effects from mineral extraction operations range from impacts on surface water run-off characteristics and water quality, soil erosion, accidental spillages and sedimentation entering the ground water and surface water environments to effects on private water supplies and abstractions, de-watering/change in flow-patterns affecting abstraction yields, increased flood risk, and damage to sites of ecological interest i.e. GWDTEs. In this case, these have been mitigated by environmental measures incorporated within the design and the siting of the scheme itself, and through additional proposed mitigation measures.

The latter measures include working to a proposed maximum depth of extraction for each phase which has been designed to be entirely above the water table and on ground that is free draining, thus removing the requirement for active water management/de-watering; restoration proposals involving infilling the quarry void with coarse material derived from the site with good drainage characteristics; provision within the detailed design of the restored surface topography to ensure that rain and surface water soaks away to ground within the footprint of the restored site; provision of site drainage based on SuDS principles to include swales, ditches and depressions; the siting of the proposal itself in a location away from water courses with no discharge of water off-site; and adoption of standard good working methods to protect the local water environment (bundling of fuel and chemical storage facilities, maintenance of fixed/mobile plant, provision of spill kits, on-going training of staff in environmental protection measures), etc.

The assessment confirms that as there are no surface water abstractions nearby, the potential for any adverse impacts to occur is negligible. Similarly, in relation to surface

water flow and water quality, there are no watercourses or features nearby that could be affected by the proposal (either by derogation or surcharge), as there is no discharge of water off-site. Disturbance of fines/particles by the mobile plant will occur within the excavated quarry void however this is anticipated to filter naturally due to the characteristic of the deposit and not adversely impact upon either surface water or ground water during extraction. Potential contamination from mobile plant will be mitigated by the continuation of best practice (as already outlined).

The assessment further confirms that the absence of any hydrological connections between the site and any water-supported, designated sites of ecological interest (or GWDTEs) would also ensure that any potential adverse impacts are mitigated. In terms of flood risk, the assessment concludes that the proposal would not exacerbate flood risk both on or off the site, due to its location outwith any fluvial/coastal flood risk area, the site characteristics and permeable nature of the ground, site drainage and site restoration arrangements.

From consultation, SEPA has not objected to the development in terms of its key interests (surface water/ground water environment, private water supplies/ground water abstractions, peat management, engineering activities in the water environment, flood risk, pollution prevention and environmental management and GWDTEs) but recommends conditions including the timely and on-going implementation of all site restoration proposals and adherence to mitigation measures as set out within the EIA Report. SEPA also advises that there will be limited impact on the surface water and ground water environment from the proposed excavation site, no private water supplies are likely to be affected, and as groundwater levels are largely below the base of the mineral deposit and extraction will not take place below the water table, no dewatering or other forms of water management will be required. With the nearby cemetery, SEPA anticipates no adverse hydrogeological issues arising from its close proximity as groundwater is not expected to be intercepted. In addition, no engineering works are proposed within or near the water environment, there are no affected GWDTEs, there is no identified unacceptable risk of fluvial flooding, and no active surface water management is required or proposed.

The Council's Moray Flood Risk Management Section has not objected to the proposal in terms of flooding and drainage impacts. Likewise, the Council's Environmental Health Private Water Supplies Service has not objected subject to a condition requiring urgent, restorative, remedial work to be undertaken on any supply where negative effect(s) on water quality or quantity are caused by the development.

The Contaminated Land Section has also raised no objection in contaminated land terms, but has recommended that the applicant be advised of the location of a former refuse tip 50m to the east of the site, where landfill gas generation is ongoing and as safe working is the responsibility of the developer, further assessment of gas risk should be undertaken by the operator prior to works proceeding in line with the recommendations included in the submitted Gas Risk Assessment Report.

From the above and subject to conditions where recommended, the proposal is not considered to have unacceptable significant adverse effects on hydrology and hydrogeology (including drainage, flooding, pollution prevention, contamination) interests and would accord with relevant development plan policy and guidance.

Impacts on Cultural Heritage (ER4, BE1, BE2, BE3, BE5, IMP1 and IMP2)

Policy ER4 permits proposals for new minerals sites where they avoid or satisfactorily

mitigate impacts, including potential impacts on the historic environment. From Policy BE1, BE2, BE3 and BE5 proposals will be refused where they adversely affect Scheduled Monuments (SM) and local archaeological sites, Garden and Designed Landscapes (GDL), listed buildings (LB) and Conservation Areas (CA). Policy IMP1 h) requires any proposal to demonstrate conservation of built environmental resources. Policy IMP2 requires proposals to be supported by appropriate assessments to confirm the compatibility of the proposal.

Chapter 9 of the EIA Report assesses the impact of the proposal upon archaeology and built heritage within the site and surrounding area, including direct and indirect effects, and identifies detailed mitigation measures to prevent, reduce or offset these impacts. The assessment predicts no significant adverse impacts upon the historic environment..

There are no known cultural heritage assets recorded within the site boundary itself, and therefore no significant direct effects are identified. There are known prehistoric and medieval remains in the wider area around the site which, by association, increases the potential for heritage remains and artefacts within the site. To ensure that there are no adverse impacts on any such remains, the EIA Report acknowledges the likely requirement for an archaeological watching brief during groundworks for each phase of extraction.

In terms of the wider area, nine historic assets have been identified, five of which are designated within 1km and could be subject to indirect effects, requiring further consideration. These include two Scheduled Monuments, the Caysbriggs Earthwork and Innes Links Anti-Invasion Defences, Kingston to Lossiemouth (located to the west of the existing processing area and north of the proposed extraction area respectively), and three Category B Listed Buildings (Inchbroom House, The Hillocks 17 Moray Street Lossiemouth and 1 Gregory Place Lossiemouth). No other types of designated sites, such as Conservation Areas, Historic Battlefields or Historic Gardens and Designed Landscapes are recorded within the 100m buffer zone or 1km study area, identified in the EIA report.

The assessment predicts that the proposal would have no significant visual or indirect effects upon the settings of these assets due to intervening woodland cover and distance, and the urban setting of the latter two listed buildings. On this basis, the EIA Report concludes that the proposal would not result in any significant or negative indirect effects upon identified cultural heritage interests.

Proposed design and mitigation measures to mitigate any indirect effects upon the setting of Lossiemouth Cemetery and the war memorial within the Cemetery include creation of the 2m high bund with planting along the northern boundary of the proposed extraction area; supplementary planting and retention of trees/shrubs within the proposed extraction area; no processing equipment to be located within the proposed extraction area and all processing activities to take place within the existing processing area only; minimal use of plant and machinery within the proposed extraction area, i.e. only one loading shovel to be used; and a restriction on the number of days that extraction takes place, to be limited to 60 days per year.

Following consultation, Historic Environment Scotland (HES) has not objected to the proposal and it confirms that the impacts on scheduled monuments in the vicinity will not be significant in EIA terms.

