



Planning and Regulatory Services Committee

Tuesday, 19 December 2023

NOTICE IS HEREBY GIVEN that a Meeting of the **Planning and Regulatory Services Committee** is to be held at **Council Chambers, Council Office, High Street, Elgin, IV30 1BX** on **Tuesday, 19 December 2023** at **09:30**.

BUSINESS

1. **Sederunt**
2. **Declaration of Group Decisions and Members Interests ***
3. **Resolution**

Consider, and if so decide, adopt the following resolution:

"That under Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, the public and media representatives be excluded from the meeting for Item 20 of business on the grounds that it involves the likely disclosure of exempt information of the class described in the relevant Paragraphs of Part 1 of Schedule 7A of the Act."

4. **Minute of Meeting of 24 October 2023** **7 - 14**
5. **Written Questions ****
6. **Guidance Note** **15 - 16**
8. **Planning Application 23-00994-APP** **17 - 52**

Report by Appointed Officer

For the construction and operation of a 30MW battery storage system including associated infrastructure at Land to East of A941 Bishopmill Elgin Moray for Green Power Consultants Ltd

9.	Planning Application 23-01227-AMC	53 - 80
	Report by Appointed Officer Approval of Matters Specified in Conditions (1-32) of Planning Permission in Principle (21/01901/EIA) in respect of proposed 85,000 tonnes per annum malt production facility on Land at Greens of Rothes Rothes Moray for Simpsons Malt Ltd.	
10.	Planning Application 23-01906-APP	81 - 96
	Report by Appointed Officer Domestic extension at 37 Beils Brae Urquhart Elgin Moray for Mr Neal MacPherson	
11.	Proposal of Application Notice - 23/02061/PAN	97 - 102
	Report by Depute Chief Executive (Economy, Environment and Finance) Proposed residential development (Max. 180 units) and student accommodation (Approx. 40 beds) including associated facilities, landscaping, infrastructure, roads and drainage at Dallas Dhu (MLDP2020 R6), Mannachie Road, Forres	
12.	Planning Performance Framework 2022-23	103 - 154
	Report by Depute Chief Executive (Economy, Environment and Finance)	
13.	Review of Enforcement Charter and Update on Enforcement	155 - 176
	Report by Depute Chief Executive (Economy, Environment and Finance)	
14.	Planning Policy Guidance - Moray Local Development Plan	177 - 190
	Report by Depute Chief Executive (Economy, Environment and Finance)	
15.	Development Plan Scheme 2024 - Moray Local Development Plan	191 - 214
	Report by Depute Chief Executive (Economy, Environment and Finance)	
16.	Keith Green Energy and Infrastructure Framework	215 - 328
	Report by Depute Chief Executive (Economy, Environment and Finance)	
17.	Tree Preservation Orders	329 - 334
	Report by Depute Chief Executive (Economy, Environment and Finance)	

18. **Food Law Enforcement Service Delivery Plan 2023-24**

335 -
364

Report by Depute Chief Executive (Economy, Environment and Finance)

19. **Question Time *****

Consider any oral question on matters delegated to the Committee in terms of the Council's Scheme of Administration.

Item(s) which the Committee may wish to consider with the Press and Public excluded

20. **Unauthorised Development at residential Property in Tomintoul [para 12]**

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

Summary of Planning and Regulatory Services

Committee functions:

Town and Country Planning; Building Standards; Environmental Health; Trading Standards; Weights & Measures, Tree Preservation Orders, and Contaminated Land issues.

Watching the Meeting

You can watch the webcast live by going to:

http://www.moray.gov.uk/moray_standard/page_43661.html

Webcasts are available to view for 1 year following the meeting.

You can also attend the meeting in person, if you wish to do so, please come to the High Street entrance door and a member of staff will be let into the building.

* **Declaration of Group Decisions and Members Interests** - The Chair of the meeting shall seek declarations from any individual or political group at the beginning of a meeting whether any prior decision has been reached on how the individual or members of the group will vote on any item(s) of business on the Agenda, and if so on which item(s). A prior decision shall be one that the individual or the group deems to be mandatory on the individual or the group members such that the individual or the group members will be subject to sanctions should they not vote in accordance with the prior decision. Any such prior decisions will be recorded in the Minute of the meeting.

** **Written Questions** - Any Member can put one written question about any relevant and competent business within the specified remits not already on the agenda, to the Chair provided it is received by the Proper Officer or Committee Services by 12 noon two working days prior to the day of the meeting. A copy of any written answer provided by the Chair will be tabled at the start of the relevant section of the meeting. The Member who has put the question may, after the answer has been given, ask one supplementary question directly related to the subject matter, but no discussion will be allowed.

No supplementary question can be put or answered more than 10 minutes after the Council has started on the relevant item of business, except with the consent of the Chair. If a Member does not have the opportunity to put a supplementary question because no time remains, then he or she can submit it in writing to the Proper Officer who will arrange for a written answer to be provided within 7 working days.

*** **Question Time** - At each ordinary meeting of the Committee ten minutes will be allowed for Members questions when any Member of the Committee can put a question to the Chair on any business within the remit of that Section of the Committee. The Member who has put the question may, after the answer has been given, ask one supplementary question directly related to the subject matter, but no discussion will be allowed.

No supplementary question can be put or answered more than ten minutes after the Committee has started on the relevant item of business, except with the consent of the Chair. If a Member does not have the opportunity to put a supplementary question because no time remains, then he/she can submit it in writing to the proper officer who will arrange for a written answer to be provided within seven working days.

MORAY COUNCIL

Planning and Regulatory Services Committee

SEDERUNT

Councillor David Gordon (Chair)
Councillor Marc Macrae (Depute Chair)

Councillor Neil Cameron (Member)
Councillor Theresa Coull (Member)
Councillor John Cowe (Member)
Councillor John Divers (Member)
Councillor Amber Dunbar (Member)
Councillor Jérémie Fernandes (Member)
Councillor Donald Gatt (Member)
Councillor Sandy Keith (Member)
Councillor Scott Lawrence (Member)
Councillor Paul McBain (Member)
Councillor Derek Ross (Member)
Councillor Draeyk Van Der Horn (Member)
Councillor Sonya Warren (Member)

Clerk Name:	Lissa Rowan
Clerk Telephone:	07765 741754
Clerk Email:	committee.services@moray.gov.uk

MORAY COUNCIL

**MINUTE OF MEETING OF THE PLANNING & REGULATORY SERVICES
COMMITTEE**

24 OCTOBER 2023

COUNCIL CHAMBERS, ELGIN

PRESENT

Councillors Macrae (Depute Chair), Cameron, Coull, Cowe, Divers, Dunbar, Fernandes, Gatt, Keith, Lawrence, McBain, Ross and Warren

APOLOGIES

Councillors Gordon and Van Der Horn

IN ATTENDANCE

Head of Economic Growth and Development, Development Management and Building Standards Manager, Mr N MacPherson, Principal Planning Officer, Mrs L MacDonald, Senior Planning Officer, Strategic Planning and Development Manager, Ms Webster, Principal Planning Officer (Strategic Planning and Development), Mrs D Anderson, Senior Engineer (Transportation), Mr K Henderson, Planning Officer, Mr D Westmacott, Planning Officer, Legal Services Manager, Democratic Services Manager and Mrs L Rowan, Committee Services Officers as Clerks to the Committee.

1. Declaration of Group Decisions and Member's Interests

In terms of Standing Orders 21 and 23 and the Councillors' Code of Conduct, there were no declarations from Group Leaders or Spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda.

In relation to Item 4 "Planning Application 23/00324/APP, Councillors Gatt and Coull stated that they had received 3 representations however had responded explaining that these could not be considered as they were both members of the Planning and Regulatory Services Committee and, after seeking legal advice, were both of the view that this would not preclude them from taking part in the debate and decision of this item.

The Legal Services Manager further confirmed that both Councillors had advised that they had received representations and had responded appropriately and advised that a late representation from the Applicant's Agent had also been received the day before the committee and that this had followed the late representation procedure and would be addressed during consideration of the item and that another had been received that was outwith the statutory time period and therefore disregarded.

There were no other declarations of Member's interests in respect of any item on the agenda.

2. Minute of meeting dated 15 August 2023

The Minute of the meeting of the Planning and Regulatory Services Committee dated 15 August 2023 was submitted and approved.

3. Written Questions

The Committee noted the following written question submitted by Councillor Fernandes and the Council's subsequent response:

Retailers' Charter for the Responsible Sale of Tobacco and Vaping Products

At a recent meeting of its Communities, Housing and Public Protection committee, Aberdeen Council considered the possibility of introducing a Retailers' Charter for the Responsible Sale of Tobacco and Vaping Products.

The Charter aims to address "proxy purchasing" whereby an adult purchase vapes for young people.

One of the measures is to encourage vapes retailers to voluntarily agree to accept payment for tobacco and vapes by electronic means only.

The reasoning behind this is that young people are less likely to give their debit card to a stranger rather than cash.

The Charter is supported by NHS Grampian and Police Scotland.

Could such a Charter be introduced in Moray? If so, can officers bring back a report to this Committee?

RESPONSE

The Charter proposed in Aberdeen is a pilot project and is a voluntary charter for retailers to try and address the issues of underage sales of tobacco and vapes.

Legislation relating Tobacco and Vapes is enforced by the Councils Trading Standards section, recent resignations means that we do not have sufficient capacity at this time to enforce the legislation and be proactive around Tobacco and Vape sales and products.

The Charter proposed by Aberdeen has 5 principles as shown below. In addition to staffing resources to support the scheme this would require a budget to promote the scheme which in Aberdeen was costed at £1500, no budget is available for Moray to promote a scheme.

1. The retailer will only accept card payments for purchases of cigarettes, tobacco and nicotine vapour products including disposable vapes.
2. The retailer will operate an Age Verification Policy (AVP) that ensures that any customer seeking to buy cigarettes or nicotine vapour products, who appears to be under the age of 25, will be asked to provide proof of their age. The retailer and staff will only accept photographic proof of age cards with a 'PASS' hologram, a passport, or a driving licence.

3. The retailer will train all staff regarding their AVP before they are permitted to serve customers with any age restricted products. Regular reminders will be given to staff. The retailer will maintain records of all staff training and produce these to trading standards staff on request. The retailer will display appropriate customer and staff information and use the CharterKit materials to reinforce the messages in their AVP.
4. The retailer and staff will maintain a refusal recording system and they will monitor the entries to ensure all staff are adhering to the AVP. They will act, where it may be necessary to re-train individual members of staff.
5. The retailer acknowledges that checks may be made by trading standards officers. They will use underage volunteers to attempt to purchase age restricted products. Membership of the Charter could be cancelled if non-compliances are found.

At this time it is recommended that officers monitor the success or otherwise of the pilot in Aberdeen, should it be successful a report would be submitted to Committee which would identify budget and staffing implications.

In response, Councillor Fernandes expressed disappointment that there is no capacity to support the legislation however thanked Officers for their response.

4. Planning Application 23/00314/APP

WARD 2: KEITH AND CULLEN

Erect cooperage including office staff facilities, storage yard and associated works on land adjacent to Kynoch Park, Keith, Moray for Isla Cooperage

The Meeting had before it a report by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be refused for an application to erect a cooperage including office staff facilities, storage yard and associated works on land adjacent to Kynoch Park, Keith, Moray for Isla Cooperage.

The meeting noted that the application had been referred to Committee in terms of the Scheme of Delegation as the application raises matters of wider community interest.

During her introduction, Mrs MacDonald, Senior Planning Officer responded to the late representation that had been received advising that, in relation to the cost to provide a road to the east, there is no requirement for the Applicant to provide this road however there is a requirement to safeguard the land. In relation to the alternative access proposed, this is not acceptable due to the considerable constraints on the potential route. With regard to I11 and Long 2 sites only likely to be used for energy related development, Mrs MacDonald acknowledged that the I3 site had been developed for that purpose however confirmed that there were no current permissions in the system for the I11 and Long 2 sites which have industrial designations in the current Moray Local Development Plan (MLDP) 2020. In relation to the Applicant being advised that they did not have to comply with NPF4 1 and 2, the Applicant was advised that whilst it was not necessary to comply with the Council's carbon guidance as it came into force on 1 July 2023 and the Planning

Application was already in the system, the NPF4 policies still have to be complied with.

During discussion, Councillor Coull welcomed the development and the job opportunities that it would bring to Moray however expressed disappointment that the Applicant and Officers could not find an appropriate access to the development site and moved that the Committee refuse planning permission, as recommended, in relation to Planning Application 23/00314/APP for the reasons stated in the report and that she hoped that further discussion takes place between the Applicant and Officers in relation to the most appropriate access to the development. This was seconded by Councillor Warren.

Councillor Gatt agreed with the views of Councillor Coull and that further discussion needs to take place between the Applicant and Officer to come up with a solution to the access problem.

Following further discussion, where Members and Officers discussed land constraints around the proposal and how a suitable access could be provided, Councillor Coull was unsure whether she wanted to proceed with her original motion.

The Legal Services Manager advised that Councillor Coull could withdraw her motion with the agreement of her seconder however reiterated that Officers had recommended refusal of the planning application as the proposal did not fully comply with the MLDP 2020 for the reasons stated in the report and that if Members were minded to approve the application, they would have to provide robust reasons to depart from policies within the MLDP 2020.

Adjournment

Upon hearing the advice from the Legal Services Manager, Councillor Warren sought a short adjournment, through the Chair, to allow Councillor Coull to consider her position. This was agreed.

Resumption of Meeting

Following a short adjournment, Councillor Coull confirmed she wished to proceed with her original motion to refuse planning permission, as recommended, in relation to Planning Application 23/00314/APP for the reasons stated in the report and that further discussion takes place between the Applicant and Officers in relation to the most appropriate access to the development.

Councillor Warren, on noting that Councillor Gatt is the Ward Member for the proposed development, reiterated her support for Councillor Coull's motion however withdrew her second to allow Councillor Gatt, as Ward Member to second Councillor Coull's motion.

Councillor Gatt agreed to second Councillor Coull's motion.

There being no-one otherwise minded, the Committee unanimously agreed:

- (i) to refuse planning permission, as recommended, in relation to Planning Application 23/00314/APP for the following reasons:

1. The proposal is contrary to National Planning Framework 4 policy 18 (a & b) Moray Local Development Plan Policy 2020 Policies Keith I2 and I4 PP3 (a)(iii), and DP5 as it fails to provide for a future connect to the

Keith I11 and Keith LONG2 sites and would prejudice the future development of the I11 and LONG2 sites and restrict the future employment land supply in Keith.

2. The proposal is contrary to National Planning Framework 4 policy 18 (a & b) and Moray Local Development Plan Policy 2020 Policies Keith I2 and I4 PP3 (a (iii)), and DP5 as it fails to provide for a future connect to the Keith I11 and Keith LONG2 sites and as such would which would compromise the future vehicular infrastructure to the detriment of road safety in the area.
 3. The proposal is contrary to National Planning Framework 4 policies 1 and 2 as the application has failed to provide sufficient information to demonstrate that adequate steps have been taken to address the nature and climate crises or that the development has been sited and designed to minimise lifecycle greenhouse gas emissions and to adapt to current and future risks from climate change.
- (ii) that further discussion takes place between the Applicant and Officers in relation to the most appropriate access to the development.

5. Proposal of Application Notice 23/01712/PAN

Development of a cemetery, soft and hard landscaping, access parking and associated development on land opposite Linkwood Dairy, Elgin

The Meeting had before it a report by the Depute Chief Executive (Economy, Environment and Finance) informing the Committee that a Proposal of Application Notice (PAN) had been submitted on 25 September 2023 on behalf of Moray Council.

During discussion, Councillor Divers highlighted the parking issues at the present Elgin Cemetery and asked that consideration be given to providing substantive parking at the proposed cemetery.

Councillor Warren further asked that consideration be given to designating part of the cemetery for green burials in accordance with the Council's environmental policies.

In response, Mr MacPherson, Principal Planning Officer advised that he would forward these points on.

Thereafter, the Committee unanimously agreed:

- (i) to note the terms of the report and asked that the following provisional views/relevant issues be recorded and forwarded to the Applicant in order to inform the development of their proposed formal application for planning permission:

That the Applicant give consideration to:

- the provision of substantive car parking at the proposed cemetery; and

- the designation of a green burial section within the proposed cemetery;
and
- (ii) that the matters raised by the Committee also be forwarded to consultees likely to be involved in any formal application for planning permission for the proposal.

6. Proposal of Application Notice 23/01222/PAN

Proposed residential development with retail units, landscaping and associated infrastructure on land east of Barhill Road, Buckie

The Meeting had before it a report by the Depute Chief Executive (Economy, Environment and Finance) informing the Committee that a Proposal of Application Notice (PAN) had been submitted on 27 July 2023 on behalf of Springfield Properties PLC.

During discussion the Committee raised concern in relation to road safety and flooding and asked that the Applicant consider the following points:

- Connectivity, in particular the provision of walking routes and public transport;
- Road safety at the junction on to the A98 due to increased volume of traffic and the speed of cars on the A98 with consideration being given to installing traffic lights at this junction;
- School capacity;
- Sufficient doctors and dentists;
- Sufficient green space and phasing of it;
- Provision of leisure facilities;
- Provision of retail units and phasing of these;
- Flooding and surface water at Barhill Road and on the A98 at Arradoul.

In response, Mrs MacDonald advised that she would forward these points on.

Thereafter, the Committee unanimously agreed:

- (iii) to note the terms of the report and asked that the following provisional views/relevant issues be recorded and forwarded to the Applicant in order to inform the development of their proposed formal application for planning permission:

- Connectivity, in particular the provision of walking routes and public transport;
- Road safety at the junction on to the A98 due to increased volume of traffic and the speed of cars on the A98 with consideration being given to installing traffic lights at this junction;
- School capacity;
- Sufficient doctors and dentists;
- Sufficient green space and phasing of it;
- Provision of leisure facilities;
- Provision of retail units and phasing of these;
- Flooding and surface water at Barhill Road and on the A98 at Arradoul;
and

- (iv) that the matters raised by the Committee also be forwarded to consultees likely to be involved in any formal application for planning permission for the proposal.

7. Conservation Area Designation Review 2023

The Meeting had before it a report by the Depute Chief Executive (Economy, Environment and Finance) asking that the Committee consider the Cullen, Archiestown, Portknockie and Findochty Conservation Area Character Appraisals and thereafter agree to issue the appraisals and proposed boundary changes for public consultation. The report also asks the Committee to note the success of the Windows Repair and Replacement Windows Grant Scheme.

Following consideration, the Committee unanimously agreed:

- (i) to approve the draft Cullen, Archiestown, Portknockie, and Findochty Conservation Area Character Appraisals and proposed boundary changes as set out in Appendix 1 for public consultation for a 12 week period;
- (ii) that a further report on the consultation response be brought to a future meeting of this Committee with a view to adopting the appraisals as material considerations in the determination of planning applications and agree to final boundary changes; and
- (iii) to note the success of the Windows Repair and Replacement Grant Scheme.

8. Town Centre Improvement Plans Update and Funding Opportunities

Under reference to paragraph 10 of the meeting of the Economic Development and Infrastructure Services (EDIS) Committee dated 5 September 2023, the Meeting had before it a report by the Depute Chief Executive (Economy, Environment and Finance) asking the Committee to consider a report recently approved by the EDIS Committee on the Town Centre Improvement Plans and funding opportunities, work being undertaken to address feedback on the unsuccessful Levelling Up Fund bid and to further investigate the feasibility of a heat network for the centre of Elgin.

Following consideration, the Committee unanimously agreed to note:

- (i) the report as approved by the Economic Development and Infrastructure Services Committee on 5 September 2023; and
- (ii) that a separate report on Long-Term Town Plans will be considered at a meeting of the Council on 25 October 2023.

9. Tree Preservation Orders

The Meeting had before it a report by the Depute Chief Executive (Economy, Environment and Finance) asking the Committee to confirm the revocation of Tree Preservation Orders (TPOs) at The College, King Street (Elgin) and Tomnabat Lane (Tomintoul), without modification.

Following consideration, the Committee unanimously agreed:

- (i) Moray Council (The College, King Street, Elgin) Revocation of Tree Preservation Order 2023; and
- (ii) Moray Council (Tomnabat Lane, Tomintoul) Revocation of Tree Preservation Order 2023.

10. Question Time

RAAC in Forres Academy

Councillor Keith queried whether Officers are confident that there is sufficient staff for RAAC inspections in schools, council houses and other council properties timeously and when a further report could be expected advising of the financial consequences accruing from the inspection and plans to approach the Scottish Government for additional funding.

In response, the Head of Economic Growth and Development advised that this was not a question for this Committee however advised that he was aware that the Council is undertaking a desk top review of plans of approximately 6300 properties and that resourcing this would be a matter for the Head of Housing and Property.

21/01901/EIA

Councillor Ross made reference to the recently approved planning in principal application for a Malt Production Facility on land at Greens of Rothes and noted that an application had been submitted for approval of matters specified in conditions 1-32 (21/01901/EIA) and asked if this application would come to this Committee for determination as the local community are concerned in relation to the 13208 additional HGV movements over the 2 year construction phase which doesn't include vans and cars.

In response, the Development Management and Building Standards Manager advised that it was hoped this planning application would be considered at the meeting of this Committee on 19 December 2023.



**GUIDANCE NOTE PRODUCED FOR PLANNING AND REGULATORY SERVICES COMMITTEE
MEETING OF 19 DECEMBER 2023**

REPORT ON APPLICATION

“Note for guidance of the Committee where the decision of the Planning and Regulatory Services Committee is contrary to the recommendations of the Depute Chief Executive (Economy, Environment and Finance) in respect to a Planning Application.”

Any Councillor putting forward a motion to refuse an application, contrary to recommendation, shall clearly state the reasons for refusal. These reasons should be based on policies contained in the approved National Planning Framework 4 (NPF4), Local Development Plan or some other material consideration. Time should be allowed to ensure that these reasons are carefully noted for minuting purposes.

Where Councillors put forward a motion to approve an application, contrary to recommendation, an indication should be given of any specific matters which should be subject of conditions along with reasons which should be based on policies in the approved Local Development Plan or some other appropriate consideration.

Note for guidance where the decision of the Planning and Regulatory Services Committee is to depart from the Development Plan (NPF4 and or Local Development Plan)

Where a Councillor is convinced that there is reason to depart from Development Plan policy; then the Councillor's reasons for making the motion should be clearly stated for minuting purposes. Any matters which should be subject to conditions drafted subsequently by the **Depute Chief Executive (Economy, Environment and Finance)** should be indicated. If the Committee remains of a mind to approve such an application then the whole matter will be subject to statutory procedures as apply. In such cases, Councillors should be aware that the application may require to be advertised as a departure and any objections reported to the next available meeting of the Planning and Regulatory Services Committee. It also may be necessary to convene a hearing to consider the views of objectors.

There are three potential consequences if Committee takes a decision where the proper procedures have not been followed in whole or in part. Firstly, the person aggrieved by a decision may apply to the Supreme Courts in Scotland for an Order either compelling the Council to act according to law, quashing the decision altogether or declaring a decision to be unlawful coupled with an order to prevent the decision being implemented. A referral to the Supreme Courts in these circumstances is known as applying for Judicial Review.

Secondly, in addition to the application for Judicial Review when questions of alleged failure, negligence or misconduct by individuals or local authorities in the management of public funds arise and are raised either by or with the External Auditor of the Council and where an individual can be blamed the sanctions available are:-

- Censure of a Councillor or an Officer
- Suspension of a Councillor for up to one year
- Disqualification of a Councillor for up to five years

In the case of the Council being to blame, recommendations may be made to the Scottish Ministers about rectification of the authority's accounts. Ministers can make an order giving effect to these recommendations.

Thirdly, whilst the Ombudsman accepts that Planning authorities have the freedom to determine planning applications as they wish procedural impropriety may be interpreted as maladministration. This can also lead to recommendations by the Ombudsman that compensation be paid.

Consistent implementation of departure procedures maintains public confidence in the planning system and is consistent with the time and effort invested in preparing the **NPF4 and Local Development Plan**.

WARD 04_17

23/00994/APP
14th June 2023

**For the construction and operation of a 30 MW battery energy storage system including associated infrastructure at Land To East Of A941 Bishopmill Elgin Moray
for Green Power Consultants Ltd**

Comments

- The application is a Major application as the proposal relates to electricity generation with a capacity of more than 20MW.
- The application was advertised for neighbour notification and as a departure from the development plan.
- No 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. This permission shall endure for a period of 40 years from the date on which the site first connects to the grid network within which period the development shall cease to operate and cease to connect to the grid network and the site shall be restored in accordance with a detailed decommissioning, restoration and aftercare statement to be approved in writing in advance by the Planning Authority. Written confirmation of the date of first connection to the grid network shall be provided to the Planning Authority within 12 months of this occurrence. For the avoidance of doubt the detailed decommissioning, restoration and aftercare plan shall provide detailed proposals, in accordance with relevant guidance at that time, for the

removal of the Development, the treatment of ground surfaces, the management and timing of the works and environment management provision which shall include waste management proposals.

