

**22/01269/APP**  
**12 September 2022**

**Erect storage warehouses and ancillary development (amenity block sprinkler tank and pump house) land engineering (cut and fill),realignment of Core Burn and associated engineering and infrastructure works including access and sub-station on Land To The South Of Crisp Maltings Portgordon Buckie Moray for William Grant & Sons Distillers Ltd**

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**Comments:**

- A site visit will have been carried out.
- The application is for a site with an area of 2 or more hectares.
- Advertised for neighbour notification purposes – notification not possible because no premises are situated on land to which notification can be sent.
- 6 representations have been received.

**Procedure:**

- None.

**Recommendation**

Grant Planning Permission – Subject to the following:

**Conditions/Reasons**

1. The development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which the permission is granted.

**Reason:** The time limit condition is imposed in order to comply with the requirements of section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

2. No development shall commence until a Construction Traffic Management Plan (CTMP) has been submitted to an agreed in writing by the Planning Authority in consultation with the Roads Authority. Thereafter the development shall be carried out in accordance with the agreed CTMP at all times. For the avoidance of doubt the CTMP shall include as a minimum the following information:
  - a) duration of works;
  - b) construction programme;

- c) number of vehicle movements (i.e. materials, plant, staff, components);
- d) schedule for delivery of materials and plant;
- e) parking provision, loading and unloading areas for construction traffic;
- f) full details of temporary arrangements to safeguard pedestrian movements during the construction period;
- g) full details of any temporary access;
- h) measures to be put in place to prevent material being deposited on the public road;
- i) traffic management measures to be put in place during works including any specific instructions to drivers.
- j) full details of construction traffic routes from/to the site, including any proposals for temporary haul routes and routes to be used for the disposal of any materials from the site;
- k) a programme of monitoring for all routes identified within the CTMP during construction will be required

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

3. No development shall commence until evidence of a satisfactory Wear and Tear Agreement has been submitted to and agreed in writing by the Planning Authority in consultation with the Roads Authority. The scope of the Wear and Tear Agreement shall be agreed with the Planning Authority in consultation with the Roads Authority and shall include a condition survey of the network undertaken jointly by the developer and a representative from the Council. The survey shall include the full extent of the agreed construction traffic route(s) (within Moray) between the site and the 'A' class road network. In addition, the wear and tear agreement shall also include condition surveys of all roads identified as 'unsuitable' which must be agreed with the Planning Authority in consultation with the Roads Authority as a part of condition '2' above.

**Reason:** To mitigate the potential risks from damage to the public road occurring during the construction phase of the development.

4. No development shall commence until evidence of a financial guarantee or bond or suitable equivalent and a Wear and Tear Agreement have been put in place to ensure the repair of the public road serving the site in the event that the road is not maintained in a safe condition during the construction phase of the development and to restore the road to its pre-development condition within 1 year of the development becoming operational has been submitted to and agreed in writing with the Council, as Planning Authority. For the avoidance of doubt the agreement shall cover the section of the A990 Enzie - Portgordon - Buckie Road from the A98 to the site entrance as a minimum and all roads identified for off-site disposal of material/soil as in condition '1' above.

**Reason:** To mitigate the potential risks from damage to the public road occurring during the construction phase of the development.

5. No development shall commence until:
- a) a visibility splay 4.5 metres by 215 metres, with all boundaries set back to a position behind the required visibility splay, has been provided in both directions at the access onto the public road; and
  - b) Thereafter the visibility splay shall be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the carriageway.
  - c) Additionally a forward visibility splay of 215m is required to maintain at the site entrance for the vehicles waiting on the main road to turn right into the site access. These vehicles must be able to see oncoming traffic and be seen by following traffic.

**Reason:** To enable drivers of vehicles leaving/entering the site to have a clear view over a length of road sufficient to allow safe exit/entry, in the interests of road safety for the proposed development and other road users.

6. No water shall be permitted to drain or loose material be carried onto the public footway/carriageway.

**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. Two car parking spaces shall be provided within the site prior to the warehouse being completed or becoming operational and shall be maintained and available for use thereafter for the lifetime of the development unless otherwise agreed in writing with the Council as Planning Authority.

**Reason:** To ensure the permanent availability of the level of parking necessary for employees/visitors/others in the interests of an acceptable development and road safety.

8. No development shall commence until the following details for the provision of an Electric Vehicle (EV) charging space have been submitted for approval by the Planning Authority in consultation with the Roads Authority:

- A detailed drawing (scale 1:200) showing the type and specifications of the proposed EV charging units(s) to serve a minimum of 1 space with a minimum power output of 22Kw (Rapid Charger). EV charging unit is to be connected to an appropriate electricity supply and should include details (written proposals and plans) to confirm the provision of the necessary cabling, ducting, and consumer units capable of supporting the future charging unit.

Thereafter the EV charging facilities shall be provided in accordance with the approved details prior to the development becoming operational or opened and maintained for use thereafter unless otherwise agreed in writing by the Planning Authority in consultation with the Roads Authority.

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

9. Construction works (including vehicle movements) associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0800 - 1900 hours, Monday to Friday and 0800 - 1300 hours on Saturdays only, and at no other times out with these permitted hours (including National Holidays). The above construction hours shall apply, unless otherwise agreed in writing with the Planning Authority, and where so demonstrated exceptional operational constraints require limited periods of construction works to be undertaken out with the permitted construction hours.

**Reason:** To protect local residents from noise nuisance in ensuring the construction phase is restricted within permitted hours.

10. Prior to development commencing, a Construction Environmental Management Plan (CEMP) shall be submitted to and agreed in writing by the Planning Authority in consultation with the Environmental Health Manager. The plan shall include measures to minimise construction related noise (including vibration), dust and artificial lighting. Thereafter the development will be carried out in accordance with the agreed plan.

**Reason:** In order that environmental emissions are considered and managed at the construction phase, in order to protect local residents.

11. The rating level of noise associated with the development shall not exceed the background sound level by more than 5 dB at the nearest noise sensitive dwelling which is lawfully existing or has planning permission at the date of this permission. For the avoidance of doubt, the rating level and background sound level associated with this condition are defined within BS 4142: 2014 + A1:2019 Methods for rating and assessing industrial and commercial sound.

**Reason:** To protect local residents from noise nuisance due to the use of the development.

12. Unless otherwise agreed in writing with the Council as Planning Authority in consultation with the Environmental Health Manager, external operations or vehicle movements relating to the operation of the warehouses shall only take place between 08.00 and 19.00 hours, Monday to Friday and 8am and 1pm, on Saturdays, and no external operations or vehicle movements shall take place on bank/public holidays.

**Reason:** In order to minimise noise pollution in the interests of the amenity of neighbouring residents.

13. Prior to the development commencing details of the operational site lighting shall be submitted to and agreed in writing by the Planning Authority, in consultation with the Environmental Health Manager. Thereafter, the agreed lighting details shall be maintained throughout the lifetime of the development.

**Reason:** To protect residents from light nuisance due to the use of the development.

14. Prior to the commencement of development, an updated flood risk assessment on the detailed design of the channel realignment and bank reinforcement should be provided to the satisfaction of the Planning Authority in consultation with SEPA which demonstrates there is no increase in flood risk from the proposals. The submitted Portgordon Flood Risk Assessment REV03 enivreau water September 2022 and the drawings in Appendix B Outline Core Burn Re-alignment Channel Design Drawings CBEC eco engineering should be used as the basis for the detailed channel design.

Thereafter the development shall be carried out in accordance with the agreed detailed design of the channel realignment and bank reinforcement.

**Reason:** To ensure the channel realignment and bank reinforcement is designed to an acceptable standard in the interests of minimising flood risk to the site.

15. Prior to development commencing details of the proposed foul sewerage system shall be submitted to and agreed in writing with the planning authority in consultation with the flood risk management team. Thereafter the agreed foul drainage system shall be installed in accordance with the agreed details, prior to the first use of the site.

**Reason:** To ensure the installation of an acceptable private foul drainage system.

16. A construction phase surface water management plan shall be submitted a minimum of two months prior to the commencement of the development and shall be agreed in writing prior to work commencing with the Planning Authority in consultation with Moray Flood Risk Management. The plan shall include measures to prevent increased flood risk and to ensure heavily silted surface water does not enter any watercourse.

Thereafter the development shall be carried out in accordance with the agreed details.

**Reason:** To prevent surface water flooding during the course of the development and minimise risk to adjacent watercourses.