On behalf of the Council, Aberdeenshire Archaeology Services has reviewed the EIA Report and has raised no objection subject to a condition requiring submission and approval of an archaeological written scheme of investigation of works to record and recover any archaeological resources found at the site during groundworks for each phase, to safeguard and record the archaeological potential of the area.

From the above considerations and subject to the recommended condition, the proposal would not have unacceptable significant adverse effects on built heritage (archaeological and cultural) interests and be considered to comply with relevant development plan policy and guidance.

Impacts on Noise (ER4, EP8, IMP1, IMP2)

Policy ER4 permits proposals for new minerals sites where they avoid or satisfactorily mitigate impacts, including potential impacts on noise and communities. Policy EP8 requires developments that may cause significant (noise) pollution to be subject to assessment and demonstrate how such pollution can be appropriately mitigated. Policy IMP j) requires proposals to address any potential risk of pollution. Policy IMP2 requires proposals to be supported by appropriate assessments to confirm the compatibility of the proposal.

Chapter 10 of the EIA Report assesses potential noise effects from the proposal on the closest noise sensitive receptors and identifies mitigation measures required to ensure that there are no likely significant adverse effects. The assessment predicts no significant noise effects on surrounding properties and recommends mitigation measures. No significant cumulative operational noise effects are also predicted to occur.

Operational noise generated within the new extraction area is expected to occur during activities such as soil stripping, plant operation and HGV movements, and for the existing processing area, from plant/screening operations and HGV movements. The assessment considers the worst case scenario, when all routine operations are undertaken at their closest distance to receptors, and it predicts that noise levels at these properties/locations would meet the requirements for noise criterion for the current site, and, for receptors close to the proposed extraction area, the recommended levels contained in PAN 50 Annex A.

To reduce noise, proposed design and mitigation measures include the construction of a noise bund along the northern boundary; use of limited plant within the proposed extraction area and a method of working where the single wheeled shovel loader will operate at the base of the workings (with the working face and orientation of working to the north/northeast to provide an additional buffer screen to noise); continued noise control operations at the processing area; the fitting of white noise reverse warning systems to all plant (unless already installed); and compliance with noise monitoring throughout the operational phases of the quarry, etc.

In addition, the EIA Report confirms that best practice measures would be implemented, including maintenance of all plant and equipment to ensure that machinery is operating correctly and the preparation of a Noise Mitigation Scheme prior to development commencing. This would include, amongst other matters, community liaison protocols on planned burials and other services at the adjacent cemetery. The latter would be subject to receiving notification from the Council's Registrar Service of proposed burial arrangements similar to existing arrangements with the MOD for flying exercises.

Following consultation, the Environmental Health Manager does not object to the development subject to conditions as recommended. For the proposed extraction area these include, extraction operations to be limited to a single wheeled shovel loader or excavator; no screening plant or blasting are permitted; operation hours permitted only between 0800 to 1700 hours, Monday - Friday and 0800 to 1300 hours, Saturdays, and at no other times (including back holidays and National Holidays) unless otherwise agreed with the Council; noise emissions not to exceed specified levels for soil stripping and overburden handling in all phases and bund formation; submission/approval of a Noise Mitigation Scheme; a monitoring scheme of noise emissions; and noise emissions not to exceed specified levels for quarry operations (excluding soil and overburden handling). A condition is also recommended limiting extraction rates of material, and the extraction period to 60 days per year as stated in the EIA Report.

For the existing processing area, the recommended conditions include operation hours permitted only between 0700 to 1700 hours, Monday – Friday, and 0700 to 1500 hours, Saturdays, unless otherwise agreed; and that noise emissions from plant and machinery do not exceed specified levels.

Additional informative advice is provided to assist with compliance of conditions with regard to the Noise Mitigation Scheme (vehicle reverse alarms and community liaison protocols on planned burials and other services at the adjacent cemetery).

From the above and subject to conditions where recommended, the proposal is not considered to have unacceptable significant adverse effects on noise including effects on the amenity of any nearby noise sensitive receptors and would accord with relevant development plan policy and guidance.

Impacts on Air Quality (ER4, EP8, IMP1, IMP2)

Policy ER4 permits proposals for new minerals sites where they avoid or satisfactorily mitigate impacts, including potential impacts to air and upon communities. Policy EP8 requires developments that may cause significant (air) pollution to be subject to assessment and demonstrate how such pollution can be appropriately mitigated. Policy IMP j) requires proposals to address any potential risk of pollution. Policy IMP2 requires proposals to be supported by appropriate assessments to confirm the compatibility of the proposal.

Chapter 11 of the EIA Report assesses potential dust effects and impacts on air quality from the proposal on the closest sensitive receptors (dwellings and cemetery) and identifies mitigation measures required to ensure that there are no likely significant adverse effects. The adopted methodology includes reference to Planning Advice Notice (PAN) 50: Annex B “The Control of Dust at Surface Mineral Workings and the publication from the Institute of Air Quality Management (IAQM) ‘Guidance on the Assessment of Mineral Dust Impacts for Planning’. The closest receptors are identified as being potentially sensitive to dust include Caysbriggs Farm, Oakenhead, the new housing development at Inchbroom, and the Lossiemouth Cemetery. The assessment predicts that with the implementation of recommended mitigation measures, the proposal is unlikely to lead to significant dust effects at these surrounding properties/receptors.

Dust emissions generated by the proposal are most likely to occur during soil handling, mineral extraction/handling, haulage, mineral processing and vehicle emissions. The level of emissions are influenced by annual output, mobile plant used, volumes of soil and overburden moved, the area of exposed surfaces and the number of off-site daily

movements. The assessment considers worst case conditions when activities are undertaken at their closest distance to receptors and predicts that given factors, including the nature of the sand deposit, the limited working area of each phase, wind direction, and intervening distance and woodland, the proposal is unlikely to cause unacceptable significant dust impacts or adverse effects upon air quality.

A slight adverse effect has been identified at Caysbriggs Farmhouse which sits adjacent to the existing processing area however, this is expected to decrease with the cessation of works at the adjacent extraction (extension) area when compared to previous years. The assessment also concludes that there are no ecological receptors that will experience significant dust effects as a result of the proposal.

Proposed design and mitigation measures incorporated into the proposal include the preparation and implementation of a Dust Management Plan to describe the management/operational actions adopted to deal with dust on a day to day basis, and also on those occasions during adverse conditions/events when higher levels of dust could be possible (with works being temporarily suspended/relocated where required) and the means to ensure that on-site activity is designed so as to keep potentially dust generating activity away from receptors, including the position of the main haul roads and location of processing plant etc.