Reason: To ensure that the development is removed at the end of its use and to ensure the satisfactory restoration of the site.

3. No development shall commence until final details of the material finishes of all buildings and plant including battery storage containers, as well as full details of the means of enclosure have been submitted to and agreed in writing by the Planning Authority. For the avoidance of doubt the battery storage containers shall be finished in grey or green as indicated in the submitted supporting information with the application. Where possible darker recessive tones shall be used. Thereafter only the approved details shall be implemented.

Reason: Insufficient details have been provided with the proposal.

4. 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.

5. No development shall commence until:
 - i. a detailed drawing (scale 1:500 or 1:1000 which shall also include details to demonstrate control of the land through ownership or provision of third party agreement) showing the visibility splay 4.5 metres by 215 metres in both directions at the access onto the A941 Lossiemouth - Elgin - Dufftown - Rhynie Road with all boundaries set back to a position behind the required visibility splay, and a schedule of maintenance for the splay area has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority; and
 - ii. thereafter the visibility splay shall be provided in accordance with the approved drawing prior to any works commencing (except for those works associated with the provision of the visibility splay); and
 - iii. thereafter the visibility splay shall be maintained at all times free from any obstruction exceeding 0.26 metres above the level of the carriageway in accordance with the agreed schedule of maintenance.

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

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. No development shall commence until a Construction Traffic Management Plan (CTMP) has been submitted to and 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:
 - duration of works;
 - construction programme;
 - number of vehicle movements (i.e. materials, plant, staff, components);
 - schedule for delivery of materials and plant;
 - parking provision, loading and unloading areas for construction traffic;
 - full details of temporary arrangements to safeguard pedestrian movements during the construction period;
 - full details of any temporary access;
 - measures to be put in place to prevent material being deposited on the public road;
 - traffic management measures to be put in place during works including any specific instructions to drivers.
 - 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;
 - 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.

8. No works shall commence on site until a Method Statement setting out the working practices and detailed drawings related to underground cable laying in the vicinity of the U39E Myreside Road, A941 Lossiemouth – Elgin – Dufftown – Rhynie Road, Elgin – Lossiemouth cycle track and C24E Elgin - Westerfolds - Duffus Road has been submitted to and approved in writing by the Council as Planning Authority in consultation with the Roads Authority. Thereafter, the development works shall proceed in accordance with the approved details, unless otherwise approved in writing by the Planning Authority in consultation with the Roads Authority.

Reason: To ensure acceptable working practices in the vicinity of the public infrastructure through the provision of details currently lacking.

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 outwith these permitted hours (including National Holidays) shall construction works be undertaken except where previously agreed in writing with the Council, as Planning Authority and where so demonstrated that operational constraints require limited periods of construction works to be undertaken outwith the permitted/stated hours of working.

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, dust and artificial lighting;
 - a scheme for the management of surface water drainage during the construction process;
 - a scheme to ensure soils on and around the site are protected from unnecessary disturbance including erosion and compaction to minimise soil sealing.

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, the Sey Burn and soils on and around the site.

11. The rating level of noise associated with the development shall not exceed 41 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 associated with this condition is defined within BS 4142: 2014+A1:2019 Methods for rating and assessing industrial and commercial sound. The rating level in this condition will apply for either daytime (0700 to 2300 hours) or night time (2300 to 0700 hours) periods.

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

12. Unless otherwise agreed with the Planning Authority, a 4m high acoustic fence with a surface density of at least 10kg/m² shall be provided on the south east and south west elevations of the development as illustrated in Figure D.2, page 28 of the approved Noise Impact Assessment supporting document by Parker Jones Acoustics and titled "Land at Spynie Farms, Elgin, Moray, IV30 4LF. Noise Impact Assessment. 1st December 2023 Revision 1", as well as indicated in Drawing No. APA-612-DR-PL-003 Revision 4, dated 08/11/23 and titled "Proposed Site

Layout". Prior to the use commencing, the final selected acoustic barrier in terms of chosen material, design, surface density shall be submitted in a plan and agreed in writing with the Council, as Planning Authority and shall thereafter be installed prior to the first use or completion of the battery storage scheme hereby approved (whichever is the soonest) and maintained throughout the lifetime of the development.

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

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 implemented as approved and maintained throughout the lifetime of the development.

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

14. Prior to any development works commencing, a monitoring statement that demonstrates the measures taken/implemented to ensure compliance with the approved Community Wealth Building Plan (by AAH Consultants dated November 2023) shall be submitted to the Council, as Planning Authority for approval in writing. This shall include details of:
 - the offer of community ownership including any marketing/promotion with the local community and community bodies;
 - the name(s) of the body/bodies taking partial ownership and details of their respective share(s) (where there has been no uptake this should also be specified);
 - (where there has been no demand for community ownership) details of alternative schemes as specified in section 2.20 of the approved Community Wealth Building Plan including any marketing/promotion with the local community and community bodies; and
 - mechanisms to ensure community bodies/groups that do invest can withdraw from ownership if necessary.

Thereafter the development shall proceed in accordance with the approved details unless otherwise agreed in writing with the Council, as Planning Authority.

Reason: To ensure that the measures detailed in the approved Community Wealth Building Statement have been implemented, in accordance with National Planning Framework 4 Policy 11 – Energy and Policy 25 – Community Wealth Building.

15. All tree protection measures (i.e. herras fencing or equivalent) as shown in the approved Planting Plan (ref no. Elgin GP-23-02 01 Rev B) shall be provided prior to any development works commencing (including site clearance/preparation works) and thereafter be retained in full accordance with the approved details until completion of the development.

Reason: To ensure timeous provision of the approved tree protection measures.

16. All landscaping as shown in the approved Planting Plan (ref no. Elgin GP-23-02 01 Rev B) shall be provided in the first planting season after completion of the development or the first use of the battery storage scheme (whichever is the soonest). Thereafter the landscaping shall be maintained in accordance with the approved aftercare specified on the plan. Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless this Council (as Planning Authority) gives written consent to any variation of this planning condition.

Reason: In order to ensure that the approved landscaping works are timeously carried out and properly maintained in a manner which will not adversely affect the development or amenity and character of the area.

17. The development hereby approved shall be implemented in full accordance with section 6 (Conclusions and Recommendations) of the approved Bat Activity Survey Report (ref: RDECO00060/180/01/B dated 9 June 2023) and section 6 (Conclusions and Recommendations) of the approved Preliminary Ecological Appraisal (ref: RDECO00060/173/01/B dated 9 June 2023).

Reason: In order to ensure that the development proceeds in accordance with the recommended mitigation measures of the approved ecological surveys.

18. All foul and surface water drainage proposals shall be in accordance with the approved Drainage Impact Assessment, dated September 2023.

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

19. The Planning Authority shall be provided with reports every 3 years from the date of first grid connection confirming that electricity has been imported and exported to the grid. If no electricity has been imported or exported to the grid by the development for a continuous period of 36 months, then unless otherwise agreed in writing with the Planning Authority, the development shall be removed and the site reinstated. Details of the proposed reinstatement shall be submitted for approval in writing to the Planning Authority within 2 months of either the equipment ceasing to be required or from the end of the 36 month period when it is not in operation, and the reinstatement work shall be completed within 3 months of the Planning Authority's approval of that proposed reinstatement scheme, or such other period agreed in writing by the Planning Authority.

Reason: To ensure that if the Development becomes redundant the equipment is removed from the site, in the interests of safety, amenity and environmental protection.

Reason(s) for Decision

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

The proposal occupies an area identified for advanced planting in the Findrassie Masterplan. Whilst this does not provide the full extent of planting identified in the masterplan, the proposal is considered to be an acceptable departure from the Findrassie Masterplan, on this basis the woodland planting proposed aids in establishing the advanced planting necessary as part of this designation.

The proposal complies with the provisions of National Planning Framework 4 and the Moray Local Development Plan 2020 and there are no material considerations that indicate otherwise.

List of Informatives:

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

Please contact the Building Standards Duty Officer in order to ascertain whether a Building Warrant will be required for these proposals by telephone on 03001234561. Alternatively e-mail buildingstandards@moray.gov.uk

ABERDEENSHIRE ARCAEOLOGICAL SERVICE has commented that:-

Works by archaeological organisation

Any archaeological survey, watching brief or archaeological works required by a condition attached to this planning permission must be undertaken by a suitably qualified archaeological organisation. Written Scheme of Investigation (WSI) A written specification produced by the appointed Chartered Institute for Archaeologists (CIfA) member archaeological contractor on behalf of the applicant which outlines in detail the proposed scheme of archaeological investigation. It should detail what archaeological works will be carried out and how; how any encountered archaeological remains will be dealt with; how any updates to the WSI will be provided; the reporting process; and the potential for post-excavation requirement. The WSI must be submitted to the Planning Authority for approval before being implemented. The contents of the WSI must conform to the relevant national and CIfA standards and guidance.

Archaeological Discoveries Bona Vacantia

The developer has a legal requirement, under the laws of bona vacantia to report to the Treasure Trove Unit any objects or artefacts found during development works.

Post-Excavation Research Design (PERD)

A written specification for the post-excavation analysis of artefacts and samples recovery during the excavation phase or archaeological works, prepared by the appointed Chartered Institute for Archaeologists (CIfA) member archaeological contractor on behalf of the applicant. This should include a project design for the post-excavation work, a costed assessment for this work, and costed proposals

for the publication of results. The PERD must be submitted to the Planning Authority for approval. Once the PERD has been agreed, written confirmation must be provided to the Planning Authority demonstrating that an agreement is in place between the applicant and the appointed ClfA member archaeological contractor, committing the applicant to fund the post-excavation work and for said work to be completed by an agreed date.

The TRANSPORTATION MANAGER has commented that:-

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 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.

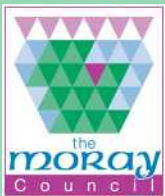
No retaining structures or embankments shall be constructed along the edge of the road, whether retaining the public road or ground adjoining the public road without prior consultation and agreement of the Roads Authority.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT		
Reference No.	Version No.	Title/Description
GPC612-DR-PL-001		Location plan
		AUX Transformer Elevations
		Battery container elevations
		CCTV elevations
		Client control room elevations
		DNO elevations
		Inverter elevations
		Access gate elevations
		Transformer elevations
		Arboricultural constraints plan
ELGIN GP-23-01	01 B	Landscaping plan
SK-D-101	P1	Alternative drainage layout

APA-612-DR-PL-003	4	Proposed site layout
ELGIN GP-23-02 01	A	Planting plan

Documents to be stamped approved:

- Design and Access Statement
- Flood Risk Assessment
- Preliminary Ecological Appraisal
- Drainage Impact Assessment
- Community Wealth Building Plan



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:

23/00994/APP

Site Address:

Land To East Of A941

Bishopmill Elgin

Applicant Name:

Green Power Consultants Ltd

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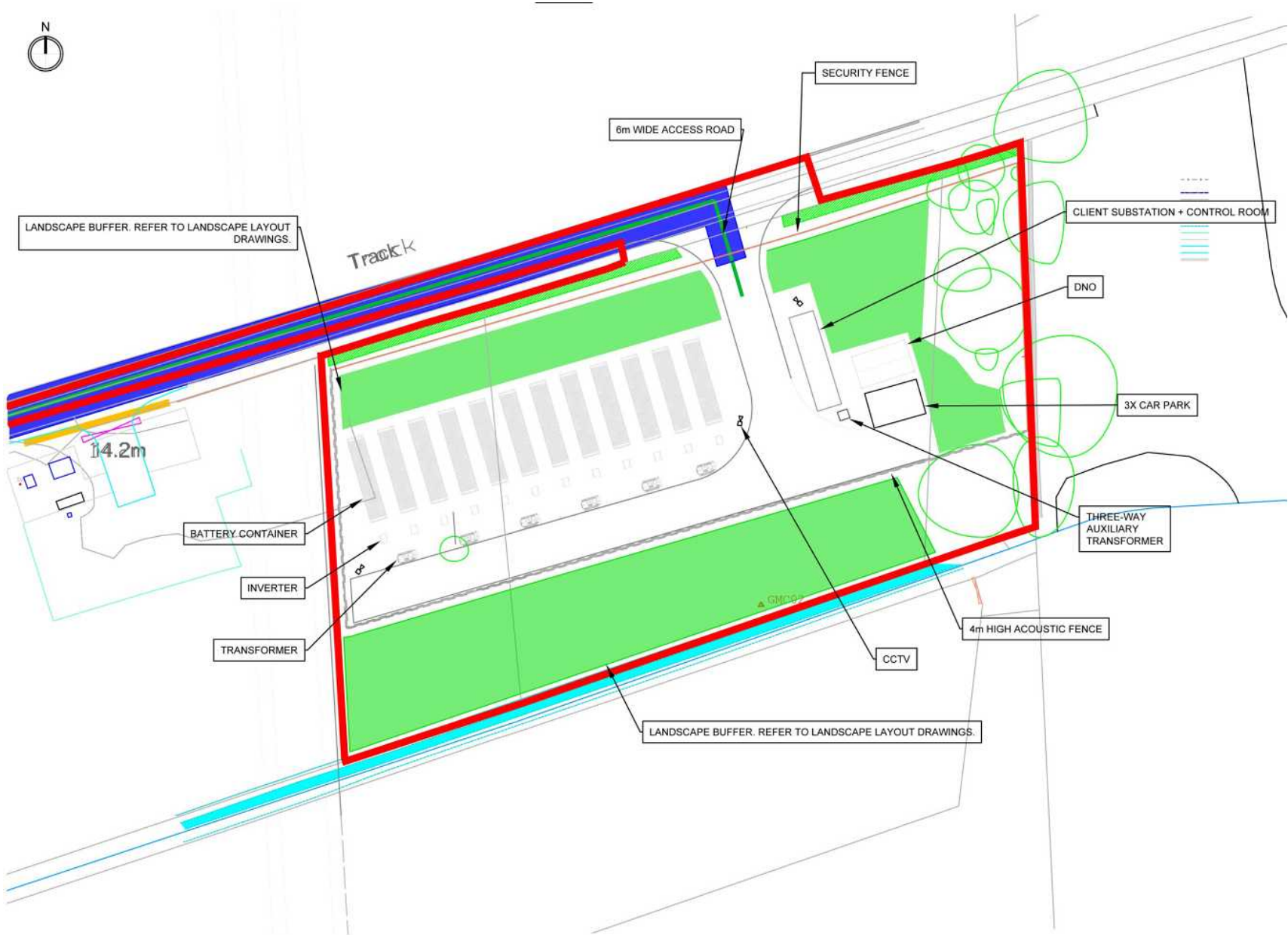
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Location Plan



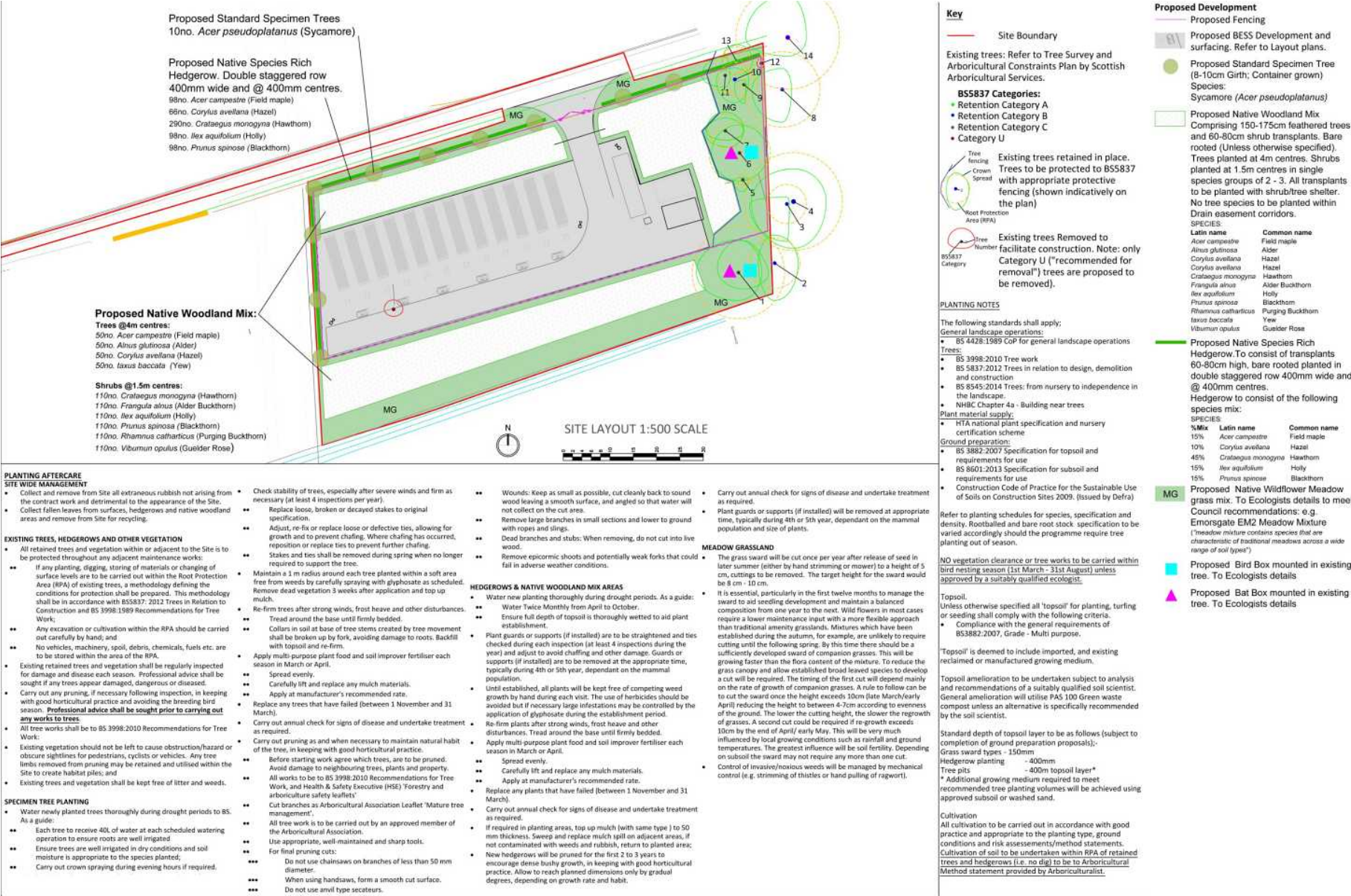
Site Plan



Battery container elevations



Planting plan





Map Description: Arrows point in direction photograph was taken

Scale: 1:5,000 @ A4



Photo 1



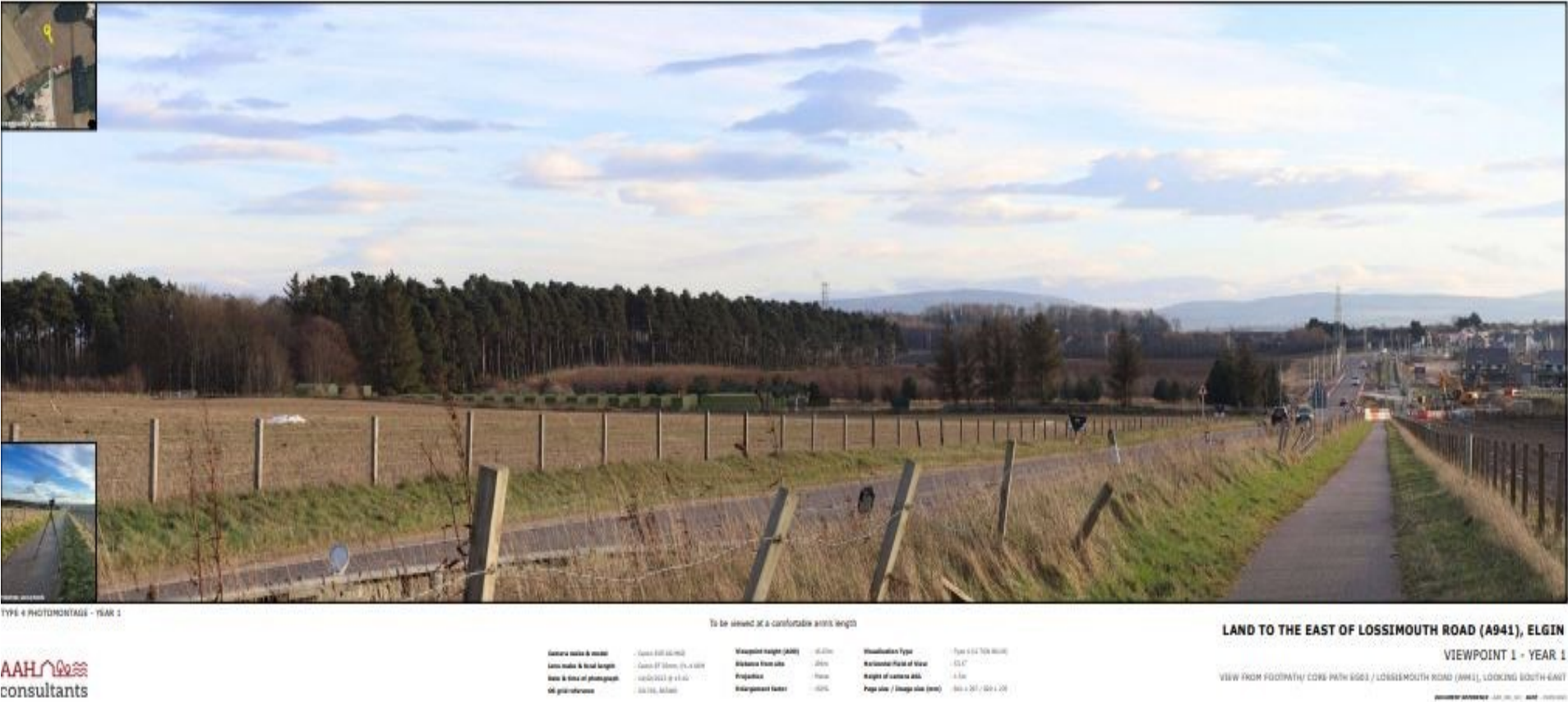
Photo 2



Photo 3



LVIA Extract



PLANNING APPLICATION: 23/00994/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

1. **THE PROPOSAL**

- The application seeks planning permission for an energy/battery storage facility (30 MW) including 12 battery storage containers, transformers, inverters, control room, office/substation, 3 CCTV poles, access road and 3 car parking spaces.
- Consent is sought for a temporary period of 40 years.
- Landscaping is proposed around the site including trees and a hedgerow along the northern boundary and an area of woodland in the south of the site.
- The site would be enclosed by a mix of acoustic fencing (4 metres high) and security fencing.
- The application is supported by a Design and Access Statement, Flood Risk Assessment, Noise Impact Assessment, Planning Support Statement, Preliminary Ecological Appraisal, Pre-application Consultation Report, Bat Survey, Transport Assessment and Drainage Impact Assessment.

2. **THE SITE**

- The site is located to the north of Elgin, to the east of the A941 Elgin to Lossiemouth Road. The site boundary also takes in a connection following the public road from the proposed battery storage scheme subject to this application, over the A941 past Myreside to the substation at Covesea Road.
- The site covers an area of 0.65 hectares and is currently occupied by a vacant storage shed and yard, and grassland field.
- The surrounding area comprises agricultural land, woodland and residential areas to the north of Elgin, including a residential development under construction to the south west of the site (Findrassie Barratt/David Wilson Homes). The Sey Burn runs along the southern boundary of the site.
- The site subject to this application falls within the Elgin I8 (Newfield) designation and is within the Spynie Special Landscape Area as designated in the Moray Local Development Plan 2020. The site is also included in the Findrassie Masterplan.

3. HISTORY

23/00369/PAN – Installation of 30 MW battery storage facility with associated infrastructure on land to East of A941, Bishopmill, Elgin. Reported to the Planning and Regulatory Service Committee on 30 May 2023. Members resolved to request that the following matters be considered:

- A plan be developed for containment and extinguishing of any fire, including containment of chemicals and blasts should thermal runaway result in a fire leading to potential explosion.
- Engagement with local officers of Scottish Fire and Rescue Service (Elgin).
- Consider proximity of consented developments and land use designations in MLDP (notably housing at Findrassie).
- Request that all plans/mapping that form part of application be up to date as PAN submission did not include recent housing at Findrassie.

Following submission of the PAN, three public consultation events were held at Elgin City FC, Borough Briggs on Tuesday 28 March 2023, Tuesday 11 April 2023 and Wednesday 10 May 2023. Information was also displayed online and consultation undertaken with Innes, Elgin and Held Community Councils, as well as local politicians.