17. The surface water drainage arrangements for the development shall be provided and maintained in accordance with the approved Drainage Impact Assessment G:\C&S\EC22743\reports\R001 Drainage Impact Assessment Rev B.docx, dated 29/11/22, prepared by Blyth and Blyth, unless otherwise agreed by the Council, as Planning Authority. These shall be installed and operational prior to the first use of the buildings hereby approved.

**Reason:** To ensure that surface water drainage is provided timeously and complies with the principles of SuDS in order to protect the water environment.

18. Notwithstanding the provisions of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (or any order revoking and re-enacting that order) the approval hereby granted only relates to the use of the two proposed buildings as

Whisky Cask Storage and for no other use or purpose without the prior approval of the Council, as Planning Authority.

**Reason:** In order to retain Local Authority control over the use of the site and to ensure that consideration can be given to the effects and impact of uses other than that approved herewith.

19. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (or any order revoking and re-enacting that order) no development specified in Article 3, Schedule 1, Part 3, Class 13 shall be carried out without the approval of the Council, as Planning Authority.

**Reason:** In order to retain control over the use of the site and to ensure that consideration can be given to the effects and impact of uses other than that approved herewith.

20. 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 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 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.

21. Prior to development commencing a detailed phasing landscape plan (including timescales), landscape maintenance and woodland management plan shall be submitted to and agreed in writing with the planning authority. Thereafter the approved landscaping/woodland shall be implemented and maintained in accordance with the agreed details.

**Reason:** To ensure the landscaping is delivered, retained and maintained throughout the lifetime of the development.

22. Landscaping as detailed on the approved landscaping plan, shall be provided in the planting season following the completion or first use of the development (whichever is the soonest).

**Reason:** To ensure an acceptable scheme of landscaping is provided and maintained to aid the visual integration of the development and enhance habitat and biodiversity value of the site.

23. Prior to development commencing details including design, number, position and schedule for installation of bat and bird boxes to be provided adjacent to the SUDs ponds, shall be submitted to and agreed in writing with the Planning Authority. Thereafter the bat and bird boxes shall be erected in accordance with the agreed details and retained throughout the lifetime of the development.

**Reason:** To ensure the timeous provision of bat and bird boxes, in the interests of enhancing habitat provision across the site.

### **Reason(s) for Decision**

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

The erection of buildings for whisky storage in this location is considered acceptable and would not have an adverse impact on the surrounding area. The proposal complies with the provisions of the development plan and there are no material considerations that indicate otherwise.

### **List of Informatives:**

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

A Building Warrant will be required for the proposals. Should you require further assistance please contact the Building Standards Duty Officer between 2pm and 4pm or telephone on 03001234561. No appointment is necessary. Alternatively e-mail [buildingstandards@moray.gov.uk](mailto:buildingstandards@moray.gov.uk)

THE TRANSPORTATION MANAGER has commented that:-

The applicant is obliged to apply for a road opening permit in accordance with Section 56 of the Roads (Scotland) Act 1984. Advice on this matter can be obtained by emailing [roadspermits@moray.gov.uk](mailto:roadspermits@moray.gov.uk) and reference to the following page on the Council web site Road Opening:  
[http://www.moray.gov.uk/moray\\_standard/page\\_79860.html](http://www.moray.gov.uk/moray_standard/page_79860.html)

Public utility apparatus may be affected by this proposal. Contact the appropriate utility service in respect of any necessary utility service alterations which have to be carried out at the expense of the developer.

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

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

The applicant shall be responsible for ensuring that surface/ground water does not run from the public road into their property.

The applicants shall be responsible for any necessary diversion of any utilities or drainage present at the locations where works are to be undertaken.

The applicants shall meet all costs of improvements to the road infrastructure, which are required as a result of the development.

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

THE SCOTTISH ENVIRONMENT PROTECTION AGENCY has commented that:-

SEPA regulates several matters covered by this planning application including the proposed re-alignment of the Core Burn. We will address all matters relating to regulation when the appropriate regulatory application is made. It is an applicant's responsibility to ensure their proposals will meet all relevant regulatory requirements and they are working within regulatory guidelines. We prefer all the technical information required for any SEPA consents to be submitted at the same time as the planning or similar application. We consider it to be at the applicant's commercial risk if planning permission is granted for a development/process which cannot gain authorisation from us, or if any significant changes required during the regulatory stage necessitate a further planning application or similar application and/or neighbour notification or advertising.

#### Additional information

- Details of regulatory requirements and good practice advice for the applicant can be found on the [Regulations](#) section of our website.
- Proposals which impact on the water environment may be regulated under The Water Environment (Controlled Activities) (Scotland) Regulations 2011. Refer applicants to [CAR\\_a\\_practical\\_guide](#) and our water permitting team at [waterpermitting@sepa.org.uk](mailto:waterpermitting@sepa.org.uk)
- Proposals such as industrial processes which have air emissions, or intensive agriculture may require a permit under the Pollution Prevention and Control (Scotland) Regulations 2012 (PPC 2012). Refer applicants to the Pollution Prevention section of our website and our waste and industry team at [wasteandindustry@sepa.org.uk](mailto:wasteandindustry@sepa.org.uk)
- Proposals which involve the treatment, storage or disposal of waste may require a waste management licence under The Waste Management Licensing (Scotland) Regulations 2011. Refer applicants to the waste section of our website and our waste permitting team at [wastepermitting@sepa.org.uk](mailto:wastepermitting@sepa.org.uk)

We welcome that you have recognised the Control of Major Accident Hazards Regulations 2015 (COMAH Regulations) will apply to your proposals and wish to provide the regulatory advice detailed below. If you have any queries on the COMAH process, please email [wasteandindustry@sepa.org.uk](mailto:wasteandindustry@sepa.org.uk)



- SEPA is aware of the existing Grissan lower tier COMAH establishment located nearby at the Portgordon Maltings, Buckie, Moray, AB56 5BU and the associated Hazardous Substance Consent application 22/01401/HAZ which is under determination. We recommend you ascertain whether the proposed development lies within a consultation distance set by HSE around a major hazard site and if it does, understand whether or how this could affect your layout. Perhaps this consultation has already been undertaken but we felt it best to bring this point to your attention.
- As the Regulations will apply, the Applicant must notify the COMAH Competent Authority (HSE and SEPA) within a reasonable period of time (normally taken to be between 3 and 6 months) prior to construction of the proposed development. At that time, the anticipated COMAH status of the site as a lower or upper tier establishment should be confirmed by providing a comparison of the proposed quantity of flammable substances to be stored against the qualifying thresholds described in Schedule 1 of the Regulations.
- Details of how to make a COMAH notification are available on the HSE website.
- Following notification, SEPA will expect the Applicant to submit an assessment of the environmental risks, demonstrating that 'All Measures Necessary' have been undertaken in relation to the potential for 'Major Accidents to the Environment'. The latest version of the guidance for undertaking such an assessment can be found on SEPA's website. The assessment submitted will need to include details of the procedural, design, and modelling arrangements proposed to address environmental risk and mitigate the potential impacts of a major accident to the environment. If the site is identified as upper tier under the COMAH Regulations then the environmental risk assessment will need to be submitted as part of a Safety Report for the establishment.
- It is noted & welcomed that the proposed drainage system includes provisions for firewater containment. SEPA intend to contact the drainage consultants Blyth and Blyth directly to clarify certain points surrounding these proposals.
- The applicant should contact the local authority to discuss the need for a Hazardous Substances Consent. SEPA & HSE would expect to be consulted on any such application which is made.

SCOTTISH GAS NETWORKS have commented that:-

Please note that the pipeline in the vicinity of the proposed development is a **Major Accident Hazard Pipeline** in terms of the Pipelines Safety Regulations 1996. Please note the HSE guidance document *L82:A Guide to the Pipelines Safety Regulations 1996*, (<http://www.hse.gov.uk/pubns/books/l82.htm>), in particular the guidance on safety regulations 15 and 16 and the emergency plan under Regulation 25.

In addition, please note your requirements under HSE Document: *PADHI: HSE's Land Use Planning Methodology* ([www.hse.gov.uk/landuseplanning/padhi.pdf](http://www.hse.gov.uk/landuseplanning/padhi.pdf)) for any major accident hazard pipeline.

This pipeline is also legally protected by a Deed of Servitude which restricts building and other works within the servitude area (as described in the deed).