The proposal has been designed to ensure that the operations are not within 100m of housing, i.e. the distance from sources where the majority of dust from mineral workings returns to ground; drop height of materials will be minimised; and continuance of dust mitigation measures on the existing plant at the processing area. The phasing of the proposal will ensure that only minimal areas are active at any given time thus minimising areas of disturbed ground and potential for wind-blown dust. Additional measures include use of water sprays in dry conditions on stripped or restored areas, the haul roads and on storage/restoration areas; use of limited plant within the proposed extraction area and a method of working where the single wheeled shovel loader will operate at the base of the workings (thus sheltered from winds); haul road discipline (adoption of appropriate speeds) and regular maintenance to remove loose material, etc. For continued operations at the processing area, dust control measures will involve wet and screening processes where minimal dust emissions occur.

The Environmental Health Manager has not objected to the proposal subject to a condition requiring submission/approval of a detailed dust management plan as referred to within the EIA Report for both the proposed extraction and processing areas.

From the above and subject to conditions where recommended, the proposal is not considered to have unacceptable significant adverse effects on dust and air quality including effects on the amenity of any nearby sensitive receptors and would accord with relevant development plan policy and guidance.

Impacts on Transport and Access (ER4, T1, T2, T5, T7, IMP1, IMP2)

Policy ER4 permits proposals for new minerals sites where they avoid or satisfactorily mitigate impacts, including potential impacts on transport and communities. Policy T1 promotes improvement of road and rail, with priority being given to dualling of the A96 Aberdeen to Inverness routes, and early delivery of bypasses. Policy T2 requires proposals to provide safe and suitable access for all end users including mitigation of the existing network where required to address impacts of the development. Policy T5 requires parking provision in accordance with current parking standards. Policy T7

promotes the improvement of walking, cycling and equestrian networks but does not permit proposals having unacceptable impacts on access rights and core paths, etc. that cannot be adequately mitigated. Policy IMP1 c) required road, foot, cycling and public transport to be provided at a level appropriate to the development. Policy IMP2 requires proposals to be supported by appropriate assessments to confirm the compatibility of the proposal.

Chapter 12 of the EIA Report provides an assessment of the potential traffic and transport effects on the surrounding road network associated with the proposed mineral extraction area to be used in conjunction with the existing processing area and mitigation measures to avoid, minimise, mitigate or compensate for any transport effects. The assessment predicts no significant or adverse effects on the national and local road networks in EIA terms, and recommends mitigation measures (Traffic Management Plan and Dilapidation Survey) as best practice to further reduce the potential for residual effects as far as reasonably possible.

The proposed extraction area will be accessed from the existing Oakenhead private access track along the eastern site boundary, to be upgraded/widened to accommodate two-way Heavy Goods Vehicle (HGV) traffic and maintain safe access for pedestrians accessing Oakenhead, together with provision of the required visibility onto the B9103 road. The existing processing area is currently accessed by an established bellmouth junction from the adjacent C21E road which runs north to its junction with the B9013 at Arthurs Bridge.

Traffic movements associated with the proposal would consist of HGVs transporting the extracted materials from the proposed extraction area to the existing Caysbriggs Quarry processing area, before being dispatched to market. HGV vehicles exiting the extraction area would turn right from the upgraded junction onto the adjacent B9013 and travel approximately 1.5km southeast to the existing processing area. HGVs returning from the processing area would follow the same route. The applicant has confirmed that no new traffic would head west towards Lossiemouth or the A941, as is currently the case.

Processed material (cobbles and pebbles) from the processing area would then be transported to the market via the B9103, travelling southeast from the processing area before joining onto the A96, which is the current route used. The assessment identifies that HGV traffic generated by the proposal has the potential to increase traffic flows within the study area, including the C21E between the existing processing area and its junction onto the B9013 road located approx. 450m to the north, the B9103 at the proposed extraction area access, the B9103 between Caysbriggs Quarry and the junction with the A96, the A96 within Elgin and the A96 within the vicinity of the junction with the B9103.

The predicted rate of production at the application site is confirmed as being between 30,000 to 40,000 tonnes per annum, with an assumed higher rate of 40,000 tonnes and the use of typical 20 tonne HGVs to transport the quarried material. This equates to 2,000 HGVs expected to depart the extraction area per year (4000 two-way movements), which assuming a 250 day working year equates to an average of 8 HGVs per day (16 two-way movements). However, the EIA Report acknowledges that this is not economical or sustainable to operate at such a low intensity and that extraction would more likely take place at a faster rate on 60 days per year, equating to 32 HGVs on any given day (64 two-way movements). This would equate to one or two days per week but more realistically, extraction operations would likely be undertaken in four 3-week spells per year.

The increase in HGV traffic on the C21E, the B9013 at the proposed extraction area and access, and the B9013 between the Caysbriggs Quarry and it's junction with the A96 (220%, 33% and 34% respectively) have triggered further assessment in accordance with relevant guidelines for the Environment Assessment of Road Traffic (Institute for Environmental Management and Assessment (IEMA) 1993 refers) and requires account of factors such as severance; driver delay; pedestrian delay and amenity and accidents and safety.

The assessment concludes however that effects in respect of each at worst case scenario would not be significant given the lack of sensitive receptors (e.g. residential properties) along the routes, the rural location of the extraction and processing areas, and the fact that HGV movements would not occur on a daily basis and can be accommodated by the existing road network within the study area.

The assessment also acknowledges that as a number of walking routes through Oakenhead Wood cross over the B9013 this could lead to walkers being potentially subject to severance by vehicle movements. This is assessed as minor not significant in EIA terms.

With no significant traffic effects predicted to occur, the EIA report concludes that no mitigation is required, however as 'good practice' measures to ensure that any residual effects are minimised as far as possible, it proposes a Traffic Management Plan (TMP) to monitor/manage the impact of HGV traffic on the local road network and a Dilapidation Survey to monitor/mitigate general wear and tear effects.

Following consultation, Transport Scotland and the Council's Transportation Section Manager have raised no objection to the proposal subject to conditions as recommended to address impacts on the local road network including details for the upgrading and widening of the Oakenhead access track junction onto the B9103 with appropriate visibility splays and surfacing with bituminous macadam to Moray Council specification; drainage; swept paths; resurfacing of the B9103 (20m in both directions from the access); and a Construction Traffic Management Plan along with evidence of a 'Wear and Tear' agreement for the length of the B9013 and C21E road between the proposed extraction area and existing processing area. This would include monitoring surveys (bi-annually minimum) and mitigation works to rectify any damage to the public road due to quarry traffic, measures to protect pedestrians, and instructions to drivers and details of routes to be used for access.

In terms of public access, while there are number of recreational routes within the vicinity of the application site (to the north, west and east), the site itself does not contain any clearly defined routes/paths nor does it appear to be well used for recreational or formal outdoor access purposes. The assessment confirms that there is no requirement to incorporate any routes as part of the proposal, or to provide alternative access, and it predicts no significant or unacceptable impacts on any recreation route or recreation interests. Restoration of the extraction site will provide an opportunity to enhance recreation and the applicant proposes creation of new path within the site (upon completion of extraction) which would link the footpath along the western boundary with the Oakenhead access track to the east, thus providing a connection to the wider footpath network and benefitting the local area. Following consultation, the Moray Access Manager has not objected to this proposal.