4. POLICIES

National Planning Framework 4

- 1 - Tackling the climate and nature crises
- 2 - Climate mitigation and adaptation
- 3 - Biodiversity
- 4 - Natural places
- 5 - Soils
- 6 - Forestry, woodland and trees
- 7 - Historic assets and places
- 11 - Energy
- 12 - Zero waste
- 13 - Sustainable transport
- 14 - Design, quality and place
- 18 - Infrastructure first
- 22 - Flood risk
- 23 - Health and safety
- 25 - Community wealth building
- 26 - Business and industry

Moray Local Development Plan 2020

- PP3 Infrastructure and Services
- DP1 Development Principles
- DP9 Renewable Energy
- EP1 Natural Heritage Designation
- EP2 Biodiversity
- EP5 Open Space

EP7 Forestry Woodland and Trees
EP8 Historic Environment
EP12 Management and Enhancement Water
EP14 Pollution Contamination Hazards
Elgin - I8 Newfield

5. **ADVERTISEMENTS**

- 5.1 The application was advertised for neighbour notification purposes and as a departure from the development plan.

6. **CONSULTATIONS**

Scottish & Southern Electricity Networks – No objections.

Contaminated Land – No objections.

Moray Flood Risk Management – No objections.

Aberdeenshire Council Archaeology Service – No objections but recommend condition requiring a programme of archaeological works to be undertaken.

Transportation Manager – No objections, conditions recommended on visibility to public road, provision of Construction Traffic Management Plan and Construction Method Statement for laying of cable between battery storage scheme and substation in vicinity of public roads.

Environmental Health – No objections subject to conditions requiring limits to construction works hours, provision of a Construction Environmental Management Plan, limits on noise, provision of mitigation measures detailed in NIA (acoustic fencing), and a scheme of lighting.

Strategic Planning and Development – The development complies in principle with renewable energy policies (NPF 11, MLDP DP9). The site is covered by the Findrassie Masterplan and in an area identified for advanced planting. Following amendments to the layout and planting provision, the proposal is considered to be an acceptable departure from the Findrassie Masterplan on the basis the planting offers sufficient planting to provide shelter and enclosure whilst also helping establish the advanced planting.

The proposal is incompatible with Elgin I8 designation which restricts land use to use class 4 and 5, therefore the proposal is contrary to NPF Policy 26 and MLDP Policy DP5.

A tree survey and tree protection plan have been provided in line with NPF Policy 6 and MLDP Policy EP7 and sufficient biodiversity enhancement is provided in line with NPF Policy 3 and MLDP Policy EP2.

The submitted Community Wealth Building Plan is acceptable subject to a condition requiring submission of a monitoring statement to demonstrate compliance with the plan. Subject to this condition the proposal complies with NPF Policies 11 and 25.

Due to incompatibility with development plan policies, the proposal is also contrary to NPF Policy 4 and MLDP Policy EP3 with regard to the impact of the proposal on the Spynie Special Landscape Area.

Scottish Fire and Rescue Service, Innes Community Council, Heldon Community Council and Elgin Community Council were consulted on this application but did not provide any comments.

7. OBJECTIONS-REPRESENTATIONS

7.1 None received.

8. OBSERVATIONS

8.1 Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan, namely the adopted National Planning Framework 4 (NPF) and adopted Moray Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise.

8.2 The main planning issues are considered below:

8.3 Pre-application Consultation Report

The application is accompanied by a Pre-Application Consultation (PAC) Report, as prescribed under section 35C of the 1997 Act. This outlines the statutory consultation that the applicant undertook with the local community in relation to this application. The form and scope of the pre-application consultation was considered to be suitable, and agreed by the Council in response to Proposal of Application Notice 23/00369/PAN, as outlined above under History.

8.4 The PAC Report outlines the feedback received as part of the PAC process. It notes that attendance and feedback received overall was low. The PAC report details the feedback received as part of the PAC process and addresses how the points raised have been considered in formulating the application.

8.5 Environmental Impact Assessment

In the absence of any previously adopted Screening Opinion or Screening Direction (by Scottish Ministers) for this development, the Planning Authority, must adopt its own formal determination on whether or not EIA procedures are required where it appears that the application for planning permission is a Schedule 1 or Schedule 2 application in relation to the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. In this case the proposal is schedule 2 development under category 3a Industrial installations for the production of electricity, steam and hot water where the site exceeds 0.5ha. Having considered the characteristics of the development, the

location of the development and characteristics of the proposed development it was concluded that there will be no significant adverse environmental effects and the proposal is not an EIA development.

8.6 Appropriate Assessment - Habitats Regulation Appraisal

Special Protection Areas (SPAs), Ramsar sites and any component Site of Special Scientific Interest (SSSI) are protected under The Conservation (Natural Habitats, &c.) Regulations 1994. These regulations require certain proposals which are likely to have a significant effect on these sites to be subject to 'Appropriate Assessment' by a competent authority.

8.7 The proposed development will be located to the north of the Sey Burn, a tributary to the Loch Spynie which is designated as a Site of Special Scientific Interest (SSSI), Special Protection Area and Ramsar Site. The site's status means that the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended (the "Habitats Regulations") apply. Consequently, Moray Council is required to consider the effect of the proposal on the designations and their qualifying interests before it can be consented.

8.8 In this case, the site's location adjacent to the Sey Burn means the proposal has the potential to result in release of sediment and other pollutants into the burn and affect qualifying interests of the site which are dependent on the water environment. The SSSI, SPA and Ramsar site has been selected for one or more of the following qualities as: a eutrophic loch feature (shallow with muddy bottom); fen meadow; open water transition fen; breeding bird assemblage; wet woodland; and as grounds for greylag goose.

8.9 The proposal is not directly connected with or necessary for the conservation management of the SSSI, SPA and Ramsar Site, hence further consideration is required. The proposal has the potential to result in release of sediment and other pollutants during construction activities and subsequent discharge of surface water which may adversely affect the water environment.

8.10 The proposal is likely to have a significant effect on the interests of Loch Spynie, particularly during construction. Accordingly, suitable mitigation measures will be required to ensure the development does not adversely affect the interests of the loch. Accordingly, the following measures are recommended to mitigate any impacts on the qualifying interests of the Loch Spynie:

- A Construction Environment Management Plan detailing measures to be put in place to ensure no release of sediment and other pollutants to the Sey Burn.
- Suitable drainage arrangements for surface water from the development in line with the submitted Drainage Impact Assessment.

8.11 These measures have been noted in the submitted Preliminary Ecological Appraisal that accompanied the application.

8.12 These matters will be required by condition - and on this basis, the proposal will not adversely affect the integrity of the site, including the conservation objectives of its qualifying interests.

8.13 **Principle of Development/Findrassie Masterplan**

NPF Policy 11 is supportive of all renewable energy development including battery storage provided that the proposals address impacts on communities and developments including residential amenity, visual impact and noise, landscape and visual impacts, public access, aviation and defence interest, telecommunications, traffic, historic environment, hydrology, biodiversity, trees, decommissioning, restoration and cumulative impact. MLDP Policy DP9 is supportive of renewable energy developments where they are compliant with policies to safeguard and enhance the built and natural environment, do not result in the permanent loss of prime agricultural land and avoid or address significant impacts in relation to landscape and visual impact, noise, air quality, electromagnetic disturbance, impact on the water environment, impact on soils and peat, impact on woodland, traffic, ecology and tourism and recreation interests.

8.14 The Supporting Statement makes clear that there are specific locational requirements for battery storage sites which limit where they can be located – i.e. they need to be in close proximity to a viable grid connection that has sufficient capacity to import and export power that will be stored and released into the grid at times of peak demand. Suitable points of connection include a substation or a 132kv overhead power line. The ability to find such areas around the UK is limited. When a suitable connection can be found, other factors need to be taken into consideration that impact the viability and feasibility of a battery storage facility, particularly the distance from a substation. A facility could potentially be developed up to 2km from the point of the connection; however, the level of efficiency reduces the further away from the connection the facility is located. Furthermore, connection to the grid can become unfeasible if there is a requirement to cross third-party land. Most facilities are also connected to the grid via ‘soft dig’ methods as opposed to ‘hard dig’, which are actively avoided, and includes, for example, laying cable underneath roads. The site in this case is close to the existing substation at Covesea Road which is essential for the development to limit electrical losses during transmission and ensure the maximum efficiency of the system. It is also highlighted that the electrical substation has a viable import and export capacity to service the development. This locational justification is acknowledged. The proposal will not adversely impact on the built and natural environment and does not impact on prime agricultural land.

8.15 Noise, soils, traffic and ecological impacts are considered in more detail below. Other considerations of the policies are not relevant in this case. In so far as the issues identified in NPF Policy 11 and MLDP Policy DP9 apply to this development the proposal is considered to comply with these.

8.16 The site subject to this application is located in a designated industrial site (I8 – Newfield) in the Elgin Settlement Statement of the MLDP. NPF Policy 26 supports business and industry uses on such land but does not necessarily preclude any other development on such land. MLDP Policy DP5 primarily reserves such land for uses defined by use classes 4 (business), 5 (general industry) and 6 (storage and distribution) but does allow for other uses subject to consideration of their compatibility with neighbouring uses and the supply of serviced employment land. The site designation text in the MLDP for Elgin I8 notes the site is suitable for class 4 and 5 uses. The proposal does not fall

within any of these use classes, however in the absence of any land use designations for such uses in the MLDP and given this proposal is industrial in nature (by virtue of its design and potential noise emissions (see below)), the proposal is considered suitable on an industrial estate designation. Supporting information submitted by the applicant notes battery storage schemes have been permitted on industrial land designations elsewhere in Scotland.

- 8.17 As noted in the Strategic Planning and Development consultation comments, it will be, and has historically been, challenging to identify land for employment uses (Classes 4, 5 and 6) within the LDP to meet the identified requirements without a reliance on public funding to provide employment land. Allowing energy projects, with their limited direct employment benefits, on industrial estates/employment land would require additional land to be identified beyond the requirements set out in the Business Needs Study and in some areas could have significant implications on the amount of land available e.g. where there are already shortages of serviced and/or effective supply. Elgin I8 should provide high levels of employment opportunities within the new neighbourhood and, supporting NPF4 principles in relation to local living, allow people to live and work within the new neighbourhood and encourage active travel.
- 8.18 Whilst the proposed use will not result in direct employment on the site, the submitted Community Wealth Building Statement notes that there will be socio-economic benefits in terms of job creation during construction and operation/maintenance of the facility. There will also be the option of partial community ownership of the proposal and other community benefits (as listed under Community Wealth Building Below).
- 8.19 In light of these considerations, and the overarching need to provide renewable energy development as recognised under NPF Policy 11, the proposal is considered suitable under the provision of NPF Policy 26 and MLDP Policy DP5.
- 8.20 The site is also covered by the Findrassie Masterplan, which guides development of a variety of land use designations in the north of Elgin, including this site and ongoing housing development at Findrassie. The Masterplan is adopted and a recent update to it was agreed for consultation by members of this Committee on 15 August 2023. Within the original Findrassie Masterplan, the site is covered by two designations - an area of advanced planting (north part) and industrial (south part), albeit no development is permitted within 6m of the watercourse. This is subsequently carried over in the draft updated Masterplan, where the site also falls within a potential area for sports pitches. There is also a requirement for a link to be provided between designation I8, and the MU2 designation to the immediate north of this site. The application was advertised as a departure from the development plan on the basis the proposal was incompatible with the Findrassie Masterplan as noted above.
- 8.21 When initially applied for, this proposal along with the adjacent pumping station to the east resulted in the northern part of the I8 designation being blocked by development. This severed the potential for any linkage to the north in to MU2 designation (and as required under the MU2 designation to the north). However

this proposal was subsequently amended to ensure an area of land was safeguarded to allow a link to be provided.

- 8.22 The revised layout also provides areas of advance tree planting and landscaping. Whilst this does not provide the full extent of planting identified in the masterplan, the proposal is considered to be an acceptable departure from the development plan, on this basis the woodland planting proposed aids in establishing the advanced planting necessary as part of this designation.
- 8.23 In light of these considerations, the proposal is considered to comply with NPF Policy 26, MLDP Policy DP5, MLDP designation Elgin I8 and is an acceptable departure from the Findrassie Masterplan.
- 8.24 **Design, Siting and Landscape Impact**
With regard to the siting and design of this proposal, consideration will be given to the requirements of NPF Policy 14 and MLDP Policy DP1. Both require development to be designed and sited at a level that improves the quality of an area. The Design and Access Statement submitted with the application is noted, and considers the context of the site, along with any constraints. In this case the proposed development is designed in a functional manner, with batteries stored in standard storage containers. Any buildings proposed as part of this proposal are relatively small, and no bigger than domestic garages/sheds. The submitted drawings do not specify any external colour finishes however the submitted Landscape and Visual Impact Assessment suggests this will be green. This could be controlled by condition requiring details of the material finishes of the battery storage scheme to be submitted and agreed with the Planning Authority were the application to be approved.
- 8.25 Whilst the DAS states these will be sympathetic, any development of this site will change the character of the area given its undeveloped nature. However it is designated as an industrial estate in the MLDP, and as time progresses and the surrounding area is built out, the proposal would be viewed amongst other development and given the relatively low height of structures and equipment proposed it will form part of further expansion of Elgin in time. Significant landscaping proposed around the development will offer visual screening to the proposal as it matures.
- 8.26 While the open grassland of the site is being replaced by the development, due to the landform and surrounding woodland, as well as encroaching built form to the south and west, effects on the identified landscape character areas and features would be limited. As part of the local plan designation and the approved phase of the Findrassie Masterplan, once the northern edge of Elgin is developed as planned, distances of views will reduce and the current views will likely be screened by new built form or mitigation planting associated with it. The proposed woodland planting will also provide screening as it establishes over time.
- 8.27 Once the period of 40 years has passed, the applicant states the equipment will be removed and mitigating landscaping will be retained. Whilst this is a temporary period, the impacts of this development will be relatively long lasting.

- 8.28 The site also falls within the Spynie Special Landscape Area as zoned in the MLDP and therefore MLDP Policy EP3 and NPF Policy 4 apply. These policies require development to not have an adverse impact on the integrity and quality of the area, and with specific reference to MLDP Policy EP3, require compliance with all other MLDP policies. This proposal is not anticipated to prejudice the special qualities of the landscape in light of the foregoing evaluation, therefore the proposal complies with MLDP Policy EP3 and NPF Policy 4.
- 8.29 **Climate Change**
NPF policies 1 and 2 require significant weight to be given to the climate and nature crises in the assessment of all applications and requires climate mitigation from all development. In this case the proposal is for a renewable energy development which will help to secure a sustainable clean energy supply and contribute towards net zero targets. Biodiversity enhancements are proposed and the drainage proposals have been designed in a sustainable manner.
- 8.30 **Impact on Protected Species/Ecology**
NPF Policy 4 states that development proposals that are likely to have an adverse effect on species protected by legislation will only be supported where the proposal meets the relevant statutory tests, with MLDP Policy EP1 having similar requirements. This application was accompanied by a Preliminary Ecological Appraisal (PEA), which provides a baseline assessment of the site in its current state. It found the site has a low ecological value but notes the woodland near the site offers potential to support a variety of wildlife. It also recommended a bat survey be undertaken to assess the presence of bats in the storage shed on site (considered below). The PEA has concluded that connectivity only exists between the Application Site and four of the eleven environmental designated sites. No significant impacts are predicted for each of the four designated sites with connectivity from the construction of the Proposed Development. However, several precautionary mitigation measures have been recommended. The recommended mitigation measures include pre-commencement surveys (breeding bird and badger) during the appropriate seasons as required, implementation of best practice measures during the construction phase to prevent contaminated waters entering the aquatic environment and the reduction of light spill from any lighting onsite during construction or operational phase.
- 8.31 The Bat Survey notes no bats were observed entering or exiting the buildings during the surveys, with low bat activity recorded adjacent to the structure. The removal/demolition of the existing buildings and proposed works is unlikely to impact bats. As evidence of breeding birds was recorded within the barn during breeding season, works cannot commence until all nests are fully fledged. Where works are to commence during the breeding season (March to August inclusive) a pre-commencement nest check should be undertaken by a suitably experienced ecologist.
- 8.32 As noted above under the Appropriate Assessment, there is a requirement for a scheme for surface water/sediment management during construction to form part of any Construction Environment Management Plan to avoid any adverse

impact on the integrity of the Loch Spynie SSSI, SPA and Ramsar Site due to the Sey Burn being a tributary of this area. This is noted in the submitted PEA.

8.33 The proposal is considered to satisfy the requirements of NPF Policy 4 and MLDP Policy EP1.

8.34 **Landscaping & Biodiversity**

A detailed landscaping plan has been provided in support of the application. This makes provision for the planting of native woodland, native hedgerow with specimen trees, and meadow grassland.

8.35 The landscaping proposals will provide good quality planting in a manner that has been designed to help integrate the development into the wider landscape. It is recommended that the provision of planting is controlled by condition to ensure that it is timeously provided.

8.36 NPF Policy 3 and MLDP Policy EP2 require all development to contribute to the biodiversity enhancement of the site. The provision of meadow grassland will provide opportunities for butterflies and bees and other pollinators while the hedging and woodland planting will provide nesting and sheltering opportunities for other birds and animals. The site is currently open grass land and the proposals will provide a level of biodiversity enhancement. The proposals therefore accord with NPF Policy 3 and MLDP Policy EP2.

8.37 **Existing Trees**

Development that results in the loss of trees/woodland is generally presumed against under both NPF Policy 6 and MLDP Policy EP7 unless tree removal can be justified and suitable compensatory planting provided. In this case all trees on site would be retained as shown in the submitted Tree Survey. The Tree Protection Plan submitted shows suitable tree protection measures to be provided during works. Subject to condition ensuring these measures are provided and retained for the construction phase, the proposal is considered to comply with the requirements of NPF Policy 6 and MLDP Policy EP7.

8.38 **Noise, Lighting and Pollution**

A Noise Impact Assessment has been produced in support of the application. This concludes that with appropriate mitigation including a 4m high acoustic fence to the south of the compound the impact will be acceptable. The Environmental Health Manager is content with the findings of the report and has recommended conditions in line with the conclusions it contains. These seek to control the construction working hours, the operational noise levels and the provision of the recommended acoustic fence. Details of a proposed fence are included with the application but these are presented as indicative details only and do not include all the information required to ensure that the fence is of a suitable construction to mitigate noise as intended. It is therefore recommended that final details are sought by condition. The recommended conditions would ensure that noise associated with the development will not cause significant pollution and therefore the proposal complies with NPF Policy 23 and MLDP Policy EP14.

8.39 The site plan does not indicate any lighting though it is likely that lighting will be required. The Environmental Health Manager has recommended a condition

requiring the submission of a lighting scheme to ensure that there is no adverse impact on the surrounding area from operational lighting. Subject to this recommended condition the development would not cause significant light pollution and as such complies with MLDP Policy EP14.

8.40 A further condition is also recommended by Environmental Health requiring the submission of a Construction Environment Management Plan to be submitted. This will ensure that adequate pollution control measures are in place during the construction phase.

8.41 Subject to the proposed mitigation and recommended conditions the proposals comply with NPF Policy 23 and MLDP Policy EP14 as far as it relates to this development.

8.42 **Drainage**

The development is supported by a Drainage Impact Assessment. Surface water will be dealt with by means of an attenuation basin in the eastern part of the site. Moray Flood Risk Management are content with the proposals. The proposals would ensure that surface water is dealt with in a sustainable manner that has a neutral effect on flooding and as such the proposals accord with the requirements of NPF Policy 22 and MLDP Policy EP12.

8.43 **Flooding**

The site is identified as being at risk from surface water flooding, as per SEPA flood maps. The submitted Drainage Impact Assessment and Flood Risk Assessment note that sustainable urban drainage methods will be adopted on site to ensure surface water will be disposed of to the adjacent watercourse, Sey Burn, at a restricted rate to mimic existing greenfield conditions. Surface water flows will be attenuated below ground for all storm events up to and including the 1 in 200 year storm event plus an additional allowance for climate change, within a layer of permeable stone to provide approximately 77m³ of attenuation. This arrangement is considered suitable in terms of NPF Policy 22 and MLDP Policy EP12, with Moray Flood Risk Management raising no objections in respect of flood risk.

8.44 **Access**

NPF Policy 13 and MLDP Policy PP3 both set out requirements for development to be served by suitable infrastructure, with a particular emphasis on enhancing access for sustainable transport methods such as walking, cycling and public transport. Once operational, traffic generated by this proposal will be minimal, with construction likely resulting in more traffic being generated (albeit temporarily). The Transport Statement submitted notes future changes to the A941 to accommodate residential development at Findrassie/Myreside, however, signalisation of the new junctions onto the A941 and any change to the speed limit are dependent on further development which has yet to obtain detailed planning permission. Therefore the visibility requirements at the access track onto the A941 must be based on the existing 60 mph speed limit.

8.45 In light of these matters, the Transportation Manager has recommended conditions requiring a suitable visibility splay to be provided at the access point to the A941, as well as provision of a Construction Traffic Management Plan

and Construction Method Statement for any works in proximity of the public road. The proposal is therefore considered to satisfy NPF Policy 13 and MLDP Policy PP3.

8.46 Impacts on Soil

NPF Policy 5 seeks to minimise soil disturbance on undeveloped sites and protects soil from damage. No information on the impact of this proposal on soil has been provided with the application, however the overall design of this development has a relatively small footprint and that much of the development sits on ground with limited sub-surface work required. As part of the CEMP requirement, a scheme to ensure minimisation of impact on soils could be placed. On this basis the proposal is considered to comply with NPF Policy 5.

8.47 Historic Environment

Where there is potential for non-designated buried archaeological remains to exist below a site, under NPF Policy 7 and MLDP Policy EP8 developers must provide an evaluation of the archaeological resource. In this case the regional Archaeologist notes that while there are no previously recorded archaeological sites within the main area of the proposed development site (the BESS area itself), there are multiple archaeological sites adjacent and in close proximity to it (including evidence of prehistoric settlement activity). This indicates the potential for further archaeological remains to survive within the development site. On this basis a condition requiring a programme of archaeological works is recommended. Subject to this condition, the proposal is considered to satisfy the requirements of NPF Policy 7 and MLDP Policy EP8.

8.48 Zero Waste

NPF Policy 12 seeks to reduce the waste of materials in construction and requires (part c) waste management plans for developments that will generate waste. In a statement submitted demonstrating compliance with NPF4 the applicant states that the optimum use of materials has been considered throughout the design process. Given the nature of the development it is unlikely to generate significant waste during its operational period. Waste management during the construction and decommissioning phases will be covered in the CEMP and Decommissioning plans sought by conditions. This will ensure compliance with NPF Policy 12 and MLDP Policy DP1.

8.49 Community Wealth Building

NPF Policy 25 supports proposals that contribute to local or regional community wealth building strategies and those that are consistent with local economic proprieties. In order to implement this condition, this Committee adopted guidance on 30 May 2023 to apply to larger developments, including development that creates more than 1,000 sqm. The purpose of the guidance is to:

- Increase employment opportunities by helping local businesses to grow and diversify.
- Increase local spend within the local area through increased use of the local supply chain.
- Provide local employment and skills development opportunities within the local area, particularly within areas of highest inequalities.
- To provide opportunities for new business start-ups in the area.
- To provide opportunities for community ownership of business and assets.

- 8.50 NPF Policy 11 only supports renewable energy developments where they maximise net economic impact, including local and community socio-economic benefits. It is expected that this proposal will support approximately 66 jobs during construction (expected to last 9 to 12 months), and 20 full time jobs as part of the safe operation of the scheme.
- 8.51 The submitted information notes there will be direct benefits via the employment generated during the construction and decommissioning phases. Where economically and practically feasible, the aim will be to procure goods and services from local contractors, sub-contractors and suppliers to support the employment of the local community. Contracts opportunities will be available for local and regional firms during these phases. Ideally, construction contracts would be sourced locally where possible, subject to professional competency and competitive tendering. Examples of opportunities for local business and contractors include: Cabling; Fencing; Ready mixed concrete; Civil engineering; Ground works; Surveying; Planting; Landscaping; Haulage; Supervisory services; Security; and Accommodation.
- 8.52 Due to the number of projects such as this across the North and North East of Scotland, the applicant is looking to create new apprenticeships, work experience and training opportunities for local people (and the wider North and North East), engaging with Developing the Young Workforce, Carrer Ready etc. The applicant is also in correspondence with UHI Moray to create a new internship programme.
- 8.53 Indirect benefits come by way of increased public spending in the local economy, as a result of revenue generated from local contracting. Also where local contractors are not available construction workers requiring accommodation would result in increased public spending in the area. The decommissioning is also expected to be similar to those identified during the construction phase whereby temporary employment is generated in the local economy to remove the infrastructure from the site. Also, the increased reliability of renewable energy can lead to long term economic benefits by creating a more sustainable grid with greater energy supply and a reduction in energy costs. It is expected that the project will support approximately 20-35 jobs between the different phases of construction and operation.
- 8.54 The applicant has also stated they will offer the option of part community ownership of this development at a rate of up to 5% and should this offer be unsuccessful, they will explore:
- creation of a community benefit fund;
 - time of use sharing initiatives;
 - establishing an energy cooperative to feed back energy to the local community; and
 - educational initiatives to raised awareness and encourage energy conservation practices.
- 8.55 Overall, the final Community Wealth Building Plan is a considerable improvement on the original, however the applicant has not provided answers to all questions asked by Strategic Planning and Development, especially relating to the nature of jobs to be created in the operational phase. A condition

will be placed requiring a monitoring statement that demonstrates the development has been carried out in accordance with the details shown in the approved Community Wealth Building statement. Subject to this condition the submitted information is considered suitable in terms of NPF Policies 25 and 11.