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
D01	East elevation long section 1
D02	East elevation long section 2
L01 H	Landscape mitigation plan - LVIA Figure 4 updated
EC22743:PL:014	Cell 12 warehouse - elevations and floor plan
EC22743:PL:015	16 Cell warehouse - elevations and floor plan
EC22743:PL:006	8 Cell warehouse - elevations and floor plan
EC22743:PL:010	Typical civils construction details sheet 1
EC22743:PL:011	Amenity building - elevations and floor plan
EC22743:PL:012	Sprinkler tanks and pumphouse elevations and floor plans
EC22743:PL:013	Substation - elevations and floor plan
L02 C	Planting plan
EC22743:PL:001 C	Location plan
EC22743:PL:003 E	Proposed site layout
EC22743:PL:004 D	General arrangement
EC22743:PL:005 B	Proposed site sections
EC22743:PL:009 C	Proposed drainage layout

#### Information to accompany decision:

Drainage Impact Assessment G:\C&S\EC22743\reports\R001 Drainage Impact Assessment Rev B.docx, dated 29/11/22, prepared by Blyth and Blyth.



## PLANNING APPLICATION COMMITTEE SITE PLAN

**Planning Application Ref Number:**  
**22/01269/APP**

**Site Address:**  
**Land To The South Of Crisp Maltings  
Portgordon**

**Applicant Name:**  
**William Grant & Sons Distillers Ltd**

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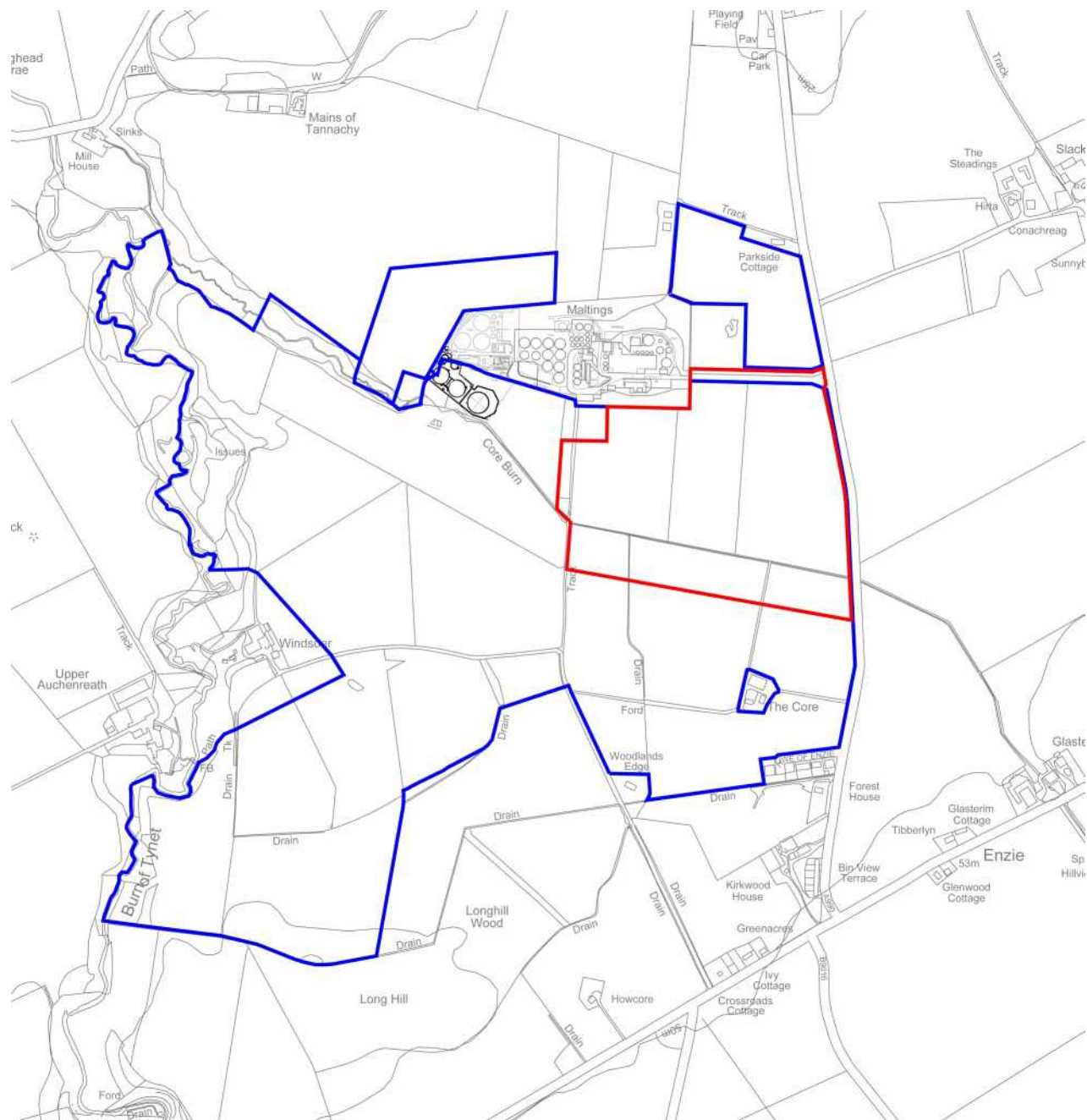
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### Location Plan