From the above and subject to conditions where recommended, the proposal would not be considered to have unacceptable significant adverse effects in traffic (transportation and access) terms, and would accord with relevant development plan policy and guidance.

Impacts on Woodland (ER2, E4, Trees and Development SG, Moray Woodland and Forestry Strategy SG and Scottish Government Control of Woodland Removal Policy)

Policy ER2 Woodlands (in line with the Scottish Government policy) permits removal of woodland where it can be demonstrated that its loss is clearly outweighed by social or economic benefits at national/regional/local level, and if compensatory planting has been agreed. Woodland removal within the terms of this policy is defined as the permanent removal of woodland for the purpose of conversion to an alternative land use, the aim of which is to avoid clear felling of woodlands for development, unless terms of the policy are met. Policy E4 Trees and Development protects trees/woodland and where this is removed in association with development, the provision of compensatory planting. The Council's Supplementary Guidance 'Trees and Development' (2015) identifies the importance of trees across Moray and supports the implementation of policy E4. The Council's recently adopted Supplementary Guidance: Moray Woodland and Forestry Strategy (2017) contains further advice in this regard and seeks to protect and enhance the woodlands in Moray.

Chapter 13 of the EIA Report assesses the likely significant environmental effects of the proposal upon the woodlands habitats within the application site, including felling and re-planting. The assessment identifies no significant or adverse impacts on woodland.

The proposed extraction area extends to 18 hectares of woodland, and comprises mature Scots pine, with some Corsican pine, European larch and Sitka spruce. Additional tree planting, in the form of a 20-25m wide strip is proposed along the northern site boundary adjacent to the B9013 and some localised planting along the western boundary. This would occur before extraction begins to provide a visual screen to quarry operations and enhance the woodland. The trees to be planted would comprise native species, mainly Scots pine, birch and rowan, with shrubs for under-storey planting. Mitigation measures for the protection and maintenance of the woodland are also proposed in line with current best practice and legislation, to ensure their establishment and development towards maturity.

For mineral extraction to take place, 12.16 hectares of woodland would require to be felled. This would occur over 11 phases rather than clear felling of the site, with each phase taking approximately 2 years to be stripped, worked and then re-instated, and tree planting taking place in the next available planting season. This re-instatement is expected to take place 2 to 3 years following initial harvesting (in line with timescales in normal forest management practice), and therefore does not constitute the permanent loss of woodland. The complete restoration of the proposed extraction area would result in the site being stocked with native tree species, with some integral open ground, which in turn would improve the current situation with open ground whereupon natural regeneration has still to occur.

In terms of the wider area, a large part of the surrounding area is identified as being within the Forestry Commission Scotland's Inventory of Ancient Woodland, however the extraction site sits outwith this designation (apart from a thin section along the northern site boundary, which is considered to be a mapping error) and would not impact on any areas covered by the designation or result in loss of ancient woodland. The site is not

within the Forestry Commission's Pinewood Zone, which shows the natural extent of Scots pine in Scotland, nor does it appear on the Native Woodland Survey for Scotland (FCS). The removal of the woodland at the extraction area does not prejudice these recognised national woodland interests.

The EIA Report states that the proposal does not comprise the permanent removal of woodland and following its phased restoration it will result in woodland with greater diversity and amenity value compared to that at present. It also refers to the criteria for determining the acceptability or otherwise of any proposed woodland removal as set out in the Scotland's Control of Woodland Removal Policy Document (FCS) and consultation with Forestry Commission Scotland which has outlined that "*Woodland removal associated to development may be deemed appropriate where mitigation for woodland loss is provided (e.g. compensatory planting, or phasing of works so that woodland removal in any phase does not exceed that time normally approved under typical felling licence conditions, 2-3 years).*" With this programme of limited felling and replacement in a phased manner across the extraction site, and with new planting using diverse species with potential to enhance bio-diversity the proposal does not conflict, but complies with policies ER2 and E4 of the MLDP 2015.

Following consultation, Forestry Commission Scotland has raised no objection to the proposal subject to adherence to the recommendations set out in the submitted woodland plan/report as produced by Scottish Woodlands, EIA Report Vol 3, Appendix 13.2 refers and Restoration Plan drawing. These matters are to be covered by a planning condition.

From the above and subject to conditions where recommended, the proposal is not considered to have unacceptable significant adverse effects on forestry and as such the proposal would be considered to accord with relevant development plan policy and associated guidance, etc.

Impacts on Ministry of Defence (MOD) Safeguarding Areas (EP13)

Policy EP13 MOD Safeguarding Areas outlines that for certain categories of development within particular distances from MOD airfields at Lossiemouth and Kinloss, consultation is required to ensure that proposals do not impact upon the safe operation of these facilities. This applies to a range of development proposals and includes consideration of various aspects such as the height of buildings, use of reflective surfaces, creation of refuse tips and nature reserves, or other proposals which might attract birds and have an adverse impact on air safety.

The PS notes that the application site lies within the RAF Lossiemouth Safeguarding Area, however, as the proposal does not include construction of buildings, height is an issue in terms of the safeguarding area. Similarly, the PS confirms that the proposal does not involve a refuse tip, reflective surfaces and the proposed restoration will not include formation of any substantial water body which might attract birds.

Two small areas within the western part of the site fall within the Safeguarding Area for RAF Lossiemouth and the MOD has highlighted that the extraction area sits within the approach surface for the main runway at RAF Lossiemouth, is within a birdstrike safeguarding zone, and unless properly managed the proposed quarry activities have the potential to attract hazardous birds (gulls, waders and corvids) to the site to feed and loaf/bath which could, in turn, lead to a potential increase in birdstrike risk to aircraft operations. Whilst the MOD has raised no safeguarding objection, it has recommended a condition requiring the submission and approval of a detailed bird hazard management

plan, to be implemented for the lifetime of the development and to identify measures to mitigate and manage any the risk to birds and aircraft.

From the above and subject to the condition as recommended, the proposal is not considered to result in unacceptable significant adverse effects on the safe operation of RAF Lossiemouth and as such the proposal would be considered to accord with relevant development plan policy.

Developer Obligations (IMP3)

Policy IMP3 (and associated Supplementary Guidance) (March 2018) provides for contributions to be sought from developers where a development would have an adverse or negative impact on existing infrastructure, community facilities or amenity. With appropriate mitigation measures embedded within the design and conditions as recommended, no other measured impacts have been identified which require mitigation through developer obligations.