8.56 Fire Risk and Safety

It is noted that Members raised concerns about safety and in particular fire risk when the PAN (23/00369/PAN) was reported to this Committee on 30 May 2023. The applicant has sought to address this in their supporting Outline Safety Management Plan. The statement highlights that all health and safety guidance and best practice measures will be followed in respect of Fire, Thermal Runaway, Release of Toxic Gases and Hydrogen Gases. Each battery container would have fire detection and suppression system and would be continually monitored by a battery management system which would report any faults. Each battery is housed in a separate container which would reduce the risk of fire spreading. In the event that a fire did break out the fire suppression systems would use a non-toxic gas which is not damaging to the environment and a venting system would prevent flammable gases building up in the battery unit. The fire suppression system to be installed will be in line with industry standards, with precautionary measures taken to ensure 'fire' water or other chemical spills are properly contained. Once the specific battery product has been decided by the approved contractor, the applicant has indicated they will develop an Emergency Response Plan and Fire Risk Assessment which will be prepared in consultation with key stakeholders including the local Fire and Rescue Service.

8.57 Impact on SSE Infrastructure

There are overhead lines crossing the site and underground SSE infrastructure in the vicinity of the development. SEN have raised no objections to this proposal, noting sufficient separation between the battery storage itself and their infrastructure.

8.58 Duration of Consent

The developer has sought a 40 year consent which is considered to be reasonable in this case. It is recommended that this is controlled by conditions to secure appropriate restoration of the site and removal of the development in the event of obsolescence during the lifetime of the planning permission.

Conclusion

The foregoing evaluation has considered the implications of relevant policies, and there is a slight incompatibility with the Findrassie Masterplan on the basis it occupies an area identified for advanced planting. Whilst this does not provide the full extent of planting identified in the masterplan, the proposal is considered to be an acceptable departure from the Findrassie Masterplan on the basis the woodland planting proposed aids in establishing the advanced planting necessary as part of this designation.

The proposal complies with the provisions of the development plan in all other respects and approval is recommended.

Recommendation

Approve subject to conditions.

REASON(S) FOR DECISION

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

The proposal occupies an area identified for advanced planting in the Findrassie Masterplan. Whilst this does not provide the full extent of planting identified in the masterplan, the proposal is considered to be an acceptable departure from the Findrassie Masterplan, on this basis the woodland planting proposed aids in establishing the advanced planting necessary as part of this designation.

The proposal complies with the provisions of National Planning Framework 4 and the Moray Local Development Plan 2020 and there are no material considerations that indicate otherwise.

**Author/Contact
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Senior Planning Officer

Ext: 01343 563274

**Beverly Smith
Development Management & Building Standards Manager**

WARD 01_17

23/01227/AMC
23rd August 2023

**Approval of Matters Specified in Conditions (1-32) of
 Planning Permission in Principle (21/01901/EIA) in
 respect of proposed 85,000 tonnes per annum malt
 production facility on Land At Greens Of Rothes Rothes
 Moray
 for Simpsons Malt Ltd**

Comments:

- The application relates to a previous major Planning Permission in Principle (PPiP) that was considered as a departure from the development plan at the time and thus subject to a statutory pre-determination hearing. However, as this application is for Approval of Matters Conditioned pertaining to that PPiP no further statutory pre-determination hearing is required.
- No representations have been received.

Procedure:

- Application to be considered at a meeting of the Planning and Regulatory Services Committee as it forms part of a development previously considered at Committee level.

Recommendation Approve subject to conditions:

Conditions/Reasons

1. In accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended, the development to which this permission relates must be begun not later than whichever is the later of the following dates:-
 - (i) the expiration of 3 years from the date of the grant of planning permission in principal; or
 - (ii) the expiration of 2 years from the final approval of the matters specified in conditions or in the case of approval on different dates the final approval of the last such matter to be approved.

If the development has not commenced within this stated time-periods then this permission shall lapse.

Reason: The time limit condition is in accordance with section 59 of the Town and Country Planning (Scotland) Act 1997 as amended.

2. All landscaping including woodland planting as shown in the approved plans (excluding that referred to in condition 4) shall be provided in the first planting season following the first use or completion of the first phase of the development (whichever is the soonest) and thereafter maintained in accordance with the approved Landscape Management Plan. Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless this Council (as Planning Authority) gives written consent to any variation of this planning condition.

Reason: For the avoidance of doubt and to ensure timeous delivery of landscaping.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended, revoked or re-enacted; with or without modification), no development other than that permitted under this consent (including planning permission in principle ref. 21/01901/EIA) shall be undertaken within the area identified for safeguarding on approved plan titled 'SITE ACCESS JUNCTION, SAFE-GUARDED LAND FOR FUTURE FOOTWAY PROVISION' without the written consent of the Council, as Planning Authority.

Reason: To ensure the area identified for safeguarding is kept free of development that may impede the future provision of a public path, in the interests of providing infrastructure for sustainable and active travel.

4. Notwithstanding the details submitted for the proposed landscaping (Drawing No; L01 F 'Planting Strategy') which are not acceptable. No new planting (other than grass) shall be permitted within the area identified as 'SAFE-GUARDED LAND FOR FUTURE FOOTWAY PROVISION' on the plan titled 'SITE ACCESS JUNCTION, SAFE-GUARDED LAND FOR FUTURE FOOTWAY PROVISION' Until the following details have been submitted for approval in writing by the Planning Authority in consultation with the Roads Authority:

A detailed plan (Scale 1:500 min) showing the design of a continuous path (minimum width 2m), proposed landscaping and planting.

A maintenance schedule for the landscaping within the area of safeguarded land.

Thereafter, unless otherwise approved in writing by the Planning Authority, the landscaping within the safe-guarded land shall be maintained with monthly grass cutting or in accordance with the approved schedule for the lifetime of the development.

Reason: To ensure an acceptable development, safeguarding and maintenance of land for future path provision for non-motorised users, and the provision of additional details currently lacking from the submissions.

5. No part of the development shall be completed or become operational until evidence has been submitted to demonstrate that the statutory process to

promote and implement any new speed limit(s) on the B9015 required as a consequence of the proposed development, have been completed by Moray Council.

Reason: To ensure an acceptable development through the provision of details currently lacking and/or incorrectly shown on the submitted particulars to date.

6. Notwithstanding the details submitted in the Site Traffic Management Plan. No works shall commence on site until a Construction Traffic Management Plan has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. The Construction Traffic Management Plan shall include the following information:
 - a) duration of works;
 - b) construction programme;

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

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

7. The footway/footpath improvements between the development and Rothes shall be provided in accordance with the approved details prior to the completion of the development or the development becoming operational (whichever is soonest).

Reason: To ensure acceptable infrastructure is provided on route to the development in road safety terms.

8. Prior to completion of the site access or the access becoming operational a visibility splay measuring 4.5m x 137m to the west and 4.5m x 215m to the east shall be provided in accordance with the approved details.

Thereafter the visibility splay shall be maintained at all times with no obstructions over 0.26 metres in height measured from the nearest edge of the carriageway, and in accordance with a schedule of maintenance to be agreed in writing by the Council, as Planning Authority.

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

9. No part of the development shall become operational until the parking and EV charging associated with it has been provided in accordance with the approved details. Thereafter, unless otherwise approved in writing by the Planning Authority the parking shall be retained and available for use at all times for that purpose.

Reason: To ensure the permanent availability of parking and the provision of infrastructure to support the use of low carbon transport in the interests of an acceptable development and road safety.

10. No boundary fences, hedges, walls or any other obstruction whatsoever over 1.0 metre in height and fronting onto the public road shall be within 2.4 metres of the edge of the carriageway, measured from the level of the public carriageway, unless otherwise agreed in writing by the Council, as Planning Authority in consultation with the Roads Authority.

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

11. Prior to their siting, details (i.e. elevations, floor plans and any drainage arrangements) of the proposed temporary portacabin offices as indicated on the approved plans shall be submitted to and approved in writing by the Council as Planning Authority along with timing for their provision and removal. Thereafter the portacabins shall be provided in accordance with the approved details unless otherwise agreed in writing with the Council (as Planning Authority).

Reason: To allow further consideration to be given to the temporary portacabins, details of which are lacking from the submission, and to ensure they are sited for a temporary period.

12. The development hereby approved shall be finished and maintained in accordance with the material finishes indicated on the approved plans, unless otherwise agreed in writing with the Council.

Reason: To ensure material finishes are provided in accordance with the approved details, in the interests of the character and visual amenity of the surrounding area.

Reason(s) for Decision

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

The submitted information satisfies the matters specified in relevant conditions attached to Planning Permission in Principle 21/01901/EIA, and are in accordance with National Planning Framework 4 and the Moray Local Development Plan 2020.

List of Informatives:

The DEVELOPMENT MANAGEMENT AND BUILDING STANDARDS MANAGER has commented that:-

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

The TRANSPORTATION MANAGER has commented that:-

Sign Ref S7 on drawing GOR-WSP-XX-FP-DR-C-0401 Rev P03 refers to the provision of a "Radar Speed Limit Sign". Whilst Transportation have no objection in principle, the type and sign location, installation funding and future maintenance arrangements would need to be agreed. Transportation recommend that in order to deliver this, the applicant should approach Speyside Community Council and lend support to an application for the community purchase of vehicle activated sign(s). Further guidance on the process can be provided on request by email to transport.develop@moray.gov.uk.

Resurfacing and profiling over full width of the B9015 junction and a design for the roads drainage will be required to correct for the road camber as a result of the road widening to form the access junction.

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

Construction Consent shall include a CCTV survey of all existing roads drainage to be adopted and core samples to determine the construction depths and materials of the existing road.

A Stage 2 Road Safety Audit for the modifications to the existing public road (including works to form a pedestrian connection to Rothes) will be required. Requirements for a Stage 3 or 4 Road Safety Audit will be determined through the Roads Construction Consent process or subsequent to the road construction.

Requirements for any traffic calming, road construction materials and specifications and any SUDs related to the drainage of the public road must be submitted and approved through the formal Roads Construction Consent process.

Planning consent does not carry with it the right to carry out works within the public road boundary and the applicant is obliged to contact the Transportation Manager for road opening permit in accordance with the Roads (Scotland) Act 1984. This includes any temporary access joining with the public road.

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

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

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

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

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

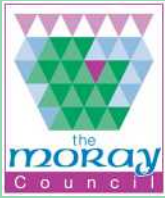
The applicants shall free and relieve the Roads Authority from any claims arising out of his operations on the road or extension to the road.

The Transportation Manager must always be contacted before any works commence. This includes any temporary access, which should be agreed with the Roads Authority prior to work commencing on it.

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

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT		
Reference No.	Version No.	Title/Description
310213-BLY-BP-XX-DR-S-40-0001		Borehole pumphouse - elevations and floor plans
12753((632)002	C	External lighting layout
310213-BLY-BS1-XX-DR-S-40-0001		Barely storage warehouse - elevations and floor plans
310213-BLY-GV1-XX-DR-S-40-0001		Germination vessel - elevations and floor plans
310213-BLY-HE-XX-DR-S-40-0001		Heat exchanger building - elevations and floor plans
310213-BLY-INT-XX-DR-S-40-0001		Barely intake canopy - elevations and floor plans
310213-BLY-KSB-XX-DR-S-40-0001		Kiln services building - elevations and floor plans
310213-BLY-MB-XX-DR-S-40-0001		Membrane building - elevations and floor plans
310213-BLY-MD-XX-DR-S-40-0001		Malt dresser building - elevations and floor plans
310213-BLY-OB-XX-DR-S-40-0001		Outloading bins - elevations and floor plans
310213-BLY-ST-XX-DR-S-40-0001		Steeps house building - elevations and floor plans
310213-BLY-TS-XX-DR-S-40-0001		Thermal store - elevations and floor plans
310213-BLY-WS-XX-DR-S-40-0001		Workshop - elevations and floor plans
310213-BLY-XX-XX-DR-C-40-0001	P04	Construction Aesthetic Design overview

310213-BLY-XX-XX-DR-C-90-0002 P02	Site external surfacing layout
310213-BLY-XX-XX-DR-C-90-0100 P03	Proposed site layout
310213-BLY-XX-XX-DR-C-90-0101 P08	Condition 04 - site elevations 1 of 3
310213-BLY-XX-XX-DR-C-90-0102 P08	Condition 04 - site elevations 2 of 3
310213-BLY-XX-XX-DR-C-90-0103 P08	Condition 04 - site elevations 3 of 3
310213-BLY-XX-XX-DR-C-90-0104 P05	Condition 07 - longitudinal sections
310213-BLY-XX-XX-DR-C-90-0105 P01	Condition 07 - proposed site levels
310213-BLY-XX-XX-DR-C-90-0107	Condition 10 - proposed phasing plan
310213-BLY-XX-XX-DR-C-91-0001	Location plan
GOR-WSP-CXX-JT-DR-C-0701 P03	Proposed junction kerbing arrangement and surface finishes
GOR-WSP-XX-FP-DR-C-0101	Proposed footpath general arrangement
GOR-WSP-XX-FP-DR-C-0301 P02	Proposed footpath cross section
GOR-WSP-XX-FP-DR-C-0401 P03	Proposed footpath road markings and signage
GOR-WSP-XX-JT-DR-C-0101 P03	Proposed junction general arrangement
GOR-WSP-XX-JT-DR-C-030 P02	Proposed junction B9015 widening longitudinal sections and cross sections 3 of 3
GOR-WSP-XX-JT-DR-C-03011 P02	Proposed junction B9015 widening longitudinal sections and cross sections 1 of 3
GOR-WSP-XX-JT-DR-C-0302 P02	Proposed junction B9015 widening longitudinal sections and cross sections 2 of 3
GOR-WSP-XX-JT-DR-C-0401 P03	Proposed junction road markings and signage
GOR-WSP-XX-JT-DR-C-0601 P03	Proposed junction proposed finished contours
GOR-WSP-XX-JT-DR-C-0801 P02	Proposed junction swept path analysis
GOR-WSP-XX-XX-DR-C-0601 P02	Proposed footpath proposed finished contours
GOR-WSP-XX-XX-DR-C-0701 P02	Proposed footpath kerbing arrangement and surface finishes
GOR-WSP-XX-XX-DR-C-1202 P02	Proposed construction details
GOR-WSP-XX-ZZ-DR-C-0001 P03	Site location plan
L01 F	Planting strategy
	Safeguarded land for future footpath
L02	Riverside tree screen area
	Site access
310213-BLY-XX-XX-DR-C-96-0001 P03	Primary drainage layout



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:
23/01227/AMC

Site Address:
Land At Greens Of Rothies
Rothies

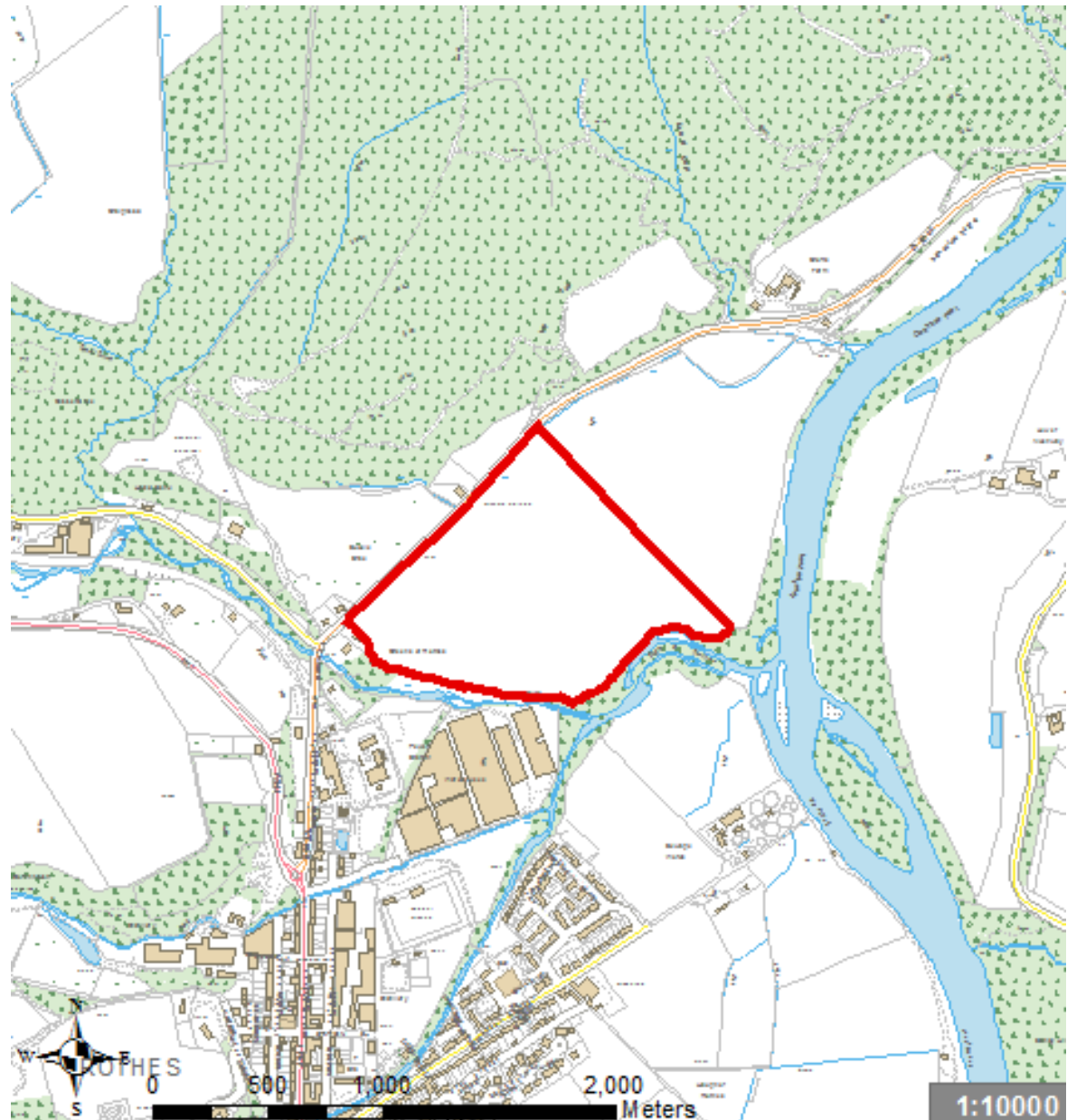
Applicant Name:
Simpsons Malt Ltd

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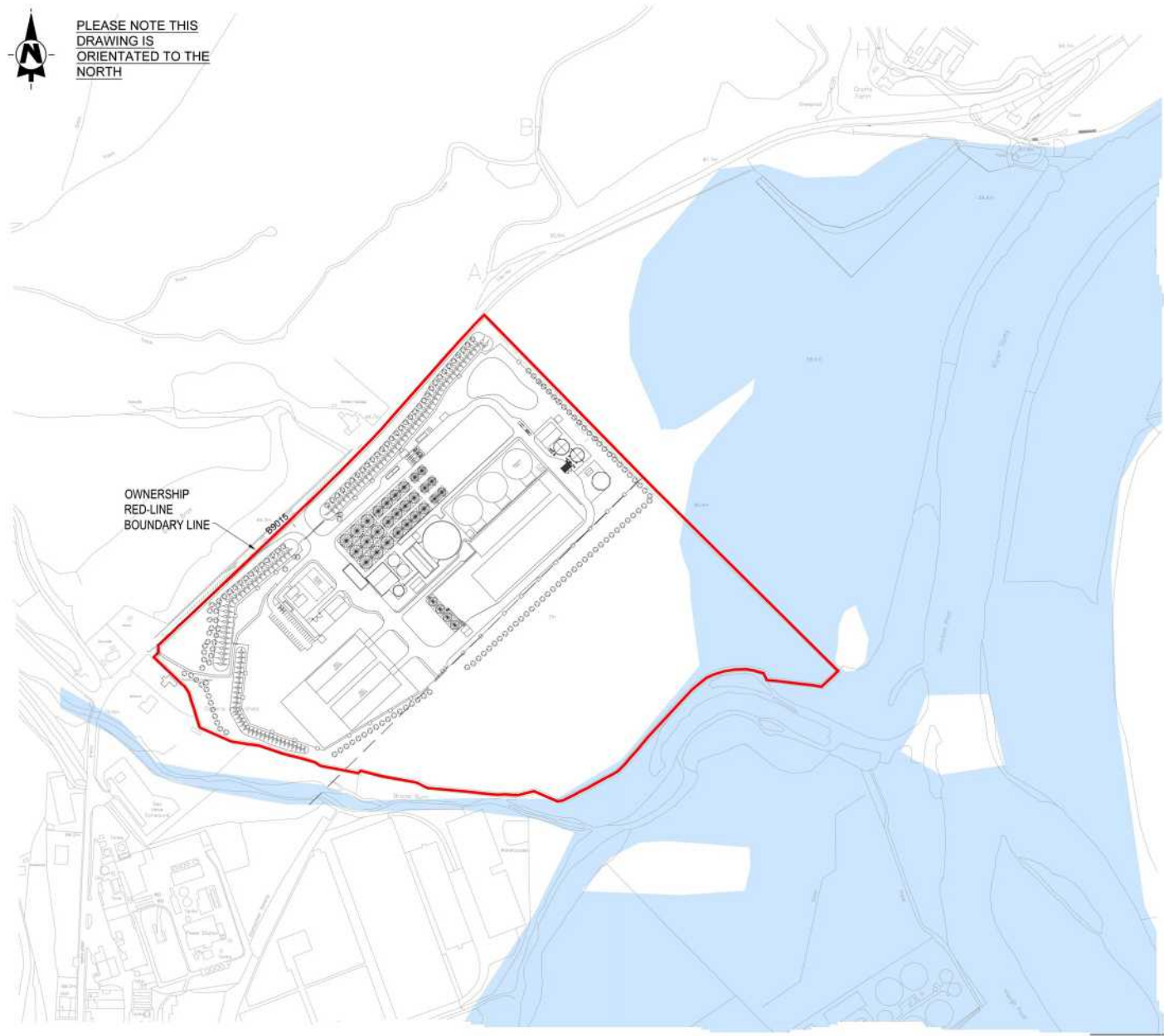
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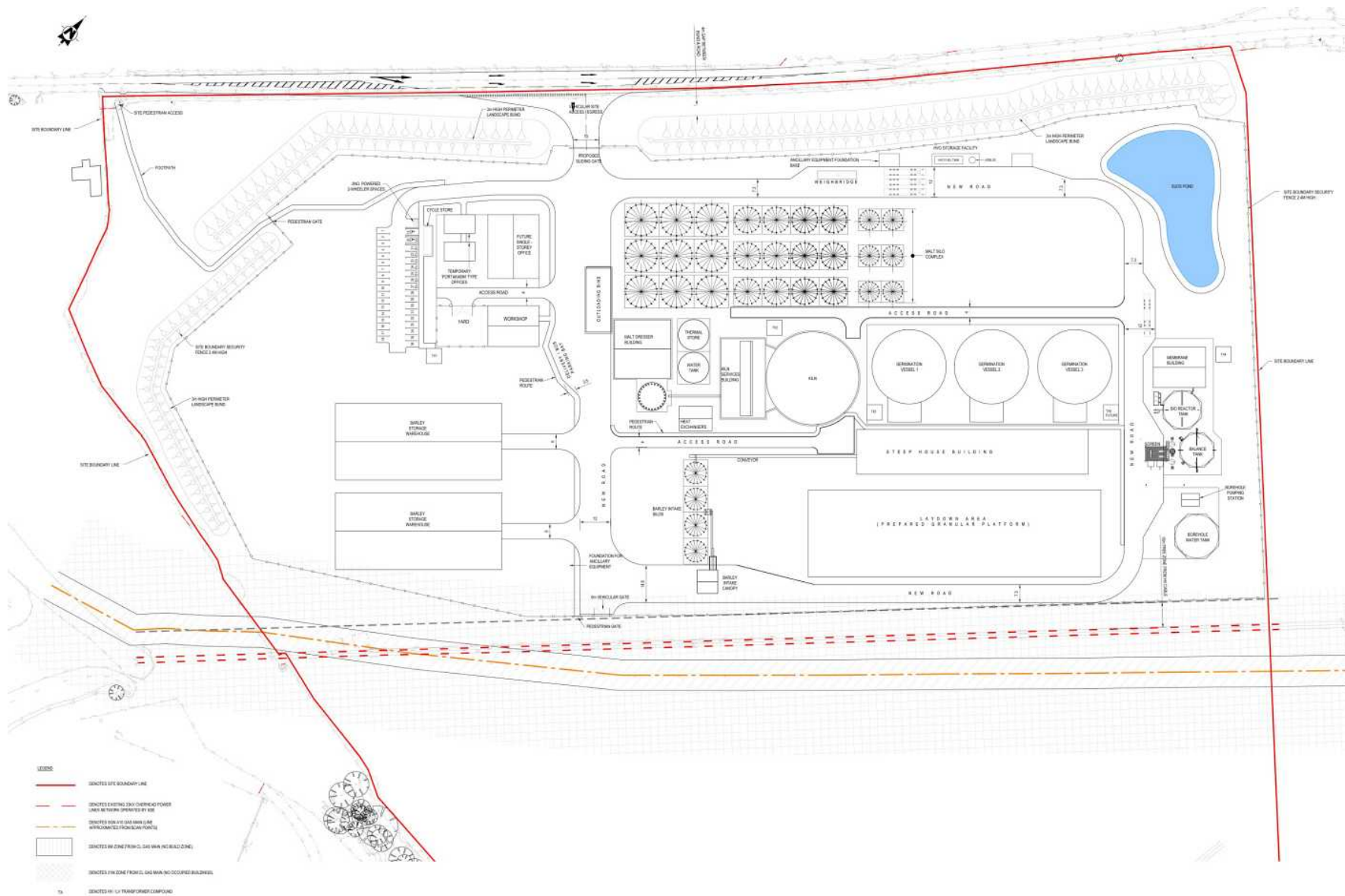
Location Plan