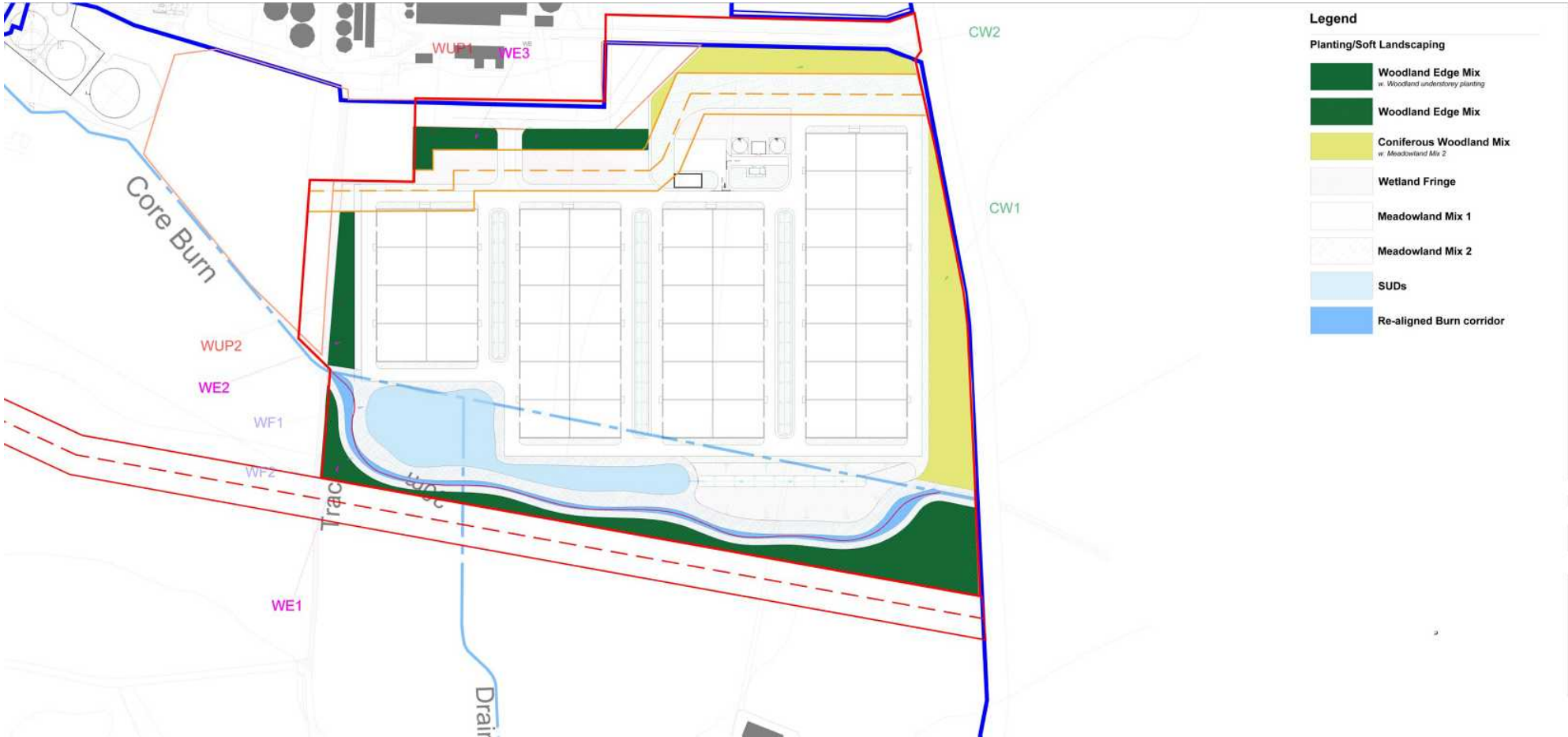
## Site Location



# General arrangement



Landscape plan







## Portgordon Proposed Warehousing

Viewpoint 1: View north from Howe of Enzie



### Portgordon Proposed Warehousing

Viewpoint 2: View south from A990 at Parkside Cottage





**Portgordon Proposed Warehousing**

Viewpoint 3: View north from Windsoer



**Portgordon Proposed Warehousing**

Viewpoint 4: View northwest from A98





### Portgordon Proposed Warehousing

Viewpoint 5: View south from A990 at Portgordon

## Site from South East





## PLANNING APPLICATION: 22/01269/APP

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

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### 1. THE PROPOSAL

- Planning permission is sought for the erection of 4 whisky storage warehouses, associated access, drainage, landscaping and diversion of the Core Burn.
- The site extends to 16 hectares, with the total footprint of the warehouses being 50,000sqm.
- Each warehouse is split into cells, with each individual cell measuring 37m by 28m and 13.2m in height. Each cell has a shallow pitched roof, with the walls being finished in a mixture of dark green cladding on the upper portion, with harled base walls and the roof also finished in dark green cladding. Each cell also has a roller/pedestrian door and pump house on the gable elevation. The differing size buildings will contain 8, 12 and 16 cells.
- Further elements of the proposal consist of a flat roof modular amenities building (office, kitchen, drying room & toilets) measuring 10m by 9m, by 2.6 high finished in dark green. Two sprinkler storage tanks with a 5.5m diameter and 6.5m in height and associated flat roof pump house measuring 8m by 7m by 3.3m high. A flat roof substation measuring 10m by 4.5m by 3m high.
- Access is proposed via the existing road which serves the neighbouring maltings and anaerobic digestion plants.
- The proposal also involves the realignment of the Core Burn which presently flows along a ditch to the south of the site. The applicants propose to divert this further south within the site and incorporate this within the wetland/pond also proposed to the south of the site.
- 4 hectares of the site is set aside for landscaping with a 20m wide band of coniferous trees proposed to the north of the site, a further band of coniferous trees varying in width up to 35m wide to the east of the site. A band of broadleaf planting is proposed to the west of the site, varying in width from 10m to 20m wide and supplements the existing woodland bounding the site on this side. To the south of the site lies the wetland area, which varies in width from 42m to 100m and incorporates a block of broadleaf planting varying in width from 8m to 63m wide. Between the coniferous and broadleaf woodland planting proposed, this will equate to approx. 25,000 trees planted.

## 2. **THE SITE**

- The site lies to the south of the Crisp Maltings at Portgordon and presently comprises agricultural land, with the Core Burn flowing within a ditch towards the south of the site.
- The site is bounded by the existing woodland and anaerobic digestion plant to the west, further open farmland with neighbouring houses beyond to the south and the A990 public road to the east.
- There are no environmental or landscape designations covering the site and the site is defined within the Local Development Plan as open countryside and is not covered by any specific designations within the plan. Approximately 4 hectares of the south eastern corner of the site is identified as being prime agricultural land (3.1 classification).
- A section of the western portion of the site is affected by both surface water flood risk and flood risk associated with the Core Burn.
- The site also contains a high pressure gas pipeline, which runs along a corridor to the north of the site.

## 3. **HISTORY**

**22/00632/SCN** – Environmental impact assessment screening opinion issued confirming that this proposal does not constitute EIA development.

**22/00631/PAN** – Proposal of Application Notice for erection of warehouses (up to 50,000sqm) land engineering (cut and fill) realignment of Core Burn and associated engineering and infrastructure works on land to South of Crisp Maltings, Buckie. Response dated 6 May 2022 confirmed consultation arrangements and publicity event to be acceptable.

## 4. **POLICY - SEE APPENDIX**

## 5. **ADVERTISEMENTS**

5.1 Advertised for neighbour notification purposes.

## 6. **CONSULTATIONS**

**Contaminated Land** – No objections.

**Scottish Water** – No objections.

**Transportation Manager** – No objection subject to conditions and informatives being attached to the consent. The conditions relate to formation of visibility splays, wear and tear agreement, a construction traffic management plan and provision of EV charging.

**Archaeology** – No objections, subject to condition relating to archaeological investigation and recording of any finds. Archaeological investigation is ongoing on the site at present.

**SEPA** – No objections subject to a condition relating to the design of the Core Burn realignment. Informative attached regarding other SEPA regulatory aspects.

**Moray Flood Risk Management** – No objections subject to condition relating to adherence with the submitted Drainage Impact Assessment.

**Environmental Health** – No objections subject to conditions relating to constructions activity, operating hours, site lighting, construction environmental management plan and operational noise limits.

**Health and Safety Executive** – No objections.

**Scottish Gas Networks** – No objection subject to informatives.

**Strategic Planning & Delivery** – Comments provided in relation to locational justification of the site, landscaping and visual impact.

## 7. **OBJECTIONS-REPRESENTATIONS**

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

6 representations have been received.

[REDACTED]

All objections/representations have been read and where material, given the appropriate consideration prior to the decision reached.

Headings of objection reasons selected by objectors from objection/representation from the online objection page:

- Affecting natural environment
- Contrary to Local Plan
- Drainage
- Height of proposed development
- Inappropriate materials/finishes
- Lack of landscaping

- Noise
- Over-development of site
- Poor design
- Procedures not followed correctly
- Traffic
- Road access
- Road safety
- Over-development of site
- Precedent
- Community Council/Association Consult
- View affected

The grounds for representation are summarised as follows:

**Issue:** Environmental Impact Assessment.

- Moray Planning have not asked for an EIA [environmental impact assessment] for the development especially as this site bounds the Coastal Special Landscape Area [SLA] which is part of the important Moray Coastal strip both important visually and environmentally as a sensitive unique coastal environment - Portgordon is home to a significant wildlife population, not only the Grey Seal colony for which human activity is the major threat.
- The scale of the storage/warehousing development will have a significant and complex adverse environmental impact. No formal Environmental Impact Analysis has been prepared and it is of concern that Moray Council has decided that this is not required on the basis of the scale of development. The wider Moray Firth has a number of national designations including Special Protection Area, Special Landscape Area, SSSI & RAMSAR and therefore the wider environmental impact and impact on local biodiversity has not been seriously considered.

**Comment (PO):** The Special Landscape Area designation lies to the north of Portgordon and covers the coastal fringe, it does not bound the site.

The decision reached on the EIA screening opinion followed pre application consultation with NatureScot and SEPA amongst others who did not raise any concerns regarding the potential environmental impact of the proposal. The site is remote from the Moray Firth and taking into account the nature of the proposals, will not result in any direct impact on the environmental interests of the firth. The Core Burn has already been significantly altered via human intervention.

An ecology appraisal has been submitted in support of the application which identifies that the proposal will not have any adverse impact on designated environmental sites or protected species and the wetland area should result in significant habitat enhancement for surrounding wildlife.

**Issue:** Visual Impact.

- Adopted Moray Planning Local Plan policy documents distinctly refer to the protected landscape in relation to uninterrupted views to the Cullen Bin from all aspects along the coast.



- Locally the visual impact of these huge warehouses is proposed with insignificant mitigation to reduce their presence in the open nature of the local landscape.
- Promoting a location close to the existing Maltings & biomass facility means that a 'tipping point' is reached that completely changes the landscape, setting and character of this approach on the A990 to Portgordon from the south.
- The scale, massing, density and volume of the four warehouse buildings of around 50,000sqm (equivalent to 7 full size football pitches) with 13m ridge heights is not in keeping with the local largely rural character, will adversely affect the local landscape and have a significant detrimental visual and environmental impact. The first visual impression on approaching Portgordon on the A990 the south will be of an industrial park. The design of the buildings is poor, very functional and does not integrate into the landscape.
- This proposed scheme is the size of an Amazon Fulfilment centre on the doorstep of a community of less than 900 residents. There is potential for a serious negative impact on community amenity, the quality of life and environment locally along with the erosion of key assets in this neighbourhood. The visual impact of these huge warehouses is proposed with insignificant mitigation to reduce their presence in the open nature of the local landscape.