Conclusion and Recommendation

The application seeks planning consent for a new mineral extraction area to be used in conjunction with (and the retention of) the existing processing area at Caysbriggs Quarry for a period of 26 years.

Policy ER4 supports applications for mineral extraction where they meet relevant criteria as outlined within that policy and that the proposal *inter alia* does not result in significant negative impacts on the amenity of local communities and the natural and built environment, and that any identified effects can be adequately controlled and mitigated, and the site can be properly restored. A number of other policies inform the detailed consideration of the proposal (Appendix 1) and subject to conditions where recommended, the proposal would satisfy these provisions, except in relation to Policy E9 Settlement Boundaries where the proposed extraction area is located immediately adjacent to the settlement boundary for Lossiemouth. For the reasons (material considerations) outlined in the report, including regard to the nature and impact of the proposed extraction activity, the proposal, as an acceptable departure, can be supported and it will not prejudice the objectives of that policy.

Following detailed assessment of the EIA Report and consultation responses, etc. no significant adverse environmental effects are identified as a result of the proposed development. The proposal to create a new extraction area along with use of the retained processing area has been informed by both environmental design measures incorporated into the scheme design and mitigation measures including best practice, where appropriate, to minimise environmental effects and impacts of the development. With progressive site restoration and woodland re-planting, as proposed, there would also be positive (beneficial) impacts in terms of ecology and bio-diversity.

In the absence of any unacceptable or significant environmental impacts including residual effects and subject to conditions as recommended, the proposal is acceptable.

It is recommended that planning permission is granted subject to conditions.

REASON(S) FOR DECISION

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

The extraction area, being located immediately adjacent to the Lossiemouth settlement boundary would represent a departure from Policy E9, but can be supported having regard to the nature and impact of the proposed extraction activity would not prejudice the objectives of that policy. In all other respects including landscape and visual, transportation, drainage, pollution prevention, cultural and natural heritage, etc. interests, the proposal is considered to accord with the provisions of the development plan and there are no material considerations that indicate otherwise.

Reasoned conclusion on the significant effects of the development on the environment (Regulation 29 of the EIA Regulations 2017)

Moray Council, as Planning Authority has taken account of all relevant information, consider that the proposal can be supported having regard to the nature and impact of the proposed extraction and processing activity, and that its location is appropriate in local and national planning policy terms.

The Council has considered, fully and carefully, the environmental information as presented and concludes that the development will not give rise to any significant adverse environmental effects, as the proposal incorporates the necessary environmental design and mitigation measures to minimise such effects and impacts. These include measures to address impacts upon the landscape and visual effects, biodiversity (wildlife and ecology), hydrology and hydrogeology, cultural heritage (archaeology), noise, air and climate (dust), traffic, transportation, aviation and woodland. With progressive site restoration and woodland re-planting, there would also be positive (beneficial) impacts in terms of ecology and biodiversity.

In the absence of any unacceptable or significant environmental impacts and subject to conditions as recommended, the proposal is acceptable in EIA terms. Where consultees have proposed conditions to mitigate/monitor impacts these have been secured by conditions attached to the consent. Conditions to secure the monitoring of impacts in relation to noise, biodiversity aviation etc. have also been attached to the consent. The Council is satisfied that this reasoned conclusion is up-to-date.

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APPENDIX

POLICY

Adopted Moray Local Development Plan 2015

Policy ER4: Minerals

The Council will support, in principle, mineral extraction in the following circumstances;

- Extension to existing operations/sites,
- Reopening of a dormant quarry,
- A reserve underlying a proposed development where it would be beneficial to extract prior to development.

New minerals sites will only be permitted where it has been demonstrated that existing reserves have been exhausted or are no longer viable and for construction aggregates it has been evidenced that there is less than the minimum 10 year supply available.

Borrow pits will be supported to allow the extraction of minerals near to or on the site of associated development (e.g. wind farm and roads construction, forestry and agriculture) provided it can be demonstrated that the operational, community and environmental benefits of the proposal can be evidenced. These consents will be time limited, tied to the proposal and must be accompanied by full restoration proposals and aftercare.

Taking into account PAN 50 Controlling the Environmental Effects of Surface Minerals Workings sufficient information should be provided to enable a full assessment of the likely effects of the mineral development together with proposals for appropriate control, mitigation and monitoring.

Minerals developments should avoid or satisfactorily mitigate impacts, in determining proposals the Council will give consideration to the following issues;

- Impact on natural heritage and historic environment including landscape and visual impact,
- Disturbance and disruption from noise, blasting vibration, and potential pollution of land, air and water,
- Effect on communities,
- Cumulative impact,
- Transport impacts,
- Restoration and aftercare proposals.

Once a mineral working has ceased the land should be reinstated at the earliest opportunity. Restoration should be designed and implemented to the highest standard and

after uses should result in environmental improvement and add to the cultural, recreational or environmental assets of the area. If operators cannot demonstrate that their programme of restoration (including the necessary financing, phasing and aftercare of the sites) is sufficient a financial guarantee may be sought;

Proposals should be accompanied by an Extractive Waste Management plan.

Primary Policy PP1: Sustainable Economic Growth

The Local Development Plan identifies employment land designations to support requirements identified in the Moray Economic Strategy. Development proposals which support the Strategy and will contribute towards the delivery of sustainable economic growth and the transition of Moray towards a low carbon economy will be supported where the quality of the natural and built environment is safeguarded and the relevant policies and site requirements are met.

Policy IMP1: Developer Requirements

New development will require to be sensitively sited, designed and serviced appropriate to the amenity of the surrounding area. It should comply with the following criteria

- a) The scale, density and character must be appropriate to the surrounding area.
- b) The development must be integrated into the surrounding landscape
- c) Road, cycling, footpath and public transport must be provided at a level appropriate to the development. Core paths; long distance footpaths; national cycle routes must not be adversely affected.
- d) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water.
- e) Where of an appropriate scale, developments should demonstrate how they will incorporate renewable energy systems, and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria.
- f) Make provision for additional areas of open space within developments.
- g) Details of arrangements for the long term maintenance of landscape areas and amenity open spaces must be provided along with Planning applications.
- h) Conservation and where possible enhancement of natural and built environmental resources must be achieved, including details of any impacts arising from the disturbance of carbon rich soil.
- i) Avoid areas at risk of flooding, and where necessary carry out flood management measures.
- j) Address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- k) Address and sufficiently mitigate any contaminated land issues

- l) Does not sterilise significant workable reserves of minerals or prime quality agricultural land.
- m) Make acceptable arrangements for waste management.

Policy E9: Settlement Boundaries

Settlement boundaries are drawn around each of the towns, villages and rural communities representing the limit to which these settlements can expand during the Local Development Plan period. Development proposals immediately outwith the boundaries of these settlements will not be acceptable, unless the proposal is a designated "LONG" term development site which is being released for development under the terms of Policy H2.