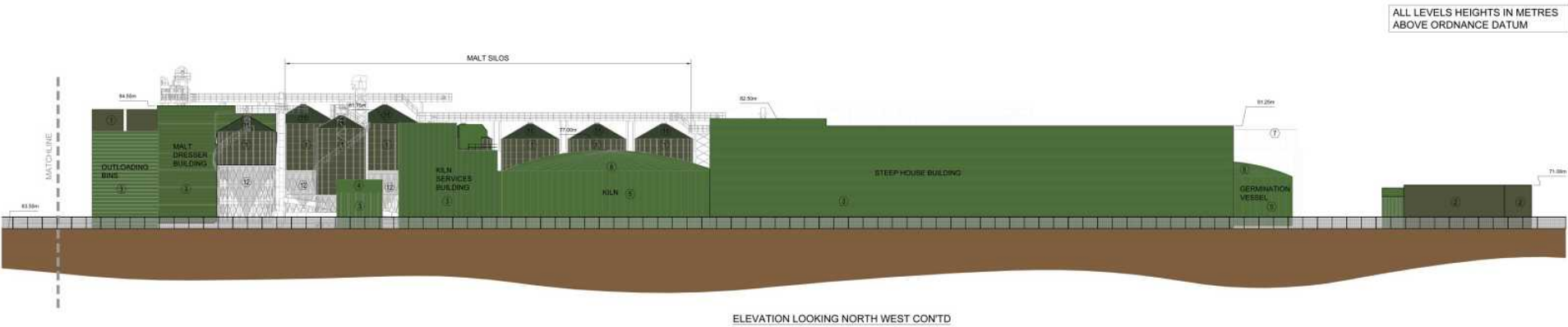
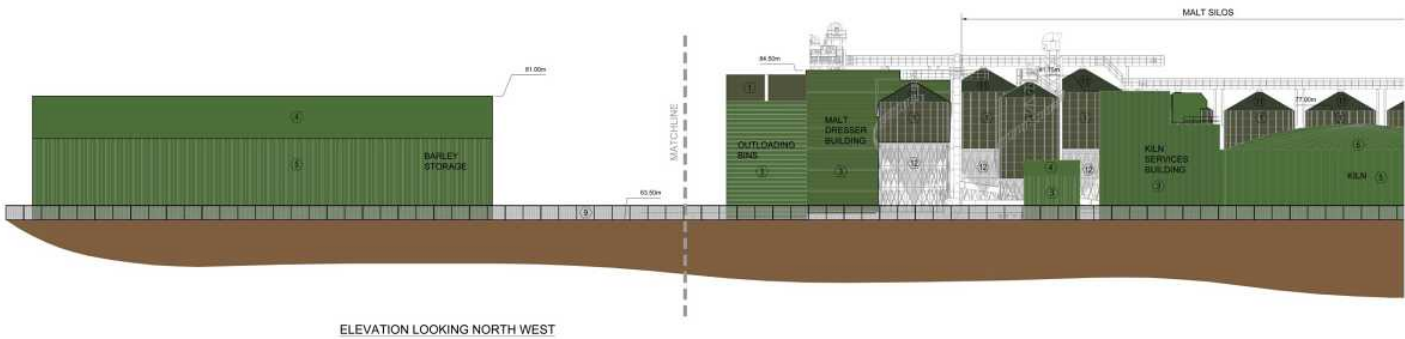
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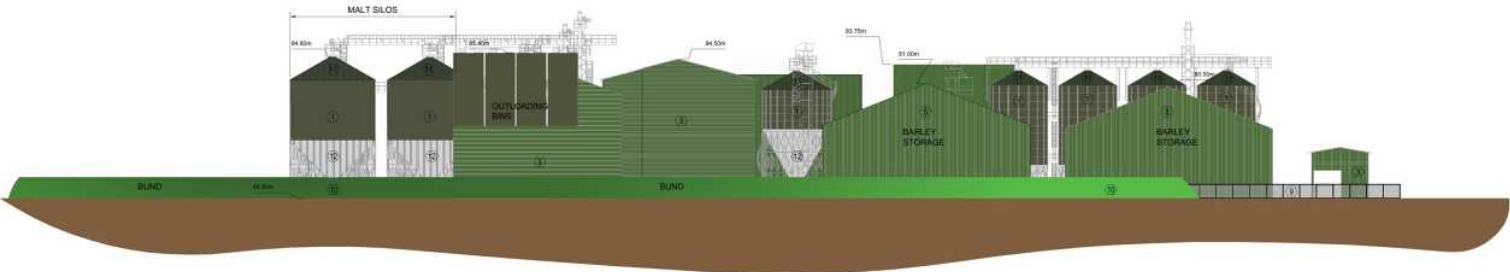
Site layout



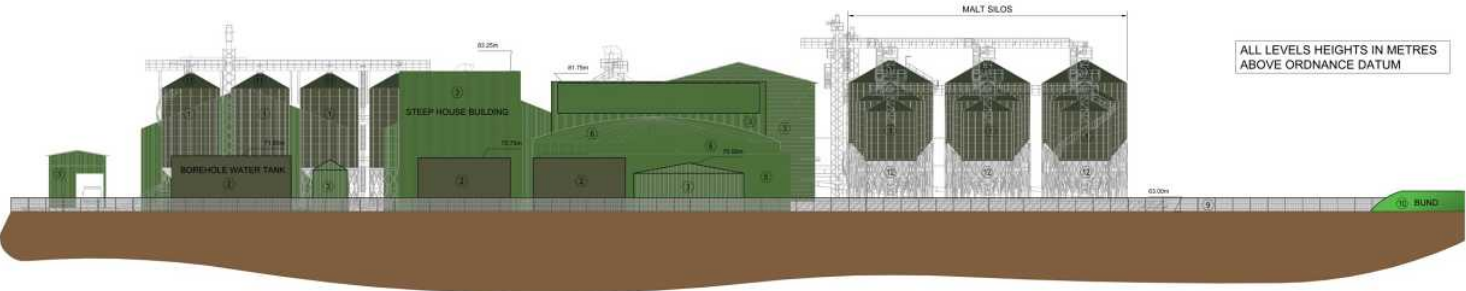
Site elevations



Site elevations



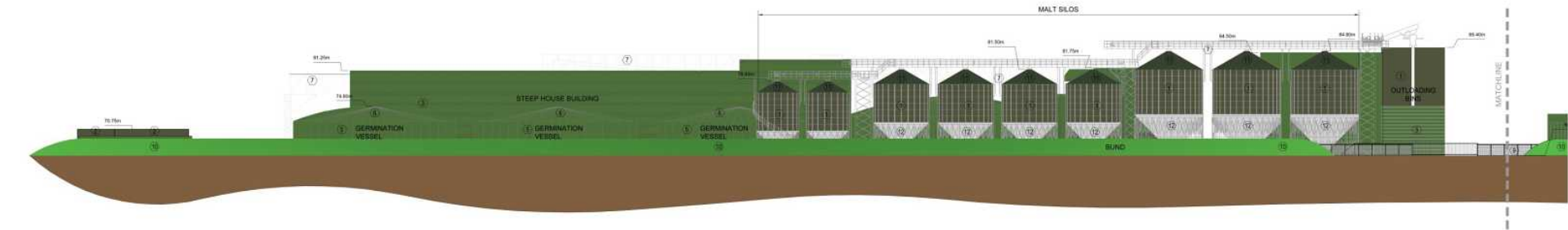
ELEVATION LOOKING NORTH EAST



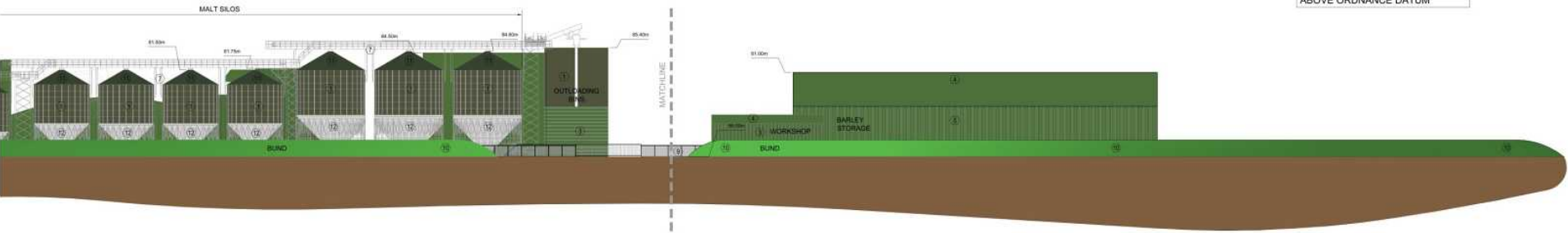
ALL LEVELS HEIGHTS IN METRES
ABOVE ORDNANCE DATUM

ELEVATION LOOKING SOUTH WEST

Site elevations



ELEVATION LOOKING SOUTH EAST



ALL LEVELS HEIGHTS IN METRES
ABOVE ORDNANCE DATUM

ELEVATION LOOKING SOUTH EAST CONT'D

View north east from B9015



View south west from Crofts farm



PLANNING APPLICATION: 23/01227/AMC

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

1. THE PROPOSAL

- Approval of matters specified in conditions attached to Planning Permission in Principle 21/01901/EIA for the erection of an 85,000 tonnes per annum malt production facility on land at Greens of Rothes, Rothes.
- Planning permission in principle 21/01901/EIA was granted in February 2023, and this application covers the detail that was required by that consent.
- All conditions have been applied for - insofar as they require information to be submitted - and the following information has been provided (with respective condition(s) in brackets):
 - Siting, design and external appearance of buildings, plant and other structures, as well as finished levels of structures (conditions 3 – 4, 7 & 9).
 - Means of access, parking, drainage (conditions 3 & 5), enclosure/bunds (conditions 3 & 6) and landscaping (conditions 3 & 8) and pedestrian connection (condition 25).
 - Supporting technical reports/plans/surveys:
 - Phasing Plan (condition 10)
 - Waste Management Plan (condition 11)
 - Decarbonisation Strategy (condition 12)
 - Biodiversity Mitigation and Enhancement (condition 13)
 - Construction Environment Management Plan (condition 15)
 - Light Impact Assessment (condition 18)
 - Noise Impact Assessment (condition 21)
 - Operational Noise Management Plan (condition 22)
 - Archaeological Written Scheme of Investigation (condition 24)
 - Change to speed limit(s) (condition 27)
 - Construction Traffic Management Plan (condition 28)
 - Parking Assessment (condition 29)
- The maltings would comprise a variety of buildings as follows:
 - Heat Exchanger Building – 13 x 9.5 metres gable roofed, 5 metres high and finished in green sheet metal cladding to walls and roof with roller shutter door.
 - Barley Intake Canopy – 8 x 1.9 metres with pitched gable roof and finished in green sheet metal cladding to walls and roof.
 - Kiln Services Building – Process area with switchrooms housed within a 31 x 17 metres rectangular form, two stepped flat roofed building reaching a height of 17.8 metres that would be finished in green sheet metal cladding to the walls. This would be attached to a circular building housing the kiln, with a diameter of 36.4 metres, with

- a domed roof 13.2 metres in height. This would be finished in green sheet metal cladding.
- Membrane Building – 16 x 20 metres gable roofed with shallow pitch, 7 metres high and finished in green sheet metal cladding to walls and roof with roller garage door.
- Malt Dresser Building – 22 x 21.75 metres gable roof with shallow pitch, 20.5 metres high and finished in green sheet metal cladding to walls and roof with two roller shutter doors.
- Steep House Building - 90.5 x 17.5 metres rectangular form two stepped flat roofed building reaching a height of 18.7 metres on the higher section, 16.3 metres on the lower section. This would be finished in green sheet metal cladding to the walls and roof.
- Workshop Building – 20 x 16 metres gable roof with shallow pitch, 8 metres high and finished in green sheet metal cladding to walls and roof with two roller shutter doors.
- Outloading Bins (drive-through loading for grain lorries) – 25 x 9.8 metres, 20.9 metres high. The structure would house square format grain silos atop it. The main bulk of the structure would be clad in green sheet metal cladding the same as most of the other buildings on the site, whilst the silos would be finished in a darker green. There would be four roller shutter doors on the buildings (providing two lanes for HGV loading, one door in and one door out for each lane).
- 2 x Barley Storage Buildings – 65 x 30 metres gable roofed buildings, 16 metres high. They would be finished with green sheet metal cladding to the walls and roof with one roller shutter door each.
- Borehole Pumping Station – 5 x 7 metres gable roofed building, 5 metres high and finished in green sheet metal cladding to walls and roof.
- Tanks and silos would comprise the following:
 - Borehole Water Tank – octagonal footprint, 17.3 metres wide, 8 metres high.
 - 3 x Germination Vessels – circular vessels with a diameter of 29 metres and a domed roof 11 metres in height. This would be finished in green sheet metal cladding.
 - Thermal Store and Water Tank – both with a diameter of 12 metres, the thermal store would be 14.2 metres high and the water tank 8 metres high. Both would be finished in dark green cladding.
 - The Malt Silo Complex would comprise the following mix of silos, all finished in dark green metal work to the roof and walls, with natural steel coloured metal work to the hopper, stiffer and legs. The roof and base of these silos are conical in shape.
 - 9 x 17.5 metres diameter, 21.9 metres high
 - 12 x 10 metres diameter, 18 metres high
 - 6 x 7.7 metres diameter, 15.9 metres high
 - Balance and Bio-reactor Tanks, both octagonal in footprint, 7.5 metres high and 13.2 metres wide, finished in dark green steel.
 - 4 x Barley In-take Silos, 10 metres diameter, 19.5 metres high all finished in dark green metal work to the roof and walls, with natural steel coloured metal work to the hopper, stiffer and legs. The roof and base of these silos are conical in shape.

- Areas of landscaping, including woodland planting, grass and wildflower meadow planting are proposed.
- Three metre high bunds are shown along the northern and eastern boundaries of the site, whilst the security fencing would be provided around the perimeter (to the rear of the bunds), and security gates at the vehicular and pedestrian access points.
- A new vehicular access would be formed from the B9015, with new pedestrian footway from the site to Rothes along North Street.
- Surface water would drain within the site to a SuDS pond in the north eastern corner of the site, and any overflow discharge to the Broad Burn at a controlled rate.
- Foul drainage would be treated via a septic tank on site.

2. THE SITE

- A 15.8 ha area of agricultural land at Greens of Rothes, to the north east of Rothes.
- The roughly triangular shaped site is bounded by the B9015 Rothes to Mosstodloch road to the north-west, further agricultural land to the north-east, and the Broad Burn to the south (with Rothes CoRDe, a gas distribution site and distillery warehousing beyond).
- The Broad Burn meets the River Spey to the east of the site.
- The closest residential properties are Orchard Cottage to the north west on the opposite side of the B9015, and four dwellings to the east (Thistledown Cottage, Millburn, Morar and Drumoak).
- A high pressure main gas pipeline bisects the site on a north east – south west axis, following a former railway line between Rothes and Orton.
- The site lies adjacent to the Rothes Settlement Boundary as zoned in the Moray Local Development Plan 2020 (MLDP), and lies within the Spey Valley Special Landscape Area Designation (SLA).
- The River Spey and Broad Burn are designated as part of the River Spey Special Area of Conservation (SAC), whilst the River Spey itself is also a Site of Special Scientific Interest (SSSI).
- A large part (approx. 10.9 ha) of the application sits on Prime Agricultural Land type 3.1 - land capable of producing consistently high yields of a narrow range of crops.
- Part of the eastern side of the site is identified as being at risk from flooding from the River Spey on SEPA flood maps (1 in 200 and 1 in 1000 year events).

3. HISTORY

21/01901/EIA – Planning Permission in Principle granted by Planning (PPiP) and Regulatory Services Committee for erection of a 100,000 tonnes per annum malt production facility on land at Greens of Rothes on 16 February 2023. Application was granted following a statutory pre-determination hearing held on 15 February 2023.

20/01207/SCN – Screening Opinion sought by Simpsons Malt Limited for a

proposed 100,000 tonnes per annum malt production facility on land at Greens of Rothes. Moray Council adopted a Screening Opinion on 9 October 2020 stating the proposal would require to be subject to Environmental Impact Assessment.

21/00284/SCO – Scoping Opinion sought by Simpsons Malt Limited for a proposed 100,000 tonnes per annum malt production facility on land at Greens of Rothes following adoption of Screening Opinion 20/01207/SCN. The Scoping Opinion was adopted by Moray Council on 13 April 2021 and detailed the scope of information and assessment required to form an EIAR.

21/00740/PAN – Proposal of application notice (PAN) submitted by Simpsons Malt Limited for a proposed 100,000 tonnes per annum malt production facility on land at Greens of Rothes. The PAN level of consultation proposed was considered suitable by Moray Council on 3 June 2021. The PAN was reported to the Planning and Regulatory Services Committee, where members provided feedback on the proposal.

4. POLICIES

National Planning Framework 4

Sustainable Places

Policy 1 – Tackling the climate and nature crises

Policy 2 – Climate mitigation and adaption

Policy 3 – Biodiversity

Policy 4 – Natural places

Policy 5 – Soils

Policy 6 – Forestry, woodland and trees

Policy 7 – Historic assets and places

Policy 9 – Brownfield, vacant and derelict land and empty buildings

Policy 12 – Zero waste

Policy 13 – Sustainable transport

Liveable Places

Policy 14 – Design, quality and place

Policy 22 – Flood risk and water management

Policy 23 – Health and safety

Policy 24 – Digital infrastructure

Productive Places

Policy 26 – Business and industry

Policy 29 – Rural development

Moray Local Development Plan 2020

Primary Policies

PP1 – Placemaking

PP2 – Sustainable Economic Growth

PP3 – Infrastructure and Services

Development Policies

DP1 – Development Principles

DP5 – Business and Industry

Environment Policies

EP1 – Natural Heritage Designations

EP2 – Biodiversity

EP3 – Special Landscape Areas and Landscape Character

EP5 – Open Space

EP6 – Settlement Boundaries

EP7 – Forestry, Woodlands and Trees

EP12 – Management and Enhancement of the Water Environment

EP13 – Foul Drainage

EP14 – Pollution, Contamination and Hazards

5. ADVERTISEMENTS

- 5.1 The application was advertised for neighbour notification purposes.

6. CONSULTATIONS

Strategic Planning and Development – The detailed plans submitted in compliance with Conditions 2-9 demonstrate that the heights, massing and relation to Rothes CoRDe minimises adverse landscape and visual impacts associated with development. The Landscaping Strategy further softens the appearance of the buildings.

A Decarbonisation Strategy has been submitted in accordance with Condition 12.

Following the submission of an amended Planting Strategy, Condition 13 has been satisfied by the Biodiversity Management Plan and corresponding Strategy.

Environmental Health – The information submitted in support of planning conditions 15 (Construction Environment Management Plan), 18 (Light Impact Assessment), 21 (Noise Impact Assessment) and 22 (Operational Noise Management Plan) is considered suitable.

Transportation Manager – No objections subject to conditions requiring:

- an area safeguarded for future footpath provision to the site frontage (along the B9015);
- confirmation that lowering of speed limit has been promoted;
- provision of a Construction Traffic Management Plan detailing duration of works and construction programme;
- provision of the footpath improvements between Rothes and the site and car parking; and
- provision of a visibility splay at the access to the site.

Moray Flood Risk Management – No objections.

Aberdeenshire Council Archaeology – No objections – all work outlined under condition 24 (Written Scheme of Archaeological Investigation) has been completed.

NatureScot – No objections, the Construction Environment Management Plan (submitted as part of condition 15) satisfies the mitigation measures specified in NatureScot's comments for 21/01901/EIA.

SEPA – No objections, no development or land raising is proposed within the functional flood plain as required under condition 14.

Scottish Gas Networks – No objections.

Speyside Community Council – Welcome provision of vehicle activated radar speed sign on the B9015. Biodiversity Management Plan appears to meet the requirements of NPF4.

Concerned at volume of additional traffic to be generated during construction (13,208 over 2 year period) and how will effects of this impact on pollution/air quality be assessed and addressed as this is not included in the Construction Environment Management Plan.

Spey Fishery Board – No comments received.

7. OBJECTIONS-REPRESENTATIONS

7.1 None received.

8. OBSERVATIONS

8.1 Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan, namely the adopted National Planning Framework 4 (NPF) and adopted Moray Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise.

8.2 The main planning issues are considered below:

8.3 Background

As noted above, the principle of this development has been granted under planning permission in principle 21/01901/EIA (the PPIP). Therefore the consideration of this application is restricted to the matters as follows, and the general principle of a maltings on this site is established and not under consideration here.

8.4 Although not a statutory requirement, the applicant has undertaken pre-application consultation on this application with the public, following grant of the PPIP. Their report of this is outlined in the Supporting Statement that accompanies this application.

8.5 **Appropriate Assessment - Habitats Regulation Appraisal**

In this instance, Moray Council will adopt the appraisal as modelled by NatureScot and this appropriate assessment is detailed below.

8.6 The proposed development will be located to the north/west of the River Spey and Broad Burn, part of the River Spey Special Area of Conservation (SAC) and River Spey Site of Special Scientific Interest (SSSI). The site's status means that the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended (the "Habitats Regulations") apply. Consequently, Moray Council is required to consider the effect of the proposal on the designations and their qualifying interests before it can be consented, even with a grant of PPiP in place.

8.7 These measures were required because the site is adjacent to the River Spey and the Broad Burn tributary, therefore the proposal has the potential to result in release of sediment and other pollutants into the river and burn and affect qualifying interests of the River Spey SAC and SSSI which are dependent on the water environment. There is also potential for light emissions during construction and operation to adversely affect qualifying interests of the nearby water courses. The SAC and SSSI have been selected for the River Spey's populations of Atlantic salmon, European otter, freshwater pearl mussel and sea lamprey.

8.8 The proposal is not directly connected with or necessary for the conservation management of the SAC and SSSI, hence further consideration is required. The proposal has the potential to result in release of sediment and other pollutants during construction activities and subsequent discharge of surface/foul water which may adversely affect the water environment. There is also potential for light emissions during construction and operation to adversely affect qualifying interests of the nearby water courses.

8.9 As part of the PPiP application, NatureScot advised Moray Council that the proposal is likely to have a significant effect on the interests of the SAC. Accordingly, suitable mitigation measures were required by condition attached to the PPiP to ensure the development does not adversely affect the interests of the SAC and SSSI. As a result the following information has been submitted as part of this application:

- A Construction Environment Management Plan which detailed measures to be put in place to ensure no release of sediment and other pollutants to the River Spey and Broad Burn.
- Suitable drainage arrangements for surface and foul water from the development, including pollution interceptors for surface water drainage.
- Measures to ensure light pollution from the construction process (and operation) do not impact on the qualifying interests that may be present in the river/burn.

8.10 These matters have been sufficiently addressed as part of this submission, offering suitable mitigation/pollution control measures with relevant consultees including NatureScot raising no objections to the proposal. In light of the foregoing assessment, the proposal will not adversely affect the integrity of the site; including the conservation objectives of its qualifying interests.