**Comment (PO):** The visual impact and design of the proposals are considered in the observations section of this report, whereby it is concluded that whilst the proposals will be visible within the local landscape, this does not merit the refusal of the application.

As with most maturation warehousing found throughout Moray, the design of the buildings are functional, however, such buildings are an existing common feature throughout the Moray landscape and as such are not considered to incongruous with the established working character of the rural landscape. Whisky maturation warehousing is not uncommon in the wider locality with whisky warehousing present to the east at Inchgower Distillery.

Taking into account the separation between the site and the Bin of Cullen, the proposals are not considered to have any adverse impact on the setting of this local landmark.

**Issue:** Prime Agricultural land.

- Loss of prime quality farmland, and the impact this has on current tenants, which goes against adopted Planning and environmental policy.

**Comment (PO):** This issue is discussed in the observation section of this report whereby it is concluded that the loss of the Prime Agricultural Land does not merit the refusal of the application.

**Issue:** Road Safety.

- Increase in heavy traffic movements of commercial vehicles into the long term, the A98 is already a high incident corridor, with frequent local catastrophic accidents - the lack of infrastructure investment for this development would impact on local safety with the A990 feeder road to Portgordon and day to day amenities.

- Road infrastructure is not adequate into and out of proposed site. As you know the A98/96 can be closed on a regular basis due to the amount of accidents that occur, this would mean even more large vehicles coming through the village at speed.
- The Transport Statement underplays the negative safety impact of increase in heavy traffic movements of commercial vehicles on the B9016/A98/A990 junction, which is already a difficult junction.

**Comment (PO):** The applicants have confirmed that HGV traffic from the operation of the development will not be routed through Portgordon.

The Councils Transportation Manager have assessed the road infrastructure serving the site and subject to conditions as recommended, have no objection to the approval of the application. Of note, once operational and the warehouses are stocked, the number of vehicles movements will be limited.

**Issue:** Outfall to Moray Firth causing pollution.

**Comment (PO):** There is no outfall to the Moray Firth proposed as part of this development.

**Issue:** Future Development.

- Fear of future development on this site of over 200 hectares with an unknown agenda by the greater WM Grants ownership and associated business operations within their related holding companies.

**Comment (PO):** This application must be assessed on its own merits. Any application for future development will need to be assessed in accordance with the Local Development Plan policies in place at that time and taking into account any other relevant material considerations.

**Issue:** Lack of investment in a sustainable local employment infrastructure. We need future planning for a symbiotic relationship with communities of Fochabers, Portgordon and Buckie - to local benefit.

**Comment (PO):** The principles of community wealth building have been incorporated into the draft national Planning Framework 4, however, this is yet to be adopted by Scottish Ministers and as such this proposal must be considered in accordance with current Moray Development Plan policy, where community wealth building is not incorporated into policy. The proposals have been assessed in terms of development obligations however, no contributions were identified.

**Issue:** Loss of environmental and wildlife diversity, even though this is currently farmland - the micro diversity is lost forever, with concreting over large areas.

**Comment (PO):** The habitat enhancements proposed as a result of this development are considered to result in a considerable net gain over the habitat value offered by the existing farmland.

**Issue:** Drainage and flood risk.

- Loss of natural groundwater percolation and the fears of uncontrolled flooding due to stormwater run-off, Portgordon has previously suffered from storm floods off the open farmland.
- The impact on groundwater levels/percolation and the impact of run off from the buildings & hard standings in heavy rain brings immediate concerns about flooding due to stormwater run-off. Portgordon has

already suffered from significant storm floods including from the open farmland in 1999 & 2013.

**Comment (PO):** The Drainage Impact Assessment and Flood Risk Assessment submitted in support of this application identify that the proposal will not result any greater flood risk as a result of the proposals. Both SEPA and Moray Flood Risk Management have been consulted on the proposals and have no objection to the approval of the application subject to the conditions as recommended.

**Issue:** Design.

- These buildings are of the lowest denominator of build/investment cost, barely a 20th Century envelope let alone one suitable for the 21st C and beyond - modern day expectation is for development to 'build back better', green roofing, solar PV roofing, buried structures, highly insulated shells, rainwater/grey water harvesting, sustainable local materials, low embodied carbon build methods - and appropriate visual style to this area of small historic residential coastal settlements.

**Comment (PO):** The development must be assessed on the basis on which it is submitted and there is no development plan policy basis to insist that a different approach to the design of a functional warehouse.

**Issue:** Principle of Development.

The site selection analysis in the Planning Statement is superficial. Only two other locations are considered and an alternative option of a distributed location strategy with a number of smaller more resilient facilities has not been examined. On the basis that Scotch Whisky is very important in the national & Moray economy, Moray Council should be proactive in identifying potential locations, other than mainstream industrial sites, as part of the Local Development Plan for this kind of facility.

**Comment (PO):** There is no development plan policy requirement to detail other sites considered as part of planning application. The proposal must be assessed on the basis on which it is submitted. Whilst the Moray Local Development Plan does not designate specific sites for maturation warehousing, it is supportive of growing the whisky industry and has policies for the consideration of rural businesses/development. The Moray Economic Strategy does support traditional industries in Moray and the location of warehousing is often industry led, due to their wish to operational need.

## **8. OBSERVATIONS**

8.1 Following consideration of the revised draft National Planning Framework 4 which was laid before parliament on 8th November 2022, the draft (yet to be formally adopted) is to be given no weight in the consideration of planning applications. Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan i.e. the adopted Moray Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise. The main planning issues are considered below:

### **8.2 Principle, Siting/Character and Design (PP2, DP1, DP5)**

Policy PP2 Sustainable Economic Growth supports proposals which deliver sustainable economic growth where the natural and built environment is

safeguarded, there is clear locational need and any potential impacts can be satisfactorily mitigated.

- 8.2.1 Policy DP1 Development Principles, sets out detailed criteria to ensure development proposals satisfy siting, design and servicing requirements. This also requires submission of supporting information to inform assessment where required.
- 8.2.2 Policy DP5 Business and Industry states proposals for new business development and extensions to existing businesses in rural locations including tourism and distillery operations will be supported where there is a locational need and is of a high standard of design appropriate to the rural environment.
- 8.2.3 The applicants have submitted a planning statement in support of the proposals which details the rationale behind the selection of the proposed site. In brief this highlights that there is currently a shortage of whisky storage within Moray and that without storage facilities, production and expansion of the industry in the area will not be possible. This proposal represents a significant investment in whisky storage in the area, which will enable the expansion of a Key Growth Sector as identified within the Moray Economic Strategy. Whilst other sites were considered, the proposed site was identified as being the most suitable in that it is within Speyside, which is desirable in terms of product provenance, it is close to distilling operations i.e. within 20 miles of Dufftown and saves transport and storage of the whisky elsewhere within Scotland. The roads serving the site are of a sufficient standard to accommodate the associated HGV traffic. The site is relatively flat and avoids the need for significant regrading associated with the proposals. The development will be viewed in conjunction with the existing adjacent maltings and anaerobic digestion (AD) plant and is therefore being sited in what is already a working landscape. There are no landscape or environmental designations associated with the site. The applicants have a commercial relationship with Grissan Renewable Energy, who built and operate the adjacent AD plant, where the newest phase of the development being progressed involves the production of biomethane, whereby in time both the diesel trucks serving the AD plant and those serving the proposed maturation warehouse will be replaced by biomethane trucks. This will result in a huge carbon saving when compared to existing diesel truck movements and is an excellent example of a circular economy, whereby the waste products from the distilling industry are used to provide biomethane and the waste from the AD process is used as fertiliser to help grow crops which are used in the whisky industry and the circular cycle continues.
- 8.2.4 In addition to the above the applicants have also outlined that it would not be suitable to locate the maturation warehousing on a site designated for industrial purposes within the development plan, as it would not be possible to find a designated site large enough to accommodate the applicants needs and even if a large enough site was found given the health and safety requirements associated with maturation warehousing it would be likely that there would be a conflict of uses between the maturation warehousing and other industrial uses. Also the siting of maturation warehousing on designated industrial land would have a sterilising effect on what would otherwise be flexible industrial land capable of meeting the needs of other industrial businesses in the area.