(In accordance with policy H11, for proposals involving Gypsy/Traveller sites, a distance of 1km will be applied as being "immediately outwith".)

Policy E10: Countryside Around Towns

Development proposals within the Countryside Around Towns (CAT's) areas identified around Elgin, Forres, Buckie, Keith and Lossiemouth will be refused unless they:

- a) involve the rehabilitation, conversion, limited extension, replacement or change of use of existing buildings, or
- b) are necessary for the purposes of agriculture, forestry, low intensity recreational or tourism use or specifically allowed under the terms of other Local Development Plan policies or settlement statements within these areas (excluding houses in all these cases), or
- c) are a designated "LONG" term housing allocation, released for development under the terms of Policy H2.

Policy ED7: Rural Business Proposals

New business developments, or extensions to existing industrial/economic activities in the countryside, will be permitted if they meet all of the following criteria:

- a) There is a locational justification for the site concerned, particularly if there is serviced industrial land available in a nearby settlement.
- b) There is capacity in the local infrastructure to accommodate the proposals, particularly road access, or that mitigation measures can be achieved.
- c) Account is taken of environmental considerations, including the impact on natural and built heritage designations, with appropriate protection for the natural environment; the use of enhanced opportunities for natural heritage integration into adjoining land.

- d) There is careful control over siting, design, landscape and visual impact, and emissions. In view of the rural location, standard industrial estate/urban designs may not be appropriate.

Proposals involving the rehabilitation of existing properties (e.g. farm steadings) to provide business premises will be encouraged, provided road access and parking arrangements are acceptable.

Where noise emissions or any other aspect is considered to be incompatible with surrounding uses, there will be a presumption to refuse.

Outright retail activities will be considered against retail policies, and impacts on established shopping areas, but ancillary retailing (eg farm shop) will generally be acceptable.

Policy E1: Natura 2000 Sites and National Nature Conservation Sites

Natura 2000 designations

Development likely to have a significant effect on a Natura 2000 site which is not directly connected with or necessary to its conservation management 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 Natura site may be approved where;

- a) there are no alternative solutions; and
- b) there are imperative reasons of over-riding public interest including those of a social or economic nature, and
- c) if compensatory measures are provided to ensure that the overall coherence of the Natura network is protected.

For Natura 2000 sites hosting a priority habitat or species (as defined in Article 1 of the Habitats Directive), prior consultation with the European Commission via Scottish Ministers is required unless either the imperative reasons of overriding public interest relate to human health, public safety or beneficial consequences of primary importance to the environment.

National designations

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

- a) the objectives of designation and the overall integrity of the area will not be compromised; or

- b) 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.

Policy E2: Local Nature Conservation Sites and Biodiversity

Development likely to have a significant adverse effect on Local Nature Reserves, native woodlands identified in the Native Woodland Survey of Scotland, raised peat bog, wetlands, protected species, wildlife sites or other valuable local habitat or conflict with the objectives of Local Biodiversity Action Plans will be refused unless it can be demonstrated that;

- a) local public benefits clearly outweigh the nature conservation value of the site, and
b) there is a specific locational requirement for the development

Where there is evidence to suggest that a habitat or species of importance exists on the site, the developer will be required at his own expense to undertake a survey of the site's natural environment.

Where development is permitted which could adversely affect any of the above habitats or species the developer must put in place acceptable mitigation measures to conserve and enhance the site's residual conservation interest.

Development proposals should protect and where appropriate, create natural and semi natural habitats for their ecological, recreational and natural habitat values. Developers will be required to demonstrate that they have considered potential improvements in habitat in the design of the development and sought to include links with green and blue networks wherever possible.

Policy E3: Protected Species

Proposals which would have an adverse effect on a European protected species will not be approved unless;

- there is no satisfactory alternative; and
- the development is required to preserve public health or public safety, or for other reasons of overriding public interest, including those of a social or economic nature, and beneficial consequences of primary importance for the environment; and the development will not be detrimental to the maintenance of the population of species concerned at a favourable conservation status of the species concerned.

Proposals which would have an adverse effect on a nationally protected species of bird will not be approved unless;

- There is no other satisfactory solution
- The development is necessary to preserve public health or public safety
- The development will not be detrimental to the conservation status of the species concerned.

Proposals which would have an adverse effect on badgers or their setts must be accompanied by a Badger Protection Plan to avoid, minimise or compensate for impacts. A licence from Scottish Natural Heritage may be required as well as planning permission. Where a protected species may be affected a species survey should be prepared to accompany the application to demonstrate how any offence under the relevant legislation will be avoided.

Policy E4: Trees and Development

The Council will serve Tree Preservation Orders (TPO's) on potentially vulnerable trees which are of significant amenity value to the community as a whole, 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 protection should be replaced, unless otherwise agreed with the Council.

Woodland removal will only be permitted where it would achieve significant and clearly defined additional public benefits. Where woodland is removed in association with development, developers will generally be expected to provide compensatory planting. The Council may attach conditions on planning consents ensuring that existing trees and hedges are retained or replaced.

Development proposals will be required to meet the requirements set out in the Council's Trees and Development Supplementary Guidance. This includes carrying out a tree survey to identify trees on site and those to be protected. A safeguarding distance should be retained between mature trees and proposed developments.

When imposing planting or landscaping conditions, native species should be used and the Council will seek to promote green corridors.

Proposals affecting woodland will be considered against Policy ER2.

Policy ER2: Development in Woodlands

All woodlands

Development which involves the loss of woodlands will be refused where the development would result in unacceptable adverse effects on the amenity, landscape, biodiversity, economic or recreational value of the woodland or prejudice the management of the forest. Woodland removal will only be supported where it can be demonstrated that the impact on the woodland is clearly outweighed by social or economic benefits of national, regional and local importance, and if a programme of proportionate compensatory planting has been agreed with the Planning Authority.

Protected Woodlands

Woodland removal within native woodlands, ancient semi natural and woodlands within sites protected under the terms of policies E1 and E2 will not be supported.

Tree surveys and new planting

Development proposals must take account of the Council's Trees and Development supplementary guidance. The Council will require the provision of compensatory planting to mitigate the effects of woodland removal.

Where appropriate the Council will seek opportunities to create new woodland and plant native trees in new development proposals. If a development would result in the severing or impairment of connectivity between important woodland habitats, mitigation measures should be identified and implemented to support the wider green network.

Policy BE1: Scheduled Monuments and National Designations

National Designations

Development Proposals will be refused where they will adversely affect Scheduled Monuments and nationally important archaeological sites or their settings unless the developer proves that any significant adverse effect on the qualities for which the site has been designated are clearly outweighed by social or economic benefits of national importance.

Local Designations

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

- a) Local public benefits clearly outweigh the archaeological value of the site, and
- b) There is no suitable alternative site for the development, and
- c) Any adverse effects can be satisfactorily mitigated at the developers expense

Where in exceptional circumstances, the primary aim of preservation of archaeological features in situ does not prove feasible, the Council shall require the excavation and researching of a site at the developers expense.