- 8.11 **Siting, Design and External Appearance of Development (Conditions 3 – 4, 7 & 9)**
Conditions 3, 4 and 7 all require details showing the siting, design and external appearance of all buildings, plant and structures. Condition 9 sets out that the massing and heights of the building should be in accordance with the indicative heights set out in the details approved under the PPiP. This was informed by a Landscape and Visual Impact Assessment within the EIA Report that accompanied that application.
- 8.12 MLDP Policy DP1 – Development Principles requires all development to be of a suitable scale, density and character and integrated into the surrounding landscape. NPF Policy 14 – Design states development proposals should improve the quality of an area and be consistent with the six qualities of successful places.
- 8.13 The buildings, silos, structures etc. shown in the submitted plans are generally in accordance with these heights (aside from some minor deviations, notably the tallest element being 21 metres in height rather than 20 metres). However the overall scale and appearance of the development is in keeping with that indicatively shown and approved as part of the PPiP. The applicant has considered public feedback in formulating this proposal and has finished all structures in green in light of this. Their appearance is typical of such structures found at maltings elsewhere. However as noted under the PPiP the landscape impact of this proposal is considered suitable and remains as such as part of these submitted details. The proposal is therefore considered suitable in terms of the respective conditions and policies in relation to the siting, design and external appearance of the development.
- 8.14 Temporary portacabins are shown on the submitted plans, no details of these have been provided and as such further information will be required by suspensive condition.
- 8.15 **Landscaping/Enclosures (Conditions 3, 6 & 8)**
Conditions 3, 6 and 8 require submission of a scheme of landscaping for the site that takes account of the indicative landscaping shown in the PPiP, whilst there is also a requirement for details of means of enclosure to be provided (i.e. fencing and bunds). The landscaping scheme proposed shows areas of woodland to be provided around the site, as well as a bank of woodland on agricultural land to the east of the site adjacent to the River Spey. Alongside specimen tree planting (3 metres in height), there would be over 15,000 trees planted as part of this proposed landscaping scheme. Areas of woodland planting would also be under-seeded with woodland wildflower planting.
- 8.16 Hedgerows are shown along the southern boundary of the site and areas of wildflower meadow planting are proposed in the west of the site. Within the operational areas of the site, mown grass with semi-mature specimen trees are proposed. The SuDS pond required for surface water drainage will be planted with aquatic planting, and a wet wildflower mix and terrestrial margin planting around it.

- 8.17 Planting would be incorporated into bunds that are shown on the plans along the boundary of the site to the north west (along the B9015) and south west of the site. 2.4 metre high security fencing would be placed around the site, though this will be positioned to the rear of bunds and set against landscaping elsewhere to minimise its visual prominence.
- 8.18 Overall the landscaping and means of enclosure proposed will go some way to soften the visual impact of this development as it matures, and will provide biodiversity enhancement (as discussed below). It will be provided in accordance with the phasing plan submitted (covered below) as part of the first phase of the development. In light of this the proposal is considered to meet with the requirements of conditions 3, 6 and 8.
- 8.19 **Access and Parking (Conditions 3, 5, 25, 27, 28, 29)**
These conditions relate to access and parking arrangements (conditions 3, 5 and 29), as well as provision of pedestrian linkages to Rothes (condition 25), lowering of speed limits on the B9015 (condition 27), provision of a Construction Traffic Management Plan (condition 28), and a parking assessment (condition 29).
- 8.20 Access arrangements including options for provision of a footpath between the maltings and Rothes (along North Street) were shown as part of the PPiP application. This proposal shows the access arrangements to the public road (B9015) in line with the details approved as part of the PPiP, however the layout of the site has incorporated an area of land along the site frontage (B9015) to be safeguarded for future footpath provision following comments from the Transportation Manager. Conditions are recommended to safeguard this area from any development and landscaping that may prejudice the provision of the footpath.
- 8.21 Parking provision (including EV charging and cycle parking) is provided on site and this has been informed by the submission of a parking assessment carried out by the applicant and as required under condition 29 of the PPiP. 36 car parking spaces are provided, including 2 accessible spaces. EV charging has been provided in 8 spaces (including 1 accessible space). Parking for three motorcycles and a secure sheltered cycle store for at least 6 cycles have also been provided.
- 8.22 Comments from the Community Council are noted in respect of construction traffic generation, these have no bearing on this application as this was considered at the PPiP stage of the application. Whilst the Transportation Manager has asked for a Traffic Management Plan detailing the duration of works including a programme of works, this relates solely to timing rather than traffic generation.
- 8.23 The Transportation Manager has not objected to the proposal, but has recommended a number of conditions ensuring timeous delivery of the infrastructure submitted, as well as safeguarding for a future pathway to the front of the site. Subject to conditions as recommended the proposal complies with conditions 3, 5, 25, 27, 28 and 29.

- 8.24 **Drainage (Conditions 3 & 5)**
Under conditions 3 and 5, details of surface water and foul water drainage must be provided. A scheme for surface water drainage (including a Drainage Impact Assessment) provided shows surface water flowing to a SuDS pond attenuation system, prior to discharge to the Broad Burn. Filter drains will be installed as part of this and where there is a risk of pollution from HGV parking areas, an interceptor will be installed to prevent pollutants such as oil from entering the surface water drainage system and subsequently the Broad Burn and River Spey.
- 8.25 Foul water will be generated onsite from the use of offices and welfare facilities. This water will be managed by a separate system to the surface and process effluent water. All such foul water on site will be treated by a private package sewage treatment plant before being discharged to a soakaway within the site.
- 8.26 The proposed drainage arrangement is suitable, with Moray Flood Risk Management raising no objections to this application. The proposal is therefore considered suitable in terms of the requirements of conditions 3 and 5.
- 8.27 **Phasing Plan (Condition 10)**
A phasing plan has been submitted to discharge condition 10. This shows the majority of the site to be built in the initial phase, including roads, drainage and landscaping and biodiversity enhancement measures. Approximately two-thirds of silos, vessels, tanks etc. associated with the maltings process would be provided initially. The remainder would be provided in the future should customer demand dictate. A single storey office building is shown on the site layout indicatively. No detail of this building has been provided and it will require consent in its own right should it be built. Overall, the proposed phasing is considered suitable, with suitable timing for infrastructure associated with this proposal (in particular landscaping and drainage). The proposed Phasing Plan therefore meets with the requirements of condition 10.
- 8.28 **Waste (Condition 11)**
As part of compliance with condition 11, a Waste Management plan submitted demonstrates the waste implication of this proposal (during operation). This plan shows how waste generation will be minimised in the first instance, with detail on how waste will be reused and recycled as part of the malting process, as required by the condition. This is shown in detail via a flow chart for the maltings process, which shows a significant level of reuse and recycling including by-products. It also identifies the end location for treatment of non-recyclable waste on site and how it will be disposed of offsite.
- 8.29 The plan identifies an area for a waste collection bay, with suitable reciprocals allowing for secure storage of segregated waste. Taking account of these considerations the proposed plan is therefore considered to be suitable in terms of condition 11 and subsequently NPF Policy 12.
- 8.30 **Decarbonisation (Condition 12)**
The Decarbonisation plan submitted in support of this application notes the applicant envisions this proposal to be a net-zero development, as part of the applicant's wider corporate goal of achieving net-zero carbon emissions by 2030. As noted as part of the PPIp application, heat and power will be sourced

from the adjacent Rothes CoRDe plant, by harnessing what is presently excess heat discharged to the atmosphere. At least 90% of calendar year will see heat and power for the maltings provided via the biomass boiler at CoRDe (the remaining time the plant is shut down for maintenance etc. with heat generated by gas boilers at CoRDe). To offset this process, the applicant intends on acquiring REGOs and RGGOs for these (certification confirming electricity or gas from the national grid is from renewable sources). The Council's Climate Change Officer has reviewed this submission and has no objections to the submitted Decarbonisation Plan. The proposal therefore meets with the terms of condition 12 (and NPF Policy 25).

8.31 Biodiversity Mitigation and Enhancement (Condition 13)

Condition 13 of the PPiP requires the development to provide biodiversity enhancement and mitigation in accordance with the approved EIA Report as part of the PPiP. The submitted details show a significant level of landscaping proposed (as outlined above), as well as provision of Kestrel boxes, a bee bank, badger gates and amphibian habitats on site. In addition, mitigation is recommended to ensure breeding birds and badgers are not adversely impacted by this proposal. The proposal is therefore suitable in terms of the requirements of condition 13, as well as NPF Policy 2 and MLDP Policies EP1 and EP2.

8.32 Construction Environment Management Plan (Condition 15)

A Construction Environment Management Plan (CEMP) has been submitted as part of condition 15 of the PPiP. This covers measures to minimise and mitigate noise, vibration, waste, dust and light generated as part of the construction process, as well as measures to ensure ecology, water courses, soils, trees and gas pipelines are protected. The submitted measures are considered suitable subject to their implementation, with consultees (Environmental Health, Moray Flood Risk Management, NatureScot and Scottish Gas Networks) raising no objections to the submitted information. The proposal is therefore considered to satisfy the requirements of condition 15.

8.33 Light Impact Assessment (Condition 18)

A Light Impact Assessment submitted as part of condition 18 outlines the design approach for lighting at the proposed maltings, as well as mitigation measures to minimise light pollution by using light where and when necessary as part of the safe operation of the maltings. The Environmental Health service has not objected to this assessment. The proposal therefore meets with the requirements of condition 18.

8.34 Noise (Conditions 21 & 22)

A Noise Impact Assessment submitted as part of condition 21. This identifies the nearest noise sensitive receptors to the proposed development as well as noise sources from the proposed development. It suggests mitigation to bring noise levels to an acceptable level, in addition to those measures required by the NIA approved at the PPiP stage as part of the EIA Report.

8.35 Condition 22 of the PPiP required submission of a Noise Management Plan for the operation of the proposed maltings. This identifies processes and procedures for dealing with noise at the maltings, including monitoring, staff

and contractor awareness and details of how complaints from the public will be handled.

8.36 The Environmental Health service has not objected to these reports. Subject to conditions ensuring the development proceeds in accordance with the recommendations of the reports, this application satisfies the requirements of conditions 21 and 22.

8.37 **Archaeology (Condition 24)**

A written scheme of investigation and archaeological works have been submitted as per the requirement of condition 24 of the PPIp. The Regional Archaeologist has not objected to this, noting the survey works required as part of this condition have been undertaken in agreement with Aberdeenshire Council Archaeology. The submitted information is therefore considered suitable in terms of the requirement of condition 24.

Conclusion and Recommendation

The principle of the Maltings has been established under the grant of the PPIp by this Committee in February 2023. The siting and design of the proposed buildings and plant, as well as landscaping, are suitable and in broad accordance with the indicative plans approved as part of the PPIp consent. Submissions covering a variety of technical matters relating to roads, drainage, ecology, archaeology, noise, lighting, waste, decarbonisation and construction practices are also suitable, with relevant consultees raising no objections. Accordingly, this proposal meets with the terms of the relevant conditions attached to the PPIp and the provisions of the Development Plan (i.e. National Planning Framework 4 and the Moray Local Development Plan 2020) and approval is recommended.

REASON(S) FOR DECISION

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

The submitted information satisfies the matters specified in relevant conditions attached to Planning Permission in Principle 21/01901/EIA and is in accordance with relevant policies of National Planning Framework 4 and the Moray Local Development Plan 2020.

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Ext: 01343 563274

**Beverly Smith
Development Management & Building Standards Manager**

WARD 04_17

23/01906/APP
19th December 2023

**Domestic extension at 37 Beils Brae Urquhart Elgin
 Moray
 for Mr Neal MacPherson**

Comments:

- Application is being reported to the Committee as it's submitted by an Officer that is involved in the statutory planning process.
- No representations have been received.

Procedure:

- None.

Recommendation

- Grant planning permission subject to the following conditions:

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. Two existing car parking spaces shall be retained within the site throughout 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 residents/visitors/others in the interests of an acceptable development and road safety.

3. No development shall commence until the tree protection measures detailed in submitted Tree Protection Plan have been implemented in full. For the avoidance of doubt the tree protection barrier should comply with BS5837:2012.

Reason: In order to ensure adequate measures to protect retained trees are in place.

Reason(s) for Decision

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

The proposal accords with the relevant provisions of the National Planning Framework 4 and Moray Local Development Plan 2020 and there are no material considerations that indicate otherwise.

List of Informatives:

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

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

During construction work the applicant and/or the developer should remain vigilant for signs of bats, if they come across any bats or any signs of bats, all work in that area must cease immediately and Scottish Natural Heritage must be contacted for further advice.

It should be noted that as bats are a European Protected Species, as listed in the Conservation (Natural Habitats &c.) Regulations 1994 it is illegal to:

- Deliberately kill, injure, disturb or capture/take European Protected Species of animal.
- Damage or destroy the breeding sites or resting places of such animals.

Furthermore, where it is proposed to carry out works that will affect a European Protected Species or their shelter/breeding places, whether or not they are present, a licence is required from the appropriate licensing authority.

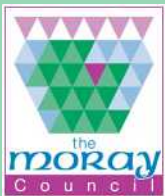
THE TRANSPORTATION MANAGER, has commented that:-

Planning consent does not carry with it the right to carry out works within the public road boundary.

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.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
023-1	Location plan
023-2	Site plan
023-4	Proposed floor plans
023-5	Proposed elevations
023-6	Proposed elevations
	Tree Protection Plan



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number: 23/01906/APP

Site Address:

37 Beils Brae
Urquhart
Elgin
Moray
IV30 8XQ

Applicant Name:

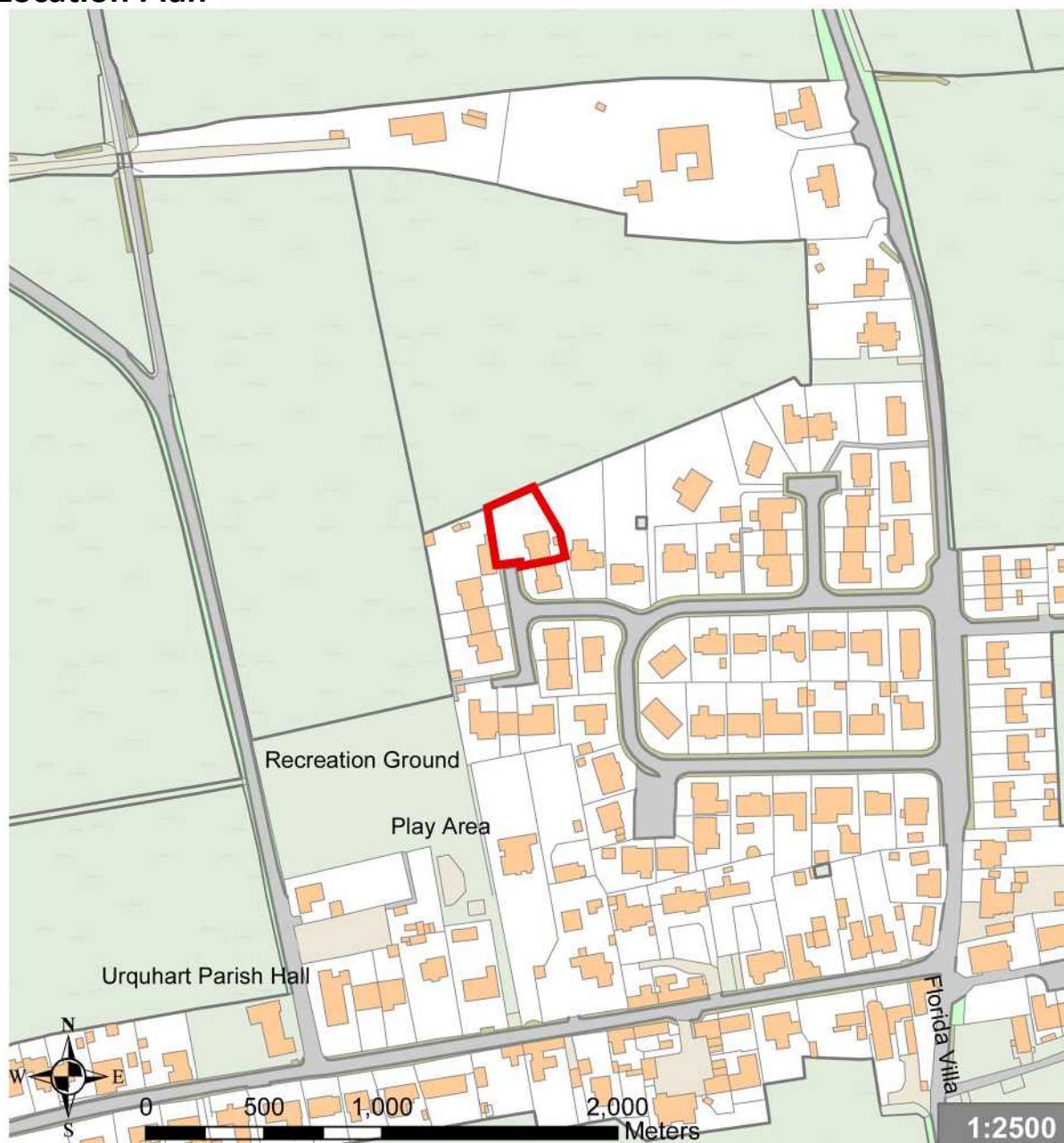
Mr Neal MacPherson

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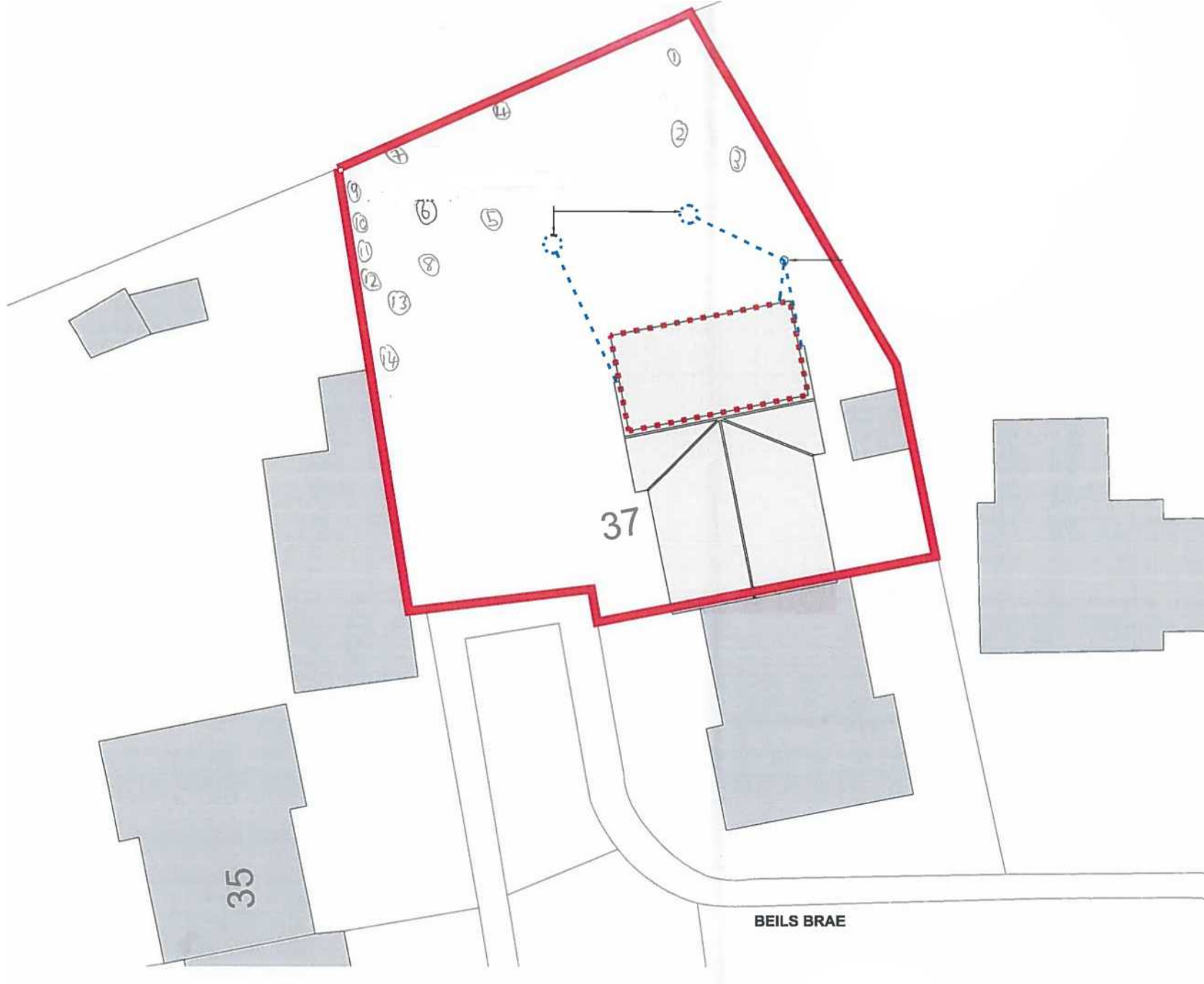
Location Plan



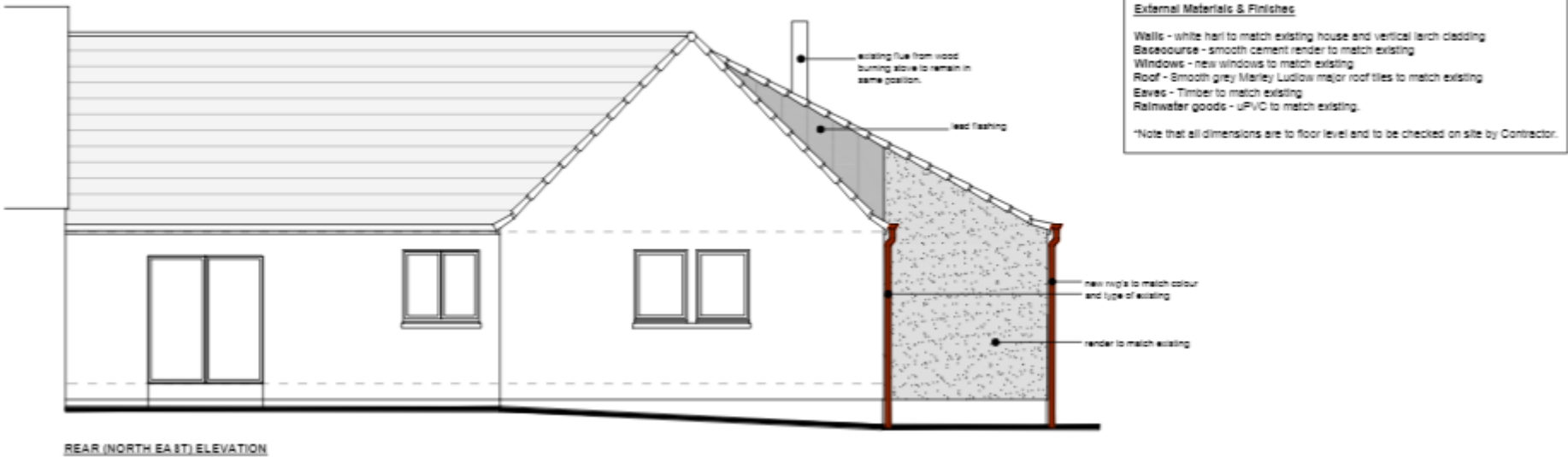
Site Location



Site Plan



NE elevation



SW and NW elevations



Photo location plan



Scale: 1:542 @ A4



Photo 1



Photo 2



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

1. THE PROPOSAL

- Planning permission is sought in this case for the erection of a single storey extension to the rear of 37 Beils Brae, Urquhart.
- The proposed extension would project from the north elevation and have a footprint of 26 sqm. It would comprise a music room accessed via the existing living room and an extension to an existing bedroom which includes additional floor space, a wardrobe and en-suite.
- Proposed external material finishes comprise harl and smooth grey Marley Ludlow roof tiles (on a pitched roof) both to match existing.
- Two new surface water soakaways are proposed to the north of the extension.

2. THE SITE

- 37 Beils Brae is located in a residential area within the village of Urquhart.
- The site is bounded to the east, west and south by neighbouring dwellings. An agricultural field lies to the north beyond the rear garden.
- The northern part of the site is covered by the ENV2 Beils Brae 'Amenity Greenspace' designation as identified in the Moray Local Development Plan 2020 and a Tree Preservation Order.

3. HISTORY

3.1 None.

4. POLICIES

Sustainable Places

Policy 1- Tackling the Climate and Nature Crises

Policy 2 - Climate mitigation and adaptation

Policy 3 – Biodiversity

Policy 4 – Natural places

Policy 6 – Forestry, Woodland and Trees

Liveable Places

Policy 16 - Quality homes

Policy 22 – Flood risk and water management

Moray Local Development Plan 2020

Development Policies

DP1 – Development Principles

Environment Policies

EP1 - Natural Heritage Designations

EP5 – Open Space

EP7 – Forestry, Woodlands and Trees

ENV2 - Beils Brae, Urguhart

5. ADVERTISEMENTS

5.1 None.

6. CONSULTATIONS

Contaminated Land – No objection.

Environmental Health - No objection.

Transportation – No objection, subject to condition regarding parking provision.