- 8.2.5 With all of the above in mind there is considered to be ample justification to meet the locational requirements of policies PP2 and DP5.
- 8.2.6 In terms of siting, design and potential impact on the character of the area, given the scale of the proposal it will inevitably be highly visible within the local landscape. The applicants have submitted a landscape and visual appraisal in support of the general development which includes visualisations to aid the understanding of the likely visual impact of the proposals.
- 8.2.7 From a review of this landscape and visual assessment and having visited the site, as noted previously in terms of locational justification, the site is located in a part of the landscape which is already characterised by its working nature. Other maturation warehouses are present in relatively close proximity to the site (3km east at Inchgower distillery), the adjacent Crisp Maltings and neighbouring AD plant already have a strong influence on the landscape along with the industrial development in and around Buckie, which is visible across the coastal fringe. When looking at Moray as a whole there are numerous maturation warehouses located throughout the landscape and therefore whilst the proposal will be visible it will not be incongruous with the landscape.
- 8.2.8 When looking more closely at the characteristics of the site in detail, the site is relatively flat and will require minimal earthworks to accommodate the proposal again limiting the visual potential visual impact of the proposal. The visualisations and long section provided in support of the application illustrate how the site sits within a low point within the landscape and when taking into account undulations and existing woodland in the wider landscape the visual impact of the proposals will be localised. The visual impact of the scheme will be mitigated further by the dark green colouration of the buildings and the woodland planting proposed around the site. Whilst it is accepted that this woodland will take time to become effective, it will help soften the impact of the proposal in the medium term.
- 8.2.9 In terms of impact of the nearest residential properties, there is considered to be sufficient separation between the proposal and these properties to ensure the development does not result in an overbearing impact and whilst the views from these properties may be affected, in planning terms, the right to a view is not a material planning consideration and therefore cannot be taken into account in determining this proposal.
- 8.2.10 Overall whilst the proposal will inevitably result in visual impact, taking all of the above factors into account, the site is considered to be well located to accommodate such a large development and balances the need to provide maturation storage facilities within Moray to enable the growth of the whisky industry with the need to protect the established character of the countryside in which the proposal is sited.
- 8.3 **Drainage and Flooding (DP1, PP3, EP12 & EP13)**  
Policies DP1 Development Principles, PP3 Infrastructure and Services and EP12 Management and Enhancement of the Water Environment set out detailed criteria to ensure proposals meet siting, design and servicing requirements including provision of SuDS. This includes requirements for surface water from new development to be dealt with in a sustainable manner

that has a neutral effect on the risk of flooding or which reduces the risk of flooding.

- 8.3.1 A Drainage Impact Assessment and Flood Risk Assessment has been submitted with the application which details the proposed surface drainage arrangements for the proposed development. Two large SUDs basins are proposed to the south west of the site and have been incorporated into a larger landscaped area. The SUDs basins will be edged with a wetland fringe planting scheme which will then be bounded by meadow or woodland planting. In this case the applicant propose to realign the Core Burn as part of the proposals. The natural path of the Core Burn has been altered for many years, where historically the Burn has been ditched and its natural course lost. With this in mind the realignment and integration of the burn as part of the proposed wetland area is encouraged and will result in a net enhancement of the natural habitat value across this site.
- 8.3.2 Following consultation with Scottish Water it has been identified that there are no foul sewers in the vicinity of the site and therefore the applicants have outlined within the drainage statement that a biodisc treatment plant will be incorporated into the site along with appropriate discharge to a soakaway. A condition has been recommended to agree the full details of this system prior to development commencing.
- 8.3.3 Both SEPA and Moray Flood Risk Management have been consulted on the proposals and have no objection to the approval of the application subject to the conditions as recommended. With this in mind the proposals are considered compliant with policies DP1, PP3, EP12 and EP13.
- 8.4 **Biodiversity and Prime Agricultural Land (EP2 and DP1)**  
Policy EP2 requires development proposals to, where possible, retain, protect and enhance all biological interest and provide for their appropriate management. This also states that proposals for 1000sqm or more of commercial floorspace must create new or where appropriate enhance natural habitats of ecological value.
- 8.4.1 Given the current use of the site for agricultural purposes it presently has limited habitat and biodiversity value and this is reflected within the findings of the ecology survey submitted in support of the application. As outlined within the previous drainage section, the applicants propose to create a wetland area, integrating the Core Burn and incorporating a pond. Approximately 4 hectares of the 16 hectare site have been given over to landscaping with around 25,000 trees being proposed as part of the landscape scheme. The landscape scheme also incorporates, wetland planting and two separate types of meadowland mix planting to enhance variety and habitat value across the site. The creation of the pond to the south of the site also opens up an excellent opportunity to incorporate bat and bird boxes on the warehouse buildings, providing an ideal foraging habitat and the applicants have incorporated this into the scheme.
- 8.4.2 Taking the above into account the proposals are compliant with policy EP2.

- 8.4.3 In terms of impact on Prime Agricultural Land, policy DP1 outlines that the proposals must avoid sterilising significant workable reserves of Prime Agricultural Land. In this case the proposals involve the loss of approx. 4 hectares of 3.1 classification Prime Agricultural Land, within the south east corner of the site. No definition of “significant” is provided within the development plan, however, it is questionable as to whether the loss of 4 hectares of Prime Agricultural Land is significant when it lies within a wider area of prime agricultural land extending to over 830 hectares. In addition, to insist that no development takes place within this corner of the site, would result in a corner of a field bounded by the public road to the east and split in two by the Core Burn with the remainder of the field being developed and as such this remaining corner would not be considered to constitute significant workable reserves of Prime Agricultural Land. Whilst the loss of any Prime Agricultural Land is undesirable, in this instance the losses associated with the proposals are not considered to outweigh the benefits of this proposal.
- 8.5 **Access and Parking (DP1 and PP3)**  
Policy DP1 requires that proposals must provide a safe entry and exit from the development and conform with the Council’s current policy on Parking Standards. Policy PP3 requires development to be planned and co-ordinated with infrastructure to ensure that places function properly and proposals are adequately served by infrastructure and services.
- 8.5.1 A Transport Statement has been submitted in support of the proposals and the Transportation Section has been consulted and has raised no objection to the grant of permission subject to conditions relating to the formation of visibility splays, a wear and tear agreement, a Construction Traffic Management Plan and provision of EV charging.
- 8.5.2 In terms of access and parking, subject to the conditions as recommended, the proposal complies with policy DP1 and PP3.
- 8.6 **Pollution (Noise & light) (EP14)**  
The Environmental Health Manager has assessed this information and has raised no objection to the grant of permission subject to conditions controlling operating hours, lighting, noise levels, construction work hours and submission of a Construction Environmental Management Plan to control/manage environmental emissions (noise, vibration, dust and artificial lighting) during the construction phase.
- 8.6.1 Subject to the compliance with above conditions the proposal would accord with policy EP14.
- 8.7 **Developer Obligations (PP3)**  
The development has been the subject of a developer obligations assessment in accordance with policy PP3, however, in this instance no developer obligations have been identified.
- 8.8 **Archaeology (EP8)**  
A Written Scheme of Investigation has been submitted in support of this application and the Regional Archaeologist has no objection to the approval of the application subject to archaeological investigation of the site prior to

development commencing. The applicants have elected to proceed with this on site investigation prior to this application being determined and this is why the northern portion of the site has the top soil removed at present.

### **Conclusion**

Whilst it is recognised, that the proposed development will be highly visible within the local landscape, the development represents a significant investment in whisky storage in the area, which will enable the expansion of a Key Growth Sector as identified within the Moray Economic Strategy. The location of this storage within Moray has the potential to reduce the transportation miles of whisky casks significantly, when compared to the potential storage of casks in central Scotland and this coupled with the siting of the proposal adjacent to the approved biomethane fuelling station will enable the applicants to convert to the use of biomethane HGV's, overall resulting in very significant carbon savings. The incorporation of 4 hectares of landscaped areas, including the wetland area and woodlands, resulting in the planting of 25,000 trees, will result in a net habitat value gain when compared to the present use of the site for farmland. Taking these factors into account the benefits of the proposal are considered to outweigh any visual impact and as such the application is recommended for approval.