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

Policy BE2: Listed Buildings

The Council will encourage the protection, maintenance, enhancement and active use of listed buildings.

Development proposals will be refused where they would have a detrimental effect on the character, integrity or setting of the listed building. Alterations and extensions to listed buildings or new developments within their curtilage must be of the highest quality, and respect the original structure in terms of setting, scale, materials and design.

Enabling development may be acceptable where it can be shown to be the only means of retaining a listed building(s). The resulting development should be of a high design quality

protecting the listed building(s) and their setting and be the minimum necessary to enable its conservation and re-use.

No listed building should be demolished unless it can be clearly demonstrated that every effort has been made to retain it. Where demolition of a listed building is proposed it must be shown that;

- a) The building is not of special interest; or
- b) The building is incapable of repair; or
- c) The demolition of the building is essential to delivering significant benefits to economic growth or the wider community; or
- d) The repair of the building is not economically viable and that it has been marketed at a price reflecting its location and condition to potential restoring purchasers for a reasonable price.

New development should be of a comparable quality and design to retain and enhance special interest, character and setting of the listed building(s).

Buildings which are allowed to fall into a state of disrepair may be placed on the Buildings at Risk Register and remedial works to buildings in disrepair may be enforced in the public interest.

Proposals should be in accordance with guidance set out in the Scottish Historic Environment Policy (SHEP) and the Managing Change in the Historic Environment guidance note series.

Policy BE3: Conservation Areas

Development proposals within Conservation Areas will be refused if they adversely affect the character and appearance of the Conservation Area in terms of scale, height, colour, detailed design, use and siting.

All development within the Conservation Area should preserve or enhance the established traditional character and appearance of the area. Given the importance of assessing design matters, applications for planning permission in principle must be accompanied by sufficient information to allow an appraisal of the potential impact on the Conservation Area.

Development proposals involving the demolition of buildings within a Conservation Area will be refused unless the building is of little townscape value, if its structural condition rules out retention at a reasonable cost, or its form or location make its re-use extremely difficult. Where redevelopment is proposed, consent to demolish will only be granted where there are acceptable proposals for the new building.

Minor works in Conservation Areas including boundary walls, fences, external fixtures and advertisements can adversely affect its character. Proposals of this nature will be assessed in line with Managing Change in the Historic Environment Guidance Notes.

Windows

Replacement windows shall match the original windows in proportions and appearance and shall open in a traditional sash manner (or by means of an approved sliding and tilting mechanism) or be in the form of casements whichever is appropriate. UPVC or metal framed windows will not normally be considered acceptable.

Signage

Signage obscuring architectural details will not be permitted. Signage should be timber or etched glass; synthetic materials are not considered appropriate. Signage should also harmonise with the colour of the shop front and lettering should be individual and hand painted. Projecting signage shall be traditional timber design. Illumination of signage shall be by discreet trough lighting, internal illumination is not considered to be acceptable.

Policy BE5: Battlefields, Gardens and Designated Landscapes

Development proposals which adversely affect Battlefields or Gardens and Designated Landscapes or their setting will be refused unless;

- a) The overall character and reasons for the designation will be not compromised, or
- b) Any significant adverse affects can be satisfactorily mitigated and are clearly outweighed by social, environmental, economic or strategic benefits.

The Council will consult Historic Scotland on any proposal which may affect Inventory sites.

EP4: Private Water Supplies

All proposals to use a private water supply must demonstrate that a wholesome and adequate supply can be provided. Applicants will be required to provide a National Grid Reference for each supply source and mark the supply (and all works associated) e.g. the source, holding tank and supply pipe, accurately on the application plan. The applicant will also be required to provide information on the source type (e.g. well, borehole, spring). This information is necessary to enable the appropriate authorities to advise on the environmental impact, adequacy, wholesomeness, capacity of supply for existing and proposed users and pollution risks.

Policy EP5: Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS)

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

Specific arrangements should be made to avoid the issue of permanent SUD features becoming silted-up with construction phase runoff. Care must be taken to avoid the introduction of invasive non-native species during the construction of all SUD features.

Applicants must agree provisions for long term maintenance of the SUDS scheme to the satisfaction of the Council in consultation with SEPA and Scottish Water as appropriate.

A Drainage Assessment (DA) will be required for developments of 10 houses or more, industrial uses, and non-residential proposals of 500 sq metres and above.

The Council's Flood Team will prepare Supplementary Guidance on surface water drainage and flooding.

Policy EP6: Waterbodies

Proposals must be designed to avoid adverse impacts upon water environment and should seek opportunities for restoration. The Council will only approve proposals impacting on water features where the applicant provides a satisfactory report that demonstrates that any impact (including cumulative) on water quality, water quantity, physical form (morphology), river hydrology, sediment transport and erosion, nature conservation, fisheries, recreational, landscape, amenity, and economic and social impact can be adequately mitigated.

The report should 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 6m between any new development and all water features is required. These should be designed to link with blue and green networks and can contribute to open space requirements. Developers may be required to make improvements to the water environment as part of the development.

Policy EP7: Control of Development in Flood Risk Areas

New development should not take place if it would be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere. 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 National Guidance and to the satisfaction of both the Scottish Environment Protection Agency and the Council is provided by the applicant. This assessment must demonstrate that any risk from flooding can be satisfactorily mitigated without increasing flood risk elsewhere. 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.

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 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 extreme 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 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
 - Job related accommodation e.g. for caretakers or operational staff.

Areas within these risk categories will generally not be suitable:

- 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 flow), and
- An alternative, lower risk location is not available and
- 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 should be used where appropriate. Elevated buildings on structures such as stilts are unlikely to be acceptable.

Policy EP8: Pollution

Planning applications for developments that may cause significant pollution in terms of noise (including RAF aircraft noise), air, water and light emissions will only be approved where a detailed assessment report on the levels, character and transmission of the potential pollution is provided by the applicant. The assessment should also demonstrate how the pollution can be appropriately mitigated. Where the Council applies conditions to the consent to deal with pollution matters these may include subsequent independent monitoring of pollution levels.

Policy EP9: Contaminated Land

Development proposals on potentially contaminated land will be approved provided that:

- a) 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
- b) 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.

The Council recommends early contact with the Environmental Health Section, which can advise what level of information will need to be supplied.

Policy EP12: Air Quality

Development proposals, which, individually or cumulatively, may adversely affect the air quality in an area to a level which could cause harm to human health and wellbeing or the natural environment must be accompanied by appropriate provisions (deemed satisfactory to the Council and Scottish Environment Protection Agency as appropriate) which demonstrate how such impacts will be mitigated.