Moray Flood Risk Management – No objection.

7. OBJECTIONS-REPRESENTATIONS

7.1 None.

8. OBSERVATIONS

8.1 Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan, namely the adopted National Planning Framework 4 and adopted Moray Local Development Plan 2020 (MLDP), unless material considerations indicate otherwise.

8.2 The main planning considerations are detailed below:-

8.3 **Siting and Design (NPF4 Policy 16; MLDP Policy DP1, EP5 and ENV2 Beils Brae)**

NPF4 Policy 16 states that householder development proposals will be supported where they do not have a detrimental impact on the character or environmental quality of the home and surrounding area in terms of size, design and materials and do not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing or overlooking.

- 8.4 Moray Local Development Plan 2020 Policy DP1 Development Principles requires the scale, density, and character of development to be appropriate to the surrounding area, be integrated into the surrounding area, conserve and enhance the natural and built environment, and not adversely impact upon neighbouring properties in terms of privacy, daylight, or overbearing loss of amenity. Policy EP5 seeks to safeguard designated open space from development that is not related to its current use.
- 8.5 The proposed single storey pitched roof extension is in scale and keeping with the property and surrounding area. The external materials proposed are acceptable and will allow for the extension to integrate with the existing dwelling. The design and positioning of the proposed extension will have no adverse impact on the amenity of neighbouring properties within terms of privacy, overshadowing or loss of daylight.
- 8.6 The position of the proposed extension lies outwith the ENV2 designation.
- 8.7 Drawing from the above considerations the proposals comply with Policies NPF4 Policy 16 and MLDP Policies DP1 and EP5.
- 8.8 **Trees (NPF4 Policy 6; MLDP Policy EP7)**
NPF4 Policy 6 and MLDP Policy EP7 seek together to protect woodland and trees.
- 8.9 The northern part of the site is covered by a Tree Preservation Order (TPO). The position of the proposed extension lies outwith the TPO area, and the proposed surface water soakaways within the TPO.
- 8.10 There are a number of trees located within the garden of 37 Beils Brae and these include Beech, Silver Birch, Sycamore, Holly and Leylandii. The applicant has submitted a tree protection plan (and supporting information) which details the location of the trees and protection measures (heras fencing) to be employed during works. The plan shows that the trees are all a sufficient distance from the extension and proposed drainage and therefore will not be impacted as a result of the proposal. With this in mind the proposal accords with policies 6 and EP7.
- 8.11 **Protected Species (NPF4 Policy 3; MLDP Policy EP1)**
NPF4 Policy 4 Natural Places and Policy EP1 (d) European Protected Species requires that for any development where a protected species has the likelihood to be present, a survey will be required to accompany the application to ensure there will be no adverse impact on the species.
- 8.12 The applicant has submitted information and accompanying photographs which confirms that they have found no evidence of bats past or present using their property. On this basis the proposal will not impact bats and the policies are met.
- 8.13 **Climate Change and Biodiversity (NPF4 Policies 1, 2 & 3)**
The proposal is for a modest domestic extension on an existing property and will result in minimal impact in terms of climate change. As such, the NPF4 Policies 1 Tackling the Climate and Nature Crisis and 2 Climate Mitigation and

Adaptation do not hold significant consideration for this application. Similarly, biodiversity enhancement would not be commensurate with the scale and nature of this development and as such would not deviate from policy 3.

REASON(S) FOR DECISION

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

The proposal accords with the relevant provisions of the National Planning Framework 4 and Moray Local Development Plan 2020 and there are no material considerations that indicate otherwise.

Author/Contact

Emma Mitchell

Ext: 01343 563326

Officer:

Planning Officer

Beverly Smith

Development Management & Building Standards Manager



**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON
19 DECEMBER 2023**

**SUBJECT: 23/02061/PAN – PROPOSED RESIDENTIAL DEVELOPMENT
(MAX. 180 UNITS) AND STUDENT ACCOMMODATION (APPROX.
40 BEDS) INCLUDING ASSOCIATED FACILITIES,
LANDSCAPING, INFRASTRUCTURE, ROADS AND DRAINAGE
AT DALLAS DHU (MLDP2020 R6), MANNACHIE ROAD, FORRES**

**BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND
FINANCE)**

1. REASON FOR REPORT

- 1.1 To inform the Committee that a Proposal of Application Notice (PAN) was submitted on 21 November 2023 on behalf of Moray Council
- 1.2 This report is submitted to Committee in terms of Section III (E) (1) of the Council's Scheme of Administration relating to exercising the statutory functions of the Council as a Planning Authority.

2. RECOMMENDATION

2.1 It is recommended that:

- (i) in noting the terms of this report, the Committee advise upon any provisional views/relevant issues that Members of this Committee (or any other Member(s) of the Council) wish to raise about the proposed development so that these matters can be recorded and thereafter fed back to the prospective applicant in order to inform the development of their proposed formal application for planning permission; and
- (ii) the matters raised by the Committee also be forwarded to consultees likely to be involved in any formal application for planning permission for the proposal.

3. **BACKGROUND**

- 3.1 Scottish Government has published guidance which encourages elected members to highlight any issues with a proposed development at the pre-application stage which they would wish to see taken into account within any formal application for planning permission.
- 3.2 Following consideration by this Committee on 11 November 2014 it was agreed that any PAN received after this date would be reported to Committee to give Members of the Committee, and the Council, the opportunity to identify any key issues/provisional views about the proposed development and that these matters be reported back to applicant (paragraph 4 of the Minute refers).
- 3.3 This current report is not about the merits of the proposed development but rather, based on local knowledge of local issues and wider concerns, etc. Members are invited to identify any matters relevant to the proposal. These will be reported back to the prospective applicant for their information and attention, and to inform the development of the proposed application. It is also proposed that, for information, Members' comments be forwarded to consultees likely to be involved in any formal application for planning permission for the proposal.
- 3.4 As described, this PAN relates to a proposal for a residential development for a maximum of 180 units and student accommodation (approx. 40 bedspaces) with associated facilities, landscaping, infrastructure and drainage. The proposal is a project that forms part of the Moray Growth Deal (Housing Mix Delivery). This site was subject to a previous PAN (ref. 23/01021/PAN) with a similar description but this did not include student accommodation. That PAN was reported to Members of this Committee at its meeting of 15 August 2023, with Members asking that the Developer considers:
- access concerns - access of A940 busy and access into Dallas Dhu is tight;
 - impact of increased traffic caused by the development on Mannachie Road - need to monitor traffic volumes and put in any necessary safety measures;
 - the creation of a cycle path on Mannachie Road;
 - the possible impact on nearby rural roads being used as short cuts - in particular the link to the B9010 Dallas/Rafford road; and
 - how any crossing of the Dava Way is addressed.
- 3.5 The site is located to the south of Forres, on a site designated for housing in the Moray Local Development Plan (R6 – Dallas Dhu). It is to the east of Mannachie Road, with Dallas Dhu distillery to the south. **Appendix 1** shows the location and extent of the proposal.
- 3.6 Planning permission is required for this proposal. Relative to the current Hierarchy Regulations and the development is in excess of 50 residential units, the proposal would comprise a major development for planning purposes. As such, the proposal will be subject to PAN and pre-application consultation procedures with the local community. The applicant has used the

Council's pre-application advice service to assist in identifying key issues and information that would be expected to accompany any formal application.

- 3.7 A formal response has been issued to the applicant's agent to confirm that the proposed arrangements for engaging with the local community are sufficient. The applicant proposes to consult with Forres and Finnerne Community Councils, local councillors, MSPs and MP. In this case the applicant's agent has been advised that no additional parties require to be notified with a copy of the PAN other than two MSPs who were missed off the list submitted.
- 3.8 The PAN advises that two public events will be held in Forres Town Hall in January and February 2024 (date TBC). The events require to be advertised locally in advance and allow an opportunity for feedback upon the proposal. For validation purposes for a major application, the applicant is required to submit a pre-application consultation report setting out the steps taken to consult with the local community together with details of comments made on the proposal and how the applicant has responded to all comments made on the proposal in the development of the application.

4. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

Identifying key issues at an early stage to assist with front loading major planning applications is a vital aspect of supporting and facilitating the Council's priority for economic development in Moray.

(b) Policy and Legal

Scottish Government guidance on the role of councillors in pre-application procedures affords elected members the opportunity to offer general provisional views on forthcoming developments which are the subject of a PAN where the details of the development have yet to be finalised.

(c) Financial implications

None.

(d) Risk Implications

None.

(e) Staffing Implications

None.

(f) Property

None.

(g) Equalities/Socio Economic Impact

None.

(h) Climate Change and Biodiversity Impacts

None.

(i) Consultations

Depute Chief Executive (Economy, Environment and Finance), the Head of Economic Growth and Development, the Legal Services Manager, the Development Management and Building Standards Manager, the Equal Opportunities Officer, the Strategic Planning & Delivery Manager, and Lissa Rowan (Committee Services Officer) have been consulted, and comments received have been incorporated into the report.

Members of Moray Council who are not on this Committee have also been consulted and any views received on the proposal will be made known at the meeting

5. CONCLUSION

- 5.1 The Council has received a PAN intimating that a formal application for planning permission will be submitted for a major development proposal, in this case for permission for a proposed residential development (max. 180 units) and student accommodation (approx. 40 beds) including associated facilities, landscaping, infrastructure, roads and drainage. The Committee (and any other Member(s) of the Council) are asked to identify any provisional views/relevant issues which they would wish to see taken into account and inform the development of the proposal.**

Author of Report: Andrew Miller, Senior Planning Officer
Background Papers:
Ref:



COMMITTEE SITE PLAN

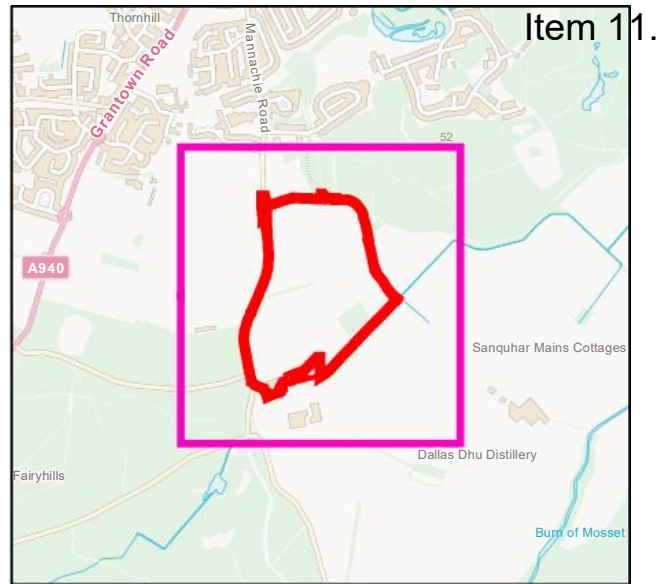
FORRES

Application Reference Number:

23/02061/PAN

Proposed residential development of a maximum of 180 units and approximately 40 bedspaces of student accommodation including associated facilities landscaping infrastructure roads and drainage at R6 Dallas Dhu Forres

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**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON
19 DECEMBER 2023**

SUBJECT: PLANNING PERFORMANCE FRAMEWORK 2022/23

**BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND
FINANCE)**

1. REASON FOR REPORT

- 1.1 To inform the Committee that the Planning Performance Framework (PPF) for 2022/23 was submitted to the Scottish Government (SG) on 27 July 2023, covering the period from 1 April 2022 to 31 March 2023. This report provides a summary of feedback received from the Scottish Government dated 20 October 2023 with specific reference to the Performance Markers Report and Red, Amber, Green (RAG) ratings for the 2022/2023 submission.
- 1.2 This report is submitted to Committee in terms of Section III E (1) of the Council's Scheme of Administration relating to exercising the statutory functions of the Council as Planning Authority.

2. RECOMMENDATION

2.1 It is recommended that the Committee:-

- (i) **note the Planning Performance Framework submitted to the Scottish Government on 27 July 2023 (Appendix 1);**
- (ii) **note the feedback report received from the Scottish Government on 20 October 2023 (Appendix 2);**
- (iii) **authorise the Head of Economic Growth and Development to submit the Planning Performance Framework for 2023/2024 to the Scottish Government by the end of July 2024 (or any other date that may be set);**
- (iv) **note that the Planning Performance Framework will be reported to the first available Planning and Regulatory Services Committee following receipt of the feedback; and**
- (v) **note the Planning Performance Framework 2022/23 will be circulated to all developers, stakeholders and internal services**

**seeking comment/feedback to assist with continuous
improvement to be fed back into the PPF for 2023/2024**

3. BACKGROUND

- 3.1 The Council has prepared PPF reports for over ten years since the PPF was first introduced with the latest one covering 2022/23 submitted in July 2023. The main purpose of the PPF is to provide Ministers, Councils and the public with a better understanding of how a planning authority is performing and delivering high quality development on the ground.
- 3.2 In 2017/18 the Council received fifteen green awards for the first time and this was followed in subsequent years with a full set of green awards.
- 3.3 The PPF submitted for 2022/23 is attached at **Appendix 1** and follows the updated template issued by the SG with a greater emphasis on the use of case studies to illustrate how key performance markers are met in Moray.
- 3.4 As part of the SG's feedback a summary of performance is included covering the last ten years (tables below). This shows how year on year the number of key markers have been changed to green as well as avoiding slipping back into red. This year two of the key markers have been awarded an amber rating.

Marker		2013 -14	2014 -15	2015 -16	2016 -17	2017 -18	2018 - 19	2019 - 20	2020 -21	2021 -22	2022 -23
1	Decision making timescales										
2	Processing arrangements										
3	Early collaboration										
4	Legal agreements										
5	Enforcement charter										
6	Continuous improvement										
7	Local development plan										
8	Development plan scheme										
9	Elected members engaged early (pre-Main Issues Report - MIR)	N/A	N/A	N/A	N/A		N/A	N/A	N/A	N/A	
10	Stakeholders engaged early (pre-MIR)	N/A	N/A	N/A	N/A		N/A	N/A	N/A	N/A	
11	Regular and proportionate advice to support applications										
12	Corporate working across services										

13	Sharing good practice, skills and knowledge										
14	Stalled sites/legacy cases										
15	Developer Contributions										

Overall Markings (total numbers for red, amber and green)

2012-13	3	6	6
2013-14	2	5	6
2014-15	1	4	8
2015-16	1	3	9
2016-17	0	1	12
2017-18	0	1	14
2018-19	0	0	13
2019-20	0	0	13
2020-21	0	0	13
2021-22	0	0	13
2022-23	0	2	13

Decision Making Timescales (weeks)

	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2022-23 Scottish Average
Major Applications	98.2	13.1	20.0	16.9	16.5	8.9	10.3	21.3	15.1	15.0	39.5
Local (Non-Householder) Applications	13.5	8.5	7.5	7.2	6.6	6.5	6.5	7.1	6.8	6.3	14.4
Householder Applications	7.1	5.8	6.3	5.7	5.3	5.3	5.7	6.7	6.2	6.2	8.9

4. FEEDBACK FROM SCOTTISH GOVERNMENT – PPF 2022/23

- 4.1 Written feedback was received on 20 October 2023 from the Minister for Local Government Empowerment and Planning to the Council's Chief Executive, enclosing a Planning Performance Feedback report on the fifteen 'Performance Markers'.

- 4.2 The letters states, “ Across the country, performance against the key markers continues to be stable and there has been little variation in the overall total of green, amber and red markings awarded this reporting period compared with previous periods. It is clear that each of you continue to put in considerable effort to ensuring our planning system continues to run efficiently. I have been particularly pleased to see there has been a marked improvement on speed of determination for major applications across some authorities. Resourcing remains a key priority, which I will continue to discuss with the High Level Group on Planning Performance, which I jointly chair with COSLA. I also have asked officials to bring different parties together to talk about resourcing in the autumn, to identify practical solutions. We need options that work for all sectors, and I think it would be beneficial to discuss a variety of issues including full cost recovery, the local setting of fees, charges for additional services and approaches that could enable authorities to access the skills and expertise at the time they require.
- 4.3 The letter finally states, “I am delighted that we have recently announced the appointment of the National Planning Improvement Champion (NPIC), Craig McLaren, who took up this new post in early September. Craig will play a pivotal role in supporting improvement and will also be looking at how we can improve the way we measure and assess the performance of the planning system in the future”.
- 4.4 The Performance Markers Report 2022/23 sets out the fifteen performance markers, each one receiving either a red, amber or a green RAG rating. Thirteen markers have been given a green rating and two an amber rating.
- 4.5 In relation to key markers three and fifteen relating to Pre-application advice and Developer Contributions the feedback states “You have not explained in your PPF how you set out clear and proportionate requests for supporting information and how Developer Contributions are set out during pre-application discussions”. This is an unfortunate outcome given that the Council’s approach to these issues is set out in adopted guidance published on the Council’s website.
- 4.6 One of the key markers relates to decision-making and the continuous reduction of average timescales for all development categories. This marker has been awarded a green status. Householder application determination rates have stayed steady at an average of 6.2 weeks where local applications (Non-householder) have dropped slightly from 6.8 weeks to 6.3 weeks. Major planning application average timescales was recorded at 15.0 weeks similar to the previous year. Major applications are important to the Moray economy and the majority are covered by processing agreements which assist in determining them timeously and continue to be the number one priority along with fast tracking development proposals in town centres. All three development types for decision-making timescales are below the Scottish average.
- 4.7 One of the other key markers worthy of highlighting relates to the Development plan scheme, which identifies that the LDP 2020 was adopted within the 5 years of the current plan adoption and within the required timescale of the scheme. Having an up to date Local Development Plan is essential to Moray’s economy. Early engagement with Members and

Stakeholders has commenced in relation to the Evidence Report for the next Local Development Plan.

- 4.8 As a National Planning Improvement Champion has now been appointed it is anticipated that the template for the Planning Performance Framework for 2023/24 will be in a revised format.

5. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

The ten year plan's top priority is a growing, diverse and sustainable economy. It covers business, employment, infrastructure, public services and developing sustainable communities. The PPF is a vital aspect of supporting and facilitating the Council's priority for economic growth and supports the Service Plan to deliver service improvements.

(b) Policy and Legal

Preparation of the PPF is a statutory responsibility for all Local Planning Authorities and preparation has to follow a strict template and timescale for submission.

(c) Financial implications

There are no direct financial implications arising from this report.

(d) Risk Implications

There is a reputational risk if this authority doesn't continue to demonstrate that continuous improvement is being made in all areas of the planning service.

(e) Staffing Implications

Officers with Development Management and Strategic Planning & Development prepare the Planning Performance Framework. The continuous improvement that is demonstrated is due to close working with other services including Legal, Transportation, Consultancy and Environmental Health.

(f) Property

None.

(g) Equalities/Socio Economic Impact

There are no equalities issues arising from this report.

(h) Consultations

Head of Economic Growth and Development, Strategic Planning and Development Manager, the Legal Services Manager, Lissa Rowan (Committee Services Officer), Equal Opportunities Officer, Paul Connor (Principal Accountant), the Senior Engineer Transportation and Environmental Health and Trading Standards Manager have been consulted and comments received have been incorporated into the report.

6. CONCLUSION

- 6.1 The Planning Performance Framework submitted to the Scottish Government for 2022/23, the associated feedback received demonstrates that decision-making timescales are below the Scottish National Average, the Moray Local Development Plan continues to be supported by up to date, and proportionate guidance as well as starting the formal review process involving extensive engagement with stakeholders and elected members.**

Author of Report:	Beverly Smith Development Management & Building Standards Manager
Background Papers: Ref:	Appendix 1 Planning Performance Framework 2022/23 Appendix 2 Feedback letter dated 20 October 2023 from Minister for Local Government Empowerment and Planning



PLANNING PERFORMANCE **12** FRAMEWORK

ANNUAL REPORT 2022 - 2023





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New development, Findrassie, Elgin

FOREWORD

As Chair of the Planning & Regulatory Services Committee, I am delighted to endorse the Planning Performance Framework 2022/23.

National Planning Framework 4 was adopted on 13 February 2023 and over the last twelve months this has added significant pressure to our planning teams in terms of responding to consultations, preparing new guidance and making decisions in accordance with a new development plan hierarchy. In this regard I have seen a significant number of major energy related developments being determined with Moray.

The fifteen case studies include a range of subjects including an update on the redevelopment of the Poundland site in Elgin town centre; delivery of affordable and private housing in Findrassie Elgin; a working group to cover the introduction of short-term lets; holding regular liaison meetings with SEPA and Moray's Flood Risk Management Team and an update on S.75 legal agreements.

There have been a number of major planning applications determined throughout 2022/23 and these include: large scale housing developments for Springfield Properties, Robertson's and Barrett/David Wilson Homes in Elgin; a new carbon zero distillery for Chivas Brothers Ltd at Milnorduff; a new sawmill at Mosstodloch for James Jones and Whisky warehousing in Portgordon for Chivas Brothers Ltd. The redevelopment of Poundland in the heart of Elgin town centre has been very much welcomed and is due to be completed in the early part of 2024.



There are a number of significant challenges ahead and I am very much looking forward to the work that is being carried on the next Moray Local Development Plan.

Councillor David Gordon
Chair of the Planning and Regulatory
Services Committee
Moray Council

Part 1

Qualitative Narrative and Case studies

Quality of Outcomes

Case Study 1 Delivering Housing Findrassie

LOCATION & DATES:

Elgin 2022/23

ELEMENTS OF A HIGH QUALITY PLANNING SERVICE THIS STUDY RELATES TO:

Quality of Outcomes

KEY MARKERS: 3, & 13**KEY AREAS OF WORK**

- Placemaking
- Affordable Housing
- Planning Applications
- Masterplanning

STAKEHOLDERS INVOLVED

- Development Management
- Transportation & Housing services

OVERVIEW: Findrassie masterplan and a planning permission in principle application was approved on a site designated for Housing in the MLDP 2020. The developer had ambitious timescales in terms of delivering housing on the ground following the delays caused by covid. A processing agreement was signed to give certainty to committee dates and regular project meetings were set up to ensure that any material planning issues were addressed quickly. A quality audit was prepared and revised plans were submitted to address a number of design issues improving the overall quality of the housing scheme specifically key buildings, materials and landscaping.

GOALS: To determine approval of matters specified in conditions applications in a timescale to meet with the developers fast delivery programme.

OUTCOMES: The delivery of high quality private and affordable housing on the ground in a short-timescale.

NAME OF KEY OFFICER

Richard Smith, Principal Planning Officer

Email: Richard.smith@moray.gov.uk



Case Study 2

Poundland Re-development – Part 2



LOCATION AND DATES:

Elgin Town centre, 2022/23

ELEMENTS OF A HIGH QUALITY PLANNING SERVICE THIS STUDY RELATES TO:

Quality of Outcomes

KEY MARKERS: 3, & 13

KEY AREAS OF WORK

- Development Management Processes
- Design
- Regeneration
- Town Centres
- Affordable Housing

STAKEHOLDERS INVOLVED:

- Development Management
- Transportation & Housing services

OVERVIEW: The rebuilding of the Italianate ashlar stone façade at 161-163 High Street commenced in June 2023 with the stonework now up to just below ground floor cornice level. This work is demonstrative of the significant benefit this key corner building is going to bring to the character on the conservation area on completion. The reinstatement of an original door location on the High Street, to bring

compliant use to the upper two floors, which will house four apartments, has been a success without impacting on the new shopfront. The apartments will be exemplar for Elgin in terms of sustainable city centre living (each apartment is highly insulated and heated by ASHPs). Whilst the apartments are compact, the high ceilings and large double glazed timber sash and case windows will make a great living environment. The First Phase of works is due for completion in the first quarter of 2024.

GOALS: To support the delivery of this planning application in the heart of Elgin town centre and to ensure planning conditions are discharged timeously.

OUTCOMES: Regeneration of an important town centre location involving the replacement of a dangerous building, delivering retail and affordable housing.

NAME OF KEY OFFICERS

Pinny Muir, Associate Partner for LDN Architects
Email: p.muir@ldn.co.uk

Richard Smith, Principal Planning Officer
Email: Richard.smith@moray.gov.uk

Case Study 3

Infill Housing, Forres

LOCATION AND DATE:

Forres, 2021/22

ELEMENTS OF A HIGH QUALITY PLANNING SERVICE THIS STUDY RELATES TO:

Governance

KEY MARKERS: 1, 2 & 3

KEY AREAS OF WORK:

- Development Management Processes
- Design

STAKEHOLDERS INVOLVED:

- Development Management

OVERVIEW: This planning application proposed two small infill dwellings on a prominent and sensitive site adjacent to a Conservation Area. The original plans proposed a design and materials that would not have been supported in this location and revised plans were negotiated to ensure the character of the street scene was protected. High Quality materials were also requested to enable the surrounding setting to be preserved. The delivery of this scheme in the heart of Forres town centre demonstrates that development management processes ensure that development is delivered in the right place whilst protecting the surrounding environment.