### **REASON(S) FOR DECISION**

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

The erection of buildings for whisky storage in this location is considered acceptable and would not have an adverse impact on the surrounding area. The proposal complies with the provisions of the development plan and there are no material considerations that indicate otherwise.

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## APPENDIX

### POLICY

#### Moray Local Development Plan 2020

##### PP1 PLACEMAKING

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

**(ii) Healthier, Safer Environments**

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

**(iii) Housing Mix**

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

**(iv) Open Spaces/Landscaping**

- Provide accessible, multi-functional open space within a clearly defined hierarchy integrated into the development and connected via an active travel network of green/blue corridors that are fully incorporated into the development and to the surrounding area, and meet the requirements of policy EP5 Open Space and the Open Space Strategy Supplementary Guidance and Policy EP12 Managing the Water Environment and Drainage Impact Assessment for New Developments Supplementary Guidance.

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

**v) Biodiversity**

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

**(vi) Parking**

- Car parking must not dominate the streetscape to the front or rear of properties. On all streets a minimum of 50% of car parking must be provided to the side or rear and behind the building line with a maximum of 50% car parking within the front curtilage or on street, subject to the visual impact being mitigated by hedging, low stone boundary walls or other acceptable treatments that enhance the streetscape.
- Provide semi-mature trees and planting within communal private and public/visitor parking areas and on-street parking at a maximum interval of 4 car parking spaces.
- Secure and covered cycle parking and storage, car sharing spaces and electric car charging points must be provided in accordance with policy DP1 Development Principles.

- Parking areas must use a variation in materials to reduce the visual impact on the streetscene.

**(vii) Street Layout and Detail**

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

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

**PP2 SUSTAINABLE ECONOMIC GROWTH**

Development proposals which support the Moray Economic Strategy to deliver sustainable economic growth will be supported where the quality of the natural and built environment is safeguarded, there is a clear locational need and all potential impacts can be satisfactorily mitigated.

**PP3 INFRASTRUCTURE & SERVICES**

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

- a) In relation to infrastructure and services developments will be required to provide the following as may be considered appropriate by the planning authority, unless these requirements are considered not to be necessary:

- i) Education, Health, Transport, Sports and Recreation and Access facilities in accord with Supplementary Guidance on Developer Obligations and Open Space.
- ii) Green infrastructure and network requirements specified in policy EP5 Open Space, Town and Village Maps and, contained within Supplementary Guidance on the Open Space Strategy, Masterplans and Development Briefs.
- iii) Mitigation/modification to the existing transport network (including road and rail) to address the impact of the proposed development in terms of safety and efficiency. This may include but not be limited to passing places, road widening, junction enhancement, bus stop infrastructure, and drainage infrastructure. A number of potential road and transport improvements are identified and shown on the Town and Village Maps as Transport Proposals (TSP's) including the interventions in the Elgin Transport Strategy. These requirements are not exhaustive and do not pre-empt any measures which may result from the Transport Assessment process.
- iv) Electric car charging points must be provided at all commercial and community parking facilities. Access to charging points must also be provided for residential properties, where in-curtilage facilities cannot be provided to any individual residential property then access to communal charging facilities should be made available. Access to other nearby charging facilities will be taken into consideration when identifying the need for communal electric charging points.
- v) Active Travel and Core Path requirements specified in the Council's Active Travel Strategy and Core Path Plan.
- vi) Safe transport and access routes linking to existing networks and mitigating the impacts of development off-site.
- vii) Information Communication Technology (ICT) and fibre optic broadband connections for all premises unless justification is provided to substantiate it is technically unfeasible.
- viii) Foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS), including construction phase SUDS.
- ix) Measures that implement the waste management hierarchy as defined in the Zero Waste Plan for Scotland including the provision of local waste storage and recycling facilities designed into the development in accord with policy PP1 Placemaking. For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.
- x) Infrastructure required to improve or increase capacity at Water Treatment Works and Waste Water Treatment Works will be supported subject to compliance with policy DP1.

- xi) A utilities plan setting out how existing and new utility (including gas, water, electricity pipelines and pylons) provision has been incorporated into the layout and design of the proposal. This requirement may be exempted in relation to developments where the council considers it might not be appropriate, such as domestic or very small scale built developments and some changes of use.

**b) Development proposals will not be supported where they:**

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

**c) Harbours**

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

**d) Developer Obligations**

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

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

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

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

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

## **DP1 DEVELOPMENT PRINCIPLES**

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

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

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

### **(i) Design**

- a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.
- b) The development must be integrated into the surrounding landscape which will include safeguarding existing trees and undertaking replacement planting to include native trees for any existing trees that are felled, and safeguarding any notable topographical features (e.g. distinctive knolls), stone walls and existing water features by avoiding channel modifications and culverting. A tree survey and tree protection plan must be provided with planning applications for all proposals where mature trees are present on site or that may impact on trees outwith the site. The strategy for new tree provision should follow the principles of the "Right Tree in the Right Place".
- c) Make provision for new open space and connect to existing open space under the requirements of Policy EP5 and provide details of the future maintenance of these spaces. A detailed landscape plan must be submitted with planning applications and include information about green/blue infrastructure, tree species, planting, ground/soil conditions, and natural and man-made features (e.g. grass areas, wildflower verges, fencing, walls, paths, etc.).
- d) Demonstrate how the development will conserve and enhance the natural and built environment and cultural heritage resources, retain original land contours and integrate into the landscape.

- e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.
- f) Proposals do not result in backland development or plots that are subdivided by more than 50% of the original plot. Sub-divided plots must be a minimum of 400m<sup>2</sup>, excluding access and the built-up area of the application site will not exceed one-third of the total area of the plot and the resultant plot density and layout reflects the character of the surrounding area.
- g) Pitched roofs will be preferred to flat roofs and box dormers are not acceptable.
- h) Existing stone walls on buildings and boundaries must be retained. Alterations and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.
- i) Proposals must orientate and design buildings to maximise opportunities for solar gain.
- j) All developments must be designed so as to ensure that all new buildings avoid a specified and rising proportion of the projected greenhouse gas emissions from their use (calculated on the basis of the approved design and plans for the specific development) through the installation and operation of low and zero-carbon generating technologies.

**(ii) Transportation**

- a) Proposals must provide safe entry and exit from the development, including the appropriate number and type of junctions, maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, reduce travel demands and ensure appropriate visibility for all road users at junctions and bends. Road, cycling, footpath and public transport connections and infrastructure must be provided at a level appropriate to the development and connect people to education, employment, recreation, health, community and retail facilities.
- b) Car parking must not dominate the street scene and must be provided to the side or rear and behind the building line. Maximum (50%) parking to the front of buildings and on street may be permitted provided that the visual impact of the parked cars is mitigated by hedging or low stone boundary walls. Roadways with a single carriageway must provide sufficient off road parking to avoid access routes being blocked to larger service vehicles and prevent parking on pavements.
- c) Provide safe access to and from the road network, address any impacts on road safety and the local road, rail and public transport network. Any impacts identified through Transport Assessments/ Statements must be identified and mitigated. This may include but would not be limited to, passing places, road widening, junction improvements, bus stop infrastructure and drainage infrastructure. A number of potential mitigation measures have been identified in association with the development of sites and the most significant are shown on the Proposals Map as TSP's.



- d) Provide covered and secure facilities for cycle parking at all flats/apartments, retail, community, education, health and employment centres.
- e) Garages and parking provision must be designed to comply with Moray Council parking specifications see Appendix 2.
- f) The road layout must be designed to allow for the efficient mechanical sweeping of all roadways and channels, pavements, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of service vehicles, with hammerheads minimised in preference to turning areas such as road stubs or hatchets, and to provide adequate space for the collection of waste and movement of waste collection vehicles.
- g) The road and house layout in urban development should allow for communal refuse collection points where the design does not allow for individual storage within the curtilage and / or collections at kerbside. Communal collection points may either be for the temporary storage of containers taken by the individual householder or for the permanent storage of larger containers. The requirements for a communal storage area are stated within the Council's Kerbside Collection Policy, which will be a material consideration.
- h) Road signs should be minimised designed and placed at the back of footpaths to reduce street clutter, avoid obstructing pedestrian movements and safeguarding sightlines;
- i) Within communal parking areas there will be a requirement for electric car charging points. Parking spaces for car sharing must be provided where a need is identified by the Transportation Manager.