Some existing land uses may have a localised detrimental effect on air quality, any proposals to locate development in the vicinity of uses and therefore introduce receptors to these areas (e.g. housing adjacent to busy roads) must consider whether this would result in conflict with the existing land use. Proposals which would result in an unacceptable conflict with existing land use and air quality will not be approved.

Policy EP13: Ministry of Defence Safeguarding Areas

Certain categories of development within particular distances from MoD airfields at Lossiemouth and Kinloss require to be subject of consultation with Defence Infrastructure Organisation. This applies to a wide range of development proposals which could have implications for the operation of the airfields and includes aspects such as height of buildings; use of reflective surfaces; refuse tips; nature reserves (and other proposals which might attract birds);

Full details of the consultation zones and development types are held by Moray Council. The outer boundaries of the zones are shown on the Proposals Map.

Policy T1: Transport Infrastructure Improvements

The Council will promote the improvement of road, rail, air and sea routes in Moray and priority will be given to:

- a) dualling the A96 Aberdeen to Inverness route with early delivery of bypasses for settlements prioritised.
- b) improving the A95 (Keith to Grantown) route.

- c) Improving A941 (Lossiemouth to Elgin to Craigellachie) and A98 (Fochabers to Cullen) routes. Proposals must avoid or address any adverse effect on the integrity of Loch Spynie SPA or the River Spey SAC including hydrological and water quality impacts on habitat or disturbance to species.
- d) improving the Aberdeen to Inverness railway for passengers and freight by providing route and service enhancement.
- e) improving harbour facilities for freight and leisure including the diversification of the commercial harbour at Buckie for offshore renewables. Harbour improvement works must avoid or address any adverse effect on the integrity of the Moray Firth Special Area of Conservation through noise or vibration disturbance to bottlenose dolphins, cumulative increase in vessel movements, or through dredging and disposal operations.
- f) improving access to air facilities, at Aberdeen and Inverness, in particular through public transport, and the establishment of a railway station at Dalcross.
- g) improving the transport network within Elgin where there is evidence of positive economic benefits including release of sites designated in the local development plan.

Proposals that compromise the implementation of these priorities will not be acceptable.

Policy T2: Provision of Access

The Council will require that new development proposals are designed to provide the highest level of access for end users including residents, visitors, and deliveries appropriate to the type of development and location. Development must meet the following criteria:

- Proposals must maximise connections and routes for pedestrian and cyclists, including links to active travel and core path routes, to reduce travel demands and provide a safe and realistic choice of access.
- Provide access to public transport services and bus stop infrastructure where appropriate.
- Provide appropriate vehicle connections to the development, including appropriate number and type of junctions.
- Provide safe entry and exit from the development for all road users including ensuring appropriate visibility for vehicles at junctions and bends.
- Provide appropriate mitigation/modification to existing transport networks where required to address the impacts of new development on the safety and efficiency of the transport network. This may include but would not be limited to, the following measures, passing places, road widening, junction enhancement, bus stop infrastructure and drainage infrastructure. A number of potential road improvements have been identified in association with the development of sites the most significant of these have been shown on the Settlement Map as TSPs.

- Proposals must avoid or mitigate against any unacceptable adverse landscape or environmental impacts.

Developers should give consideration to aspirational core paths (under Policy 2 of the Core Paths Plan) and active travel audits when preparing proposals.

New development proposals should enhance permeability and connectivity, and ensure that opportunities for sustainable and active travel are protected and improved.

The practicality of use of public transport in more remote rural areas will be taken into account however applicants should consider innovative solutions for access to public transport.

When considered appropriate by the planning authority developers will be asked to submit a Transport Assessment and Travel Plan.

Significant travel generating proposals will only be supported where:

- Direct links to walking and cycling networks are available;
- Access to public transport networks would involve walking no more than 400m;
- It would not have a detrimental effect on the capacity of the strategic road and/or rail network; and
- A Transport Assessment identifies satisfactory mechanisms for meeting sustainable transport requirements and no detrimental impact to the performance of the overall network.

Access proposals that have a significant adverse impact on the surrounding landscape and environment that cannot be mitigated will be refused.

Policy T5: Parking Standards

Proposals for development must conform with the Council's current policy on parking standards.

Policy T7: Safeguarding & Promotion of Walking, Cycling, & Equestrian Networks

The Council will promote the improvement of the walking, cycling, and equestrian networks within Moray. Priority will be given to the paths network including Core Paths and the wider Moray Paths Network. There are several long distance routes that cross Moray including the Speyside Way, Dava Way, Moray Coastal Trail and Aberdeen to Inverness National Cycle Route.

Development proposals that would have an unacceptable impact on access rights, core paths, rights of way, long distance routes and other access routes that cannot be adequately mitigated will not be permitted. Where a proposal will affect any of these, proposals must:

- incorporate the route within the site layout and the routes amenity value must be maintained or enhanced; or

- provide alternative access that is no less attractive and is safe and convenient for the public to use.

Policy IMP2: Development Impact Assessments

The Council will require applicants to provide impact assessments in association with planning applications in the following circumstances:

- a) An Environmental Assessment (EA) will be required for developments that are likely to have significant environmental effects under the terms of the regulations.
- b) A Transport Assessment (TA) will be sought where a change of use or new development is likely to generate a significant increase in the number of trips being made. TAs should identify any potential cumulative effects which would need to be addressed. Transport Assessments should assess the effects the development will have on roads and railway infrastructure including stations and any crossings. Transport Scotland (Trunk Roads) and Network Rail (Railway) should be consulted on the scoping of Transport Assessments. Moray Council's Transportation Service can assist in providing a screening opinion on whether a TA will be sought.
- c) In order to demonstrate that an out of centre retail proposal will have no unacceptable individual or cumulative impact on the vitality and viability of the identified network of town centres, a Retail Impact Assessment will be sought where appropriate. This may also apply to neighbourhood shops, ancillary retailing and recreation/tourism retailing.
- d) Where appropriate, applicants may be asked to carry out other assessments (e.g. noise; air quality; flood risk; drainage; bat; badger; other species and habitats) in order to confirm the compatibility of the proposal.

Policy IMP3: Developer Obligations

Contributions will be sought from developers in cases where, in the Council's view, a development would have a measurable adverse or negative impact upon existing infrastructure, community facilities or amenity, and such contributions would have to be appropriate to reduce, eliminate or compensate for that impact.

Where the necessary contributions can be secured satisfactorily by means of planning conditions attached to a planning permission, this should be done, and only where this cannot be achieved, for whatever reason, the required contributions should be secured through a planning agreement.

The Council will prepare supplementary guidance to explain how the approach will be implemented in accordance with Circular 3/2012 on Planning Obligations. This will detail the necessary facilities and infrastructure and the scale of contributions likely to be required.

In terms of affordable housing, developments of 4 or more units will be expected to make a 25% contribution, as outlined in policy H8.