**(iii) Water environment, pollution, contamination**

- a) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water including temporary/ construction phase SUDS (see Policy EP12).
- b) New development should not be located in areas at flood risk or increase vulnerability to flooding (see Policy EP12). Exceptions to this would only be considered in specific circumstances, e.g. extension to an existing building or change of use to an equal or less vulnerable use. Where this exception is applied the proposed development must include resilience measures such as raised floor levels and electrical sockets.
- c) Proposals must avoid major hazard sites and address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- d) Proposals must protect and wherever practicable enhance water features through for example naturalisation of watercourses by introducing a more natural planform and removing redundant or unnecessary structures.
- e) Proposals must address and sufficiently mitigate any contaminated land issues.

- f) Make acceptable arrangements for waste collection and management and encourage recycling.
- g) Avoid sterilising significant workable reserves of minerals, prime agricultural land or productive forestry.
- h) Proposals must avoid areas at risk of coastal erosion and coastal change.

## **DP5 BUSINESS & INDUSTRY**

- a) Development of employment land is supported to deliver the aims of the Moray Economic Strategy. A hierarchical approach will be taken when assessing proposals for business and industrial uses. New and existing employment designations are set out in Settlement Statements and their description identifies where these fall within the policy hierarchy.

Proposals must comply with Policy DP1, site development requirements within town and village statements, and all other relevant policies within the Plan. Office development that will attract significant numbers of people must comply with Policy DP7 Retail/Town Centres.

Efficient energy and waste innovations should be considered and integrated within developments wherever possible.

- b) Business Parks**

Business parks will be kept predominantly for 'high-end' businesses such as those related to life sciences and high technology uses. These are defined as Class 4 (business) of the Town and Country Planning (Use Classes) (Scotland) Order 1997. This applies to new proposals as well as redevelopment within established Business Parks.

Proposals for the development of new business parks must adhere to the key design principles set out in town statements or Development Frameworks adopted by the Council.

- c) Industrial Estates**

Industrial Estates will be primarily reserved for uses defined by Classes 4 (business), 5 (general) and 6 (storage and distribution) of the Town and Country Planning (Use Classes) (Scotland) Order 1997. This applies to new proposals as well as redevelopment within established Industrial Estates. Industrial Estates could be suitable sites for waste management facilities.

- d) Existing Business Areas**

Long established business uses will be protected from non-conforming uses (e.g. housing). The introduction or expansion of non-business uses (e.g. retail) will not be permitted, except where the total redevelopment of the site is proposed.

- e) Other Uses**

Class 2 (business and financial), 3 (food and drink), 11 (assembly and leisure) and activities which do not fall within a specific use class (*sui generis*), including waste management facilities will be considered in relation to their suitability to the business or industrial area concerned, their compatibility with neighbouring uses and the

supply of serviced employment land. Retail uses will not be permitted unless they are considered ancillary to the principal use (e.g. manufacture, wholesale). For this purpose, 'ancillary' is taken as being linked directly to the existing use of the unit and comprising no more than 10% of the total floor area up to a total of 1,000 sq metres (gross) or where a sequential approach in accordance with town centre first principles has identified no other suitable sites and the proposal is in accordance with all other relevant policies and site requirements are met.

**f) Areas of Mixed Use**

Proposals for a mix of uses where site specific opportunities are identified within Industrial Estate designations in the Settlement Statement, will be considered favourably where evidence is provided to the authority's satisfaction that the proposed mix will enable the servicing of employment land and will not compromise the supply of effective employment land. A Development Framework that shows the layout of the whole site, range of uses, landscaping, open space and site specific design requirements must be provided. The minimum levels of industrial use specified within designations must be achieved on the rest of the site.

**g) Rural Businesses and Farm Diversification**

Proposals for new business development and extensions to existing businesses in rural locations including tourism and distillery operations will be supported where there is a locational need for the site and the proposal is in accordance with all other relevant policies.

A high standard of design appropriate to the rural environment will be required and proposals involving the rehabilitation of existing properties (e.g. farm steadings) to provide business premises will be encouraged.

Outright retail activities will be considered against policy DP7, and impacts on established shopping areas, but ancillary retailing (e.g. farm shop) will generally be acceptable.

Farm diversification proposals and business proposals that will support the economic viability of the farm business are supported where they meet the requirements of all other relevant Local Development Plan policies.

**h) Inward Investment Sites**

The proposals map identifies a proposed inward investment site at Dallachy which is safeguarded for a single user business proposal seeking a large (up to 40ha), rural site. Additional inward investment sites may be identified during the lifetime of the Plan.

Proposals must comply with Policy DP1 and other relevant policies.

**EP2 BIODIVERSITY**

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

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

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

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

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

## **EP7 FORESTRY, WOODLANDS AND TREES**

### **a) Moray Forestry and Woodland Strategy**

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

### **b) Tree Retention and Survey**

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

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

### **c) Control of Woodland Removal**

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

In all other woodlands development which involves permanent woodland removal will only be permitted where it would achieve significant and clearly defined additional public benefits (excluding housing) and where removal will not result in unacceptable

adverse effects on the amenity, landscape, biodiversity, economic or recreational value of the woodland or prejudice the management of the woodland.

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

**d) Tree Preservation Orders and Conservation Areas**

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

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

**e) Compensatory Planting**

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

**GUIDANCE TREES AND DEVELOPMENT**

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

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

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

- Reference number for each tree or group of trees.
- Scientific and common names.
- Height and canopy spread in metres (including consideration of full height and spread).
- Root protection area.

- Crown clearance in metres.
- Trunk diameters in metres (measures at 1.5m above adjacent ground level for single stem trees or immediately above the root flare for multi stemmed trees).
- Age and life expectancy.
- Condition (physiological and structural).
- Management works required.
- Category rating for all trees within the site (U, A, B or C \*). This arboricultural assessment will be used to identify which trees are suitable for retention within the proposed development.

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

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

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

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

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

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

### **Landscape Scheme**

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

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

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

## **EP12 MANAGEMENT AND ENHANCEMENT OF THE WATER ENVIRONMENT**

### **a) Flooding**

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

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

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

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

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

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

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

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

- a) In areas of little to no risk (less than 0.1%), there will be no general constraint to development.
- b) Areas of low to medium risk (0.1% to 0.5%) will be considered suitable for most development. A flood risk assessment may be required at the upper end of the probability range i.e. (close to 0.5%) and for essential civil infrastructure and the most vulnerable uses. Water resistant materials and construction may be required. Areas within this risk category will generally not be suitable for civil infrastructure. Where civil infrastructure must be located in these areas or is being substantially extended, it should be designed to be capable of remaining operational and accessible during flooding events.
- c) Areas of medium to high risk (0.5% or above) may be suitable for:
  - Residential, institutional, commercial and industrial development within built up areas provided that flood protection measures to the appropriate



standard already exist and are maintained, are under construction, or are a planned measure in a current flood management plan.

- Essential infrastructure within built up areas, designed and constructed to remain operational during floods and not impede water flow.
- Some recreational, sport, amenity and nature conservation uses, provided appropriate evacuation procedures are in place, and
- Employment related accommodation e.g. caretakers or operational staff.

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

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

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

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

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

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

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

Specific arrangements must be made to avoid the issue of permanent SUDS features becoming silted-up with run-off. Care must be taken to avoid the spreading and/or introduction of invasive non-native species during the construction of all SUDS features. On completion of SUDS construction the developer must submit a comprehensive Operation and Maintenance Manual. The ongoing maintenance of

SUDS for all new development will be undertaken through a factoring agreement, the details of which must be supplied to the Planning Authority.

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

**c) Water Environment**

Proposals, including associated construction works, must be designed to avoid adverse impacts upon the water environment including Ground Water Dependent Terrestrial Ecosystems and should seek opportunities for restoration and/or enhancement, if appropriate. The Council will only approve proposals impacting on water features where the applicant provides a report to the satisfaction of the Council that demonstrates that any impact (including cumulative) on water quality, water quantity, physical form (morphology), river hydrology, sediment transport and erosion, coastal processes (where relevant) nature conservation (including protected species), fisheries, recreational, landscape, amenity and economic and social impact can be adequately mitigated.

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

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

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

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

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

## **EP13 FOUL DRAINAGE**

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

- Systems must not have an adverse effect on the water environment
- Systems must be designed and built to a standard which will allow adoption by Scottish Water
- Systems must be designed such that they can be easily connected to a public sewer in the future. Typically this will mean providing a drainage line up to a likely point of connection.

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

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

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