GOALS: During the planning application process negotiations to secure high quality development are a key goal and the submission of amended plans to address concerns are an important part of the development management process.

OUTCOMES: The delivery of a high quality development of two small infill dwellings on a site close to the town centre adjacent to a Conservation Area.

NAME OF KEY OFFICERS

Emma Mitchell, Planning Officer

Email: Emma.mitchell@moray.gov.uk



QUALITY OF SERVICE AND ENGAGEMENT

Over the last 12 months hybrid working has become the settled way of working with Planning Officers working on rota in the office and the remaining time at home. With the introduction of NPF4, it has been a challenging time ensuring that decision-making continues in a consistent manner. Short-term working groups and liaison meetings have been a valuable tool in ensuring that changes in legislation are implemented effectively. The role of Legal services in preparing and ensuring S.75 legal agreements are signed, acknowledged and registered is fundamental to issuing decisions timeously on major planning applications.

GOVERNANCE

The Planning & Regulatory Services Committee has continued to meet more regularly over the last 12 months with more special meetings being arranged to ensure that delivery of major planning applications are not delayed with scheduled meetings only occurring every two months. Committee site visits have been re-introduced and the enhanced committee packs prepared during the temporary halting of sites are to continue on a permanent basis as they are considered to add value to the committee papers.

In terms of our performance during 2022/23, our average timescales have improved for major and local developments and maintained at the same level for householders. The rates are still below the Scottish average and a significant effort has been made to ensure decision-making is carried out timeously and avoiding appeals against non-determination.



Engagement with young people - Elgin Academy winners getting their prizes from Head Teacher Mr Scott

Case Study 4

Review of Validation Standards

LOCATION AND DATES:

June 2023

ELEMENTS OF HIGH QUALITY PLANNING SERVICE THIS STUDY RELATES TO:

Governance

KEY MARKERS: 1, 3 & 12

KEY AREAS OF WORK

- Development Management Processes
- Process Improvement
- Collaborative Working

STAKEHOLDERS INVOLVED

- Development Management
- Transportation
- Flood Risk Management

OVERVIEW: Following on from the Heads of Planning validation standards being adopted in 2017 a review of Moray's validation standards was undertaken. Following the adoption of NPF4 there are a number of new policy requirements that require extra supporting information to accompany major and local applications. In addition regulations have been updated and it is becoming increasingly difficult for customers to ensure their applications are validated at the first submission. A compliance statement setting out how the proposed development complies with the relevant policies contained in NPF4, Moray Local Development Plan 2020 and associated planning guidance is essential.

GOALS: To stream line service provision, make consistent decisions on validation and to increase the number of applications that are valid on first submission.

OUTCOMES: A workshop is to be held with local agents to run through new and old policy requirements making sure that submissions are able to demonstrate compliance with the development plan.

NAME OF KEY OFFICER:

Beverly Smith, Development Management & Building Standards Manager

Email: Beverly.smith@moray.gov.uk



Case Study 5

Planning, SEPA & Flood Risk Management Monthly Liaison meetings

LOCATION AND DATES:

2022/23

ELEMENTS OF HIGH QUALITY PLANNING SERVICE THIS STUDY RELATES TO:

Governance

KEY MARKERS: 1, 3 & 12

KEY AREAS OF WORK

- Development Management Processes
- Process Improvement
- Collaborative Working

STAKEHOLDERS INVOLVED

- Development Management
- Flood Risk Management
- SEPA

OVERVIEW: Following on from Covid working practices the liaison meetings with SEPA, Flood Risk Management and Development Management Officers have continued with virtual monthly meetings. An agenda of items are circulated prior to the meeting and DM Officers are invited on a case by case basis. Senior Officers and Managers also attend which ensures decisions are made on critical issues and proportionate information is sought from applicants. This forum and way of collaborative working can be replicated with other services.

GOALS: To stream line service provision, making consistent decisions on flooding and surface water drainage issues within the Development Management process taking into account NPF4, MLDP 2020, & Adopted Supplementary Guidance.

OUTCOMES: The monthly meetings are an effective use of time and bring together key officers to discuss and agree flooding and drainage issues. This is to ensure policy requirements are complied with and that internal and external consultees work together on consultation responses avoiding confusing and conflicting advice being given to applicants.

NAME OF KEY OFFICER:

Clare Pritchett, Senior Planning Officer

Email: planning.north@sepa.org.uk

Will Burnish, Senior Engineer

Email: Will.burnish@moray.gov.uk

Case Study 6

Update on S.75 legal agreements Process

LOCATION AND DATES:

2022/23

ELEMENTS OF HIGH QUALITY PLANNING SERVICE THIS STUDY RELATES TO:

Governance

KEY MARKERS: 1, 2, 4 & 14

KEY AREAS OF WORK

- Development Management Processes
- Process Improvement

STAKEHOLDERS INVOLVED

- Legal Services
- Development Management
- Developer Obligations

OVERVIEW: S.75 legal agreements are fundamental to the Development Management process and the issuing of planning decisions. Ensuring that processes are in place and are subject of review can only go so far to ensure decision notices are issued within set timescales. Previous committee decisions with targets, processing agreements and procedures are necessary to ensure all departments are aware of their role on the process. Weekly updates are circulated to DM Case Officers, Developer Obligations Officers and the Legal Services Manager covering all cases over the statutory timescale including those subject to legal agreements. Any updates are logged keeping track of progress and where S.75 legal agreements are in terms of being subject to

modification requests, liaising with external legal teams, sending out for signing and ultimately registering in the process. Only 1 planning application waiting to be issued at the end of the 2022/23 reporting period.

GOALS: To prevent cases being stalled in the system due to S.75 legal agreements not being progressed.

OUTCOMES:

To continue to deliver planning decisions within the four month target agreed by the Planning & Regulatory Services Committee.

NAME OF KEY OFFICER:

[Aileen Scott, Legal Services Manager](#)

[Email: Aileen.scott@moray.gov.uk](mailto:Aileen.scott@moray.gov.uk)

CULTURE OF CONTINUOUS IMPROVEMENT

Training has taken place in relation to Archaeology on site during an excavation post decision, which allowed the team to see the importance of engaging input from our Archaeology team in Aberdeenshire at the pre-application advice stage. Workshops have been arranged by Building Standards on technical matters and these have been opened out to Development Management Officers which has highlighted a number of shared areas of interest. A site visit was arranged to be updated on the progress that has been made in relation to the re-development of Poundland in the centre of Elgin and enables officers to see the importance of working closely together with local architects and building standards colleagues.

The Employee Review Development programme plays an important part in identifying training opportunities and service improvements through regular review meetings and one to one sessions.

Delivering a high quality outcomes requires a team that continues to meet its Continuing Professional Development (CPD) requirements and training in-house and attending external events through teams has a high priority.

In 2023/23 Officers from the Planning service attended the following training/CPD Events:

- SEPA/Flood Risk management meetings – remote
- Leadership Forum (MC) – remote
- RTPi Chapter Events – In person/remote
- Brodies legal updates

Officers also Chaired and attended the following forums remotely:

- North of Scotland Development Plans Forum
- Heads of Planning Executive Meetings
- Heads of Planning Development Plans Sub-committee
- Heads of Planning Development Management Sub-committee
- Heads of Planning Energy Sub-committee

Archaeological Training





Case Study 7

Archaeological Training/CPD on site

LOCATION AND DATES:

March 2023/On site

ELEMENTS OF HIGH QUALITY PLANNING SERVICE THIS STUDY RELATES TO:

Governance

KEY MARKERS: 12 & 13

KEY AREAS OF WORK

- Skills Sharing
- Collaborative Working
- Archaeology

STAKEHOLDERS INVOLVED

- Aberdeenshire Archaeological Service
- Development Management

OVERVIEW: This training session was arranged by the Aberdeenshire Archaeological Services and brought together Development Management Officers, AOC Archaeology and the developer. Having the opportunity to experience a live dig across a major development site allowed Officers to see the extent of the dig, raise general awareness and increase knowledge of how an archaeological dig is progressed under the imposition of a

suspensive planning condition. In this case the pre-application process and consultation with Aberdeenshire archaeology was important to the developer in terms of timing. A significant amount of information was shared from the archaeological practice running the operation and this training will assist with understanding the importance of significant finds, the length of time development can be stalled for and also the cost to developers.

GOALS: To deliver CPD training on planning issues on site in a way that enhances understanding and importance of archaeology within the planning process.

OUTCOMES:

The training session delivered was the first time any of the Development Management team had experienced a live archaeological dig.

NAME OF KEY OFFICER:

Clare Herbett, Archaeologist

Email: Claire.herbert@aberdeenshire.gov.uk

Case Study 8

Engagement with young people

LOCATION AND DATES:

Elgin Academy 15th May 2023

ELEMENTS OF HIGH QUALITY PLANNING SERVICE THIS STUDY RELATES TO:

Quality of Service & Engagement with young people

KEY MARKERS: 6, 9, 12

KEY AREAS OF WORK

- Engagement
- Town centre regeneration
- Local Living
- Green spaces
- Carbon reduction

STAKEHOLDERS INVOLVED

- Elgin Academy pupils
- Elgin Academy teachers
- Colleagues in other Council services

OVERVIEW: This engagement session was hosted in partnership with Elgin Academy as an Interdisciplinary Learning Day based around sustainability with a focus on 20 minute neighbourhoods and town centre regeneration. In the morning all 600 first to fourth year pupils and all teaching staff attended short interactive workshops presented by council officers on topics including biodiversity and nature, climate change, community wealth building and active travel. The afternoon session put all this learning into practice when in small groups pupils were supported to redesign Elgin taking account of the principles of a 20 minute neighbourhood and come up with ideas to regenerate the town centre. In groups, pupils with additional support needs created fantastic models of their designs.

All groups gave a short presentation of their design concepts and the outputs of the day will be analysed and will inform our next place based plan.

GOALS:

To engage with Secondary school pupils on land use planning with a specific focus on town centre regeneration and 20 minute neighbourhoods.

OUTCOMES: Engagement with young people to ensure their views are taken account of the in the next Moray Local Development Plan. To understand the benefits of 20 minute neighbourhoods and identify local actions to address the climate and nature crises. To raise awareness of future careers in planning and other roles across the Council.

NAME OF KEY OFFICER:

Emma Gordon, Planning Officer

Email emma.gordon@moray.gov.uk



Case Study 9

Conservation area reviews and Conservation grant schemes

LOCATION AND DATES:

Elgin, May 2023

ELEMENTS OF HIGH QUALITY PLANNING SERVICE THIS STUDY RELATES TO:

- Conservation Areas and Listed Buildings

KEY MARKERS: 9 & 12

KEY AREAS OF WORK

- Conservation Area
- Listed Buildings

STAKEHOLDERS INVOLVED

- Local residents
- Local architects

OVERVIEW: Within Moray there are 18 Conservation Areas which have been designated on the basis that these are areas of special architectural or historic interest where it is desirable to preserve and enhance their character and appearance. While there are many different aspects that contribute to the character and appearance of a conservation area, retention of traditional windows within both listed and unlisted buildings is extremely significant.

A first phase review of Conservation Areas was commissioned as part of the review of the Local Development Plan, undertaken by LDN architects working with officers from the Council's Strategic Planning and development and Development Management sections.

At the same time as the review was progressing, the Council launched a grants scheme for window and door replacement grants totalling £65k were distributed, with a maximum grant of £15,000 per property using funding from the Place Based Investment Fund.

The success of the project will be reported to the Council's Economic Development and Infrastructure Committee in September 2023 with a view to continuing the grant scheme subject to availability of external funding.

GOALS: To review Conservation Area boundaries and ensure they remained valid for the reasons they were originally designated
To provide a grant scheme to support property owners to repair or reinstate traditional windows

OUTCOMES:

First phase Conservation area review completed.
8 grants awarded with total value of £65,000.

NAME OF KEY OFFICER:

Keith Henderson, Planning Officer
keith.henderson@moray.gov.uk



Case Study10

Town Centres Summit



LOCATION AND DATES:

May 2023, Elgin

ELEMENTS OF HIGH QUALITY PLANNING SERVICE THIS STUDY RELATES TO:

- Quality of Outcomes
- Cross sector engagement
- Regeneration

KEY MARKERS: 9, 12 & 13

KEY AREAS OF WORK

- Town centre regeneration
- Partnership working
- Conservation
- Economic Development
- Masterplanning
- Climate Change

STAKEHOLDERS INVOLVED

- Moray Chamber of Commerce
- Local Businesses
- Elgin Business Improvement District
- Community Councils
- Regeneration groups
- Highlands and Islands Enterprise
- Business Gateway

OVERVIEW: On 4th May 2023 Moray Chamber of Commerce and Moray Council jointly hosted a Town centre Summit in Elgin Town Hall which was attended by over 80 representatives from businesses, community groups and public sector gathered to discuss the future of Moray's Town centres. Speakers from Moray Council, Scotland's Towns Partnership, Midsteeple Quarter, Dumfries and Dufftown Regeneration Group presented and a number of break out workshops were held to discuss what was needed to regenerate the Centres to make them more attractive, functional and inviting places to live and visit.

A key focus was for this not to be a “one-off” event and for it to lead to more co-ordinated action through partnership working. In June 2023 the Moray Chamber of Commerce launched the Town Centre Task Force to bring together representatives from local public, private and third sectors to promote the development of a new vision for the town centre.

To support the work of the Task Force, Moray Council’s Strategic Planning and Development section are exploring the appointment of a 12 month Town Centres Officer post and exploring new grant funding opportunities to support initiatives to bring empty shops back into use and public realm projects.

GOALS:

- Improved partnership working and communication on Town Centre issues
- Town Centre regeneration

OUTCOMES:

- Increased footfall in town centres
- Reduced vacancy rates
- Better communication on town centre issues

NAME OF KEY OFFICER:

Gary Templeton, Strategic Planning and Development Manager

Email: gary.templeton@moray.gov.uk

Eily Webster, Principal Planning Officer

Email: eily.webster@moray.gov.uk



Case Study 11

Community Wealth Building guidance to support NPF4

LOCATION AND DATES:

April to June 2023

ELEMENTS OF HIGH QUALITY PLANNING SERVICE THIS STUDY RELATES TO:

- Policy Guidance
- Economic Development

KEY MARKERS: 11, 12 & 13

KEY AREAS OF WORK

- National Planning Framework 4
- Economic Development
- Development Management

STAKEHOLDERS INVOLVED

- Economic Growth and Regeneration

OVERVIEW: To support implementation of Policy 25 in NPF4 and the Council's draft Community Wealth Building Strategy, the Strategic Planning and Development section drafted guidance setting out a requirement for a Community Wealth Building Plan to be prepared for applications falling within agreed thresholds. Applicants will be required to set out how they will promote employment and skills development opportunities within the local community, how they will maximise opportunities within the local supply chain and any opportunities for community ownership of assets.

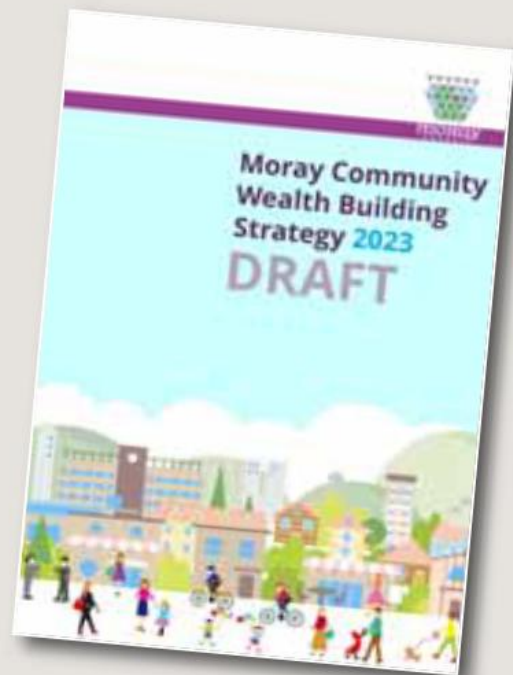
GOALS: To maximise opportunities for skills, employment and spend within the local area.

OUTCOMES: Agreed guidance to be delivered through the development management process.

NAME OF KEY OFFICER:

Gary Templeton, Strategic Planning and Development Manager

Email gary.templeton@moray.gov.uk



Case Study 12

Carbon assessment guidance to support NPF4

LOCATION AND DATES:

April to June 2023

ELEMENTS OF HIGH QUALITY PLANNING SERVICE THIS STUDY RELATES TO:

- Policy guidance
- Net Zero

KEY MARKERS: 11, 12 & 13

KEY AREAS OF WORK

- Climate Change
- Development Management
- NPF4

STAKEHOLDERS INVOLVED

- Development Management

OVERVIEW: Climate Change Officers within the Strategic Planning and Development have written carbon assessment planning guidance to support implementation of NPF4 Policy 2. The guidance was approved by the Council's Planning and Regulatory Services Committee on 30th May 2023 and became operational on 1st July.

The guidance aims to support the development management process to determine planning applications against Policy 2 of NPF4, which requires that "development proposals will be sited and designed to minimise lifecycle greenhouse gas emissions as far as possible" and "development proposals will be sited and designed to adapt to current and future risks from climate change".

The guidance applies to;

- residential developments of 10 or more units
- commercial, industrial, retail, leisure, infrastructure developments where floor space is 1,000 square metres or more
- Energy related developments of 5MW or more (including battery storage, grid infrastructure and energy production).

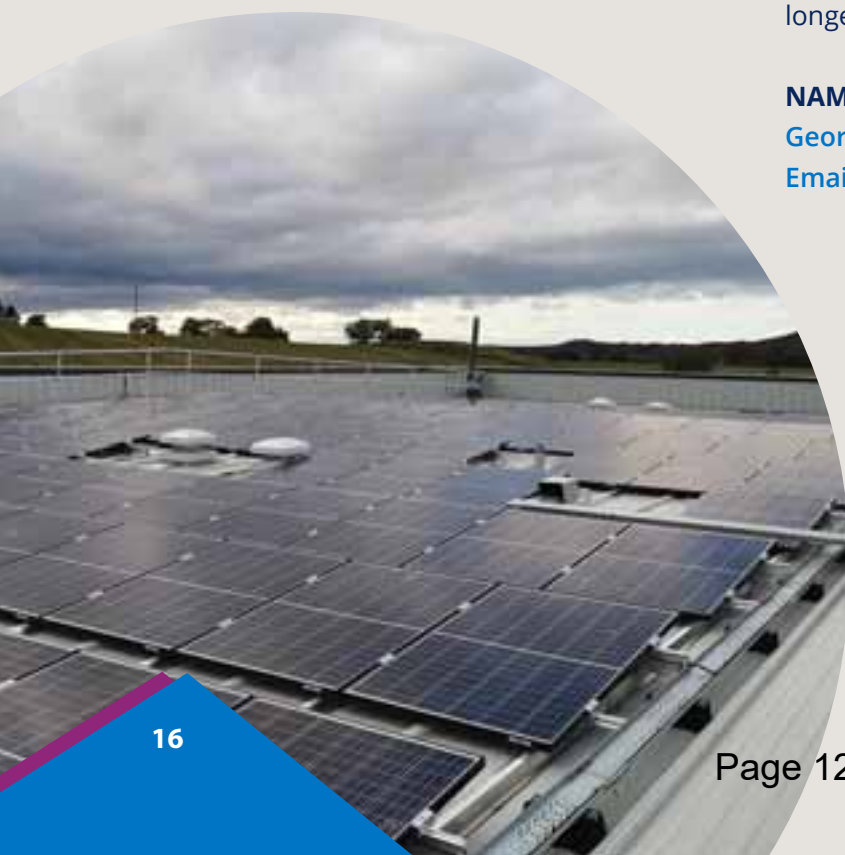
GOALS: Consistent and proportionate implementation of NPF4 Policy 2

OUTCOMES: Carbon guidance for developers, overall outcome being reduction in carbon emissions from new development and earlier consideration of carbon management and longer term monitoring.

NAME OF KEY OFFICER:

George Gunn, Climate Change Officer

Email: george.gunn@moray.gov.uk



Case Study 13

Inclusive and Accessible play area planning policy guidance

LOCATION AND DATES:

June 2022 to December 2022

ELEMENTS OF HIGH QUALITY PLANNING SERVICE THIS STUDY RELATES TO:

- Open Space
- Equalities and Inclusion
- Play Sufficiency

KEY MARKERS: 6, 9, 11 & 12

KEY AREAS OF WORK

- Open Space
- Inclusive Play Areas
- Planning Guidance
- Development Management

STAKEHOLDERS INVOLVED

- Parentable (a voluntary group of parents with children who have mental or physical health challenges)
- Open Spaces section

OVERVIEW: Policy PP1 in the Moray Local development Plan 2020 requires play areas to be inclusive, providing equipment so that the facility caters for every child/ young person regardless of ability. Policies DP1 and EP5 requires open space to be accessible for all generations and mobility including consideration of gradients and path surfaces) and provide diverse play facilities for a range of ages.



The guidance was produced to provide clarity on the requirements for the provision of inclusive and accessible play areas and establishes a consistent approach to the assessment of such. The guidance sets out minimum requirements for inclusive and wheelchair exclusive play equipment based on the park hierarchy as set out in Policy EP5 of the LDP. Clarification is also provided in respect of accessibility to and from the recreational spaces so as to avoid physical barriers to participation.

Examples are set out in the guidance which will assist in the design of play areas and established the requirement for a variety of equipment that meets the needs of different ages and abilities. Applications are required to be supported by a statement which demonstrates how the proposed play area meets requirements in respect of play equipment, types and values.

GOALS: Ensure provision of inclusive, accessible play equipment

OUTCOMES:

Clear guidance for developers to deliver more inclusive, accessible play equipment.

NAME OF KEY OFFICER:

Darren Westmacott, Planning Officer
darren.westmacott@moray.gov.uk

Emma Gordon, Planning Officer
emma.gordon@moray.gov.uk

Case Study 14

Moray Growth Deal- Dallas Dhu, Forres, moving from Masterplan to detailed design

LOCATION AND DATES:

Forres, April 2023 - ongoing

ELEMENTS OF HIGH QUALITY PLANNING SERVICE THIS STUDY RELATES TO:

- Delivery of affordable housing
- Overcoming barriers to delivery of housing
- Partnership working
- Delivery focus
- Climate Change

KEY MARKERS: 3, 9, 12, 13 & 14

KEY AREAS OF WORK

- Local Development Plan delivery
- Climate Change
- Sustainable design and construction
- Community Wealth Building

STAKEHOLDERS INVOLVED

- Altyre Estate
- Grampian Housing Association
- Local community
- Local supply chain
- Local developers/ architects

OVERVIEW: The Dallas Dhu housing development is a key first phase development within the Moray Growth Deal and is intended to be a showcase for innovative design and placemaking. The Masterplan previously featured in PPF11 and the project has now moved onto detailed design stage, with a view to a planning application being submitted in Autumn 2023.

A public engagement event was held in late June 2022 which was attended by over 50 people. As well as a first phase of affordable housing, the project involves a self-build element which is being shaped through consultation with interested parties and by trying to address barriers to affordable self-build. Opportunities to make maximum use of the local supply chain are being investigated and the design aims to be as carbon conscious as possible and act as a learning resource for other developments. All placemaking elements are being scrutinised to minimise carbon, explore local supply chain opportunities and minimise cost to ensure a high quality, carbon conscious and affordable design is consented.

GOALS: Planning application lodged by November 2023.

OUTCOMES:

- Quality, innovative design.
- First phase of development to showcase as an exemplar

NAME OF KEY OFFICER:

Emma Gordon, Planning Officer

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Hilda Puskas, Project Manager

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Case Study 15

Business Needs Study

LOCATION AND DATES:

September 2022 - April 2023, Moray

ELEMENTS OF HIGH QUALITY PLANNING SERVICE THIS STUDY RELATES TO:

- Evidence Base
- Engagement

KEY MARKERS: 33, 7, 8, 11 & 12

KEY AREAS OF WORK

- Evidence of business needs
- Economic Development

STAKEHOLDERS INVOLVED

- Moray Chamber of Commerce
- Elgin BID
- Moray Speyside Tourism
- Moray Business Resilience Group
- Business gateway
- Federation of Small Businesses
- Skills Development Scotland
- Highlands and Islands Enterprise

OVERVIEW: Ryden LLP was commissioned to provide up to date information and analysis of the current and projected demand for commercial land and buildings to help inform the Evidence report for the new Local development Plan and the Regional Spatial Strategy.

The study includes;

- A review of the economic baseline and relevant economic policy
- A review of key sectors operating in Moray.
- A property market review including the stock of employment floor space and a review of supply and take up of industrial and office premises
- A review of the Council's industrial property portfolio

- A review of the annual employment land audit, including a review of the effectiveness of all sites against 8 scoring categories
- A summary of the results of the business survey and consultation undertaken as part of the study. This included an online survey of business property occupiers and stakeholder workshop with members of the Moray Business Resilience Group.

GOALS: Analysis of current and projected demand for commercial land and buildings to inform the Evidence Report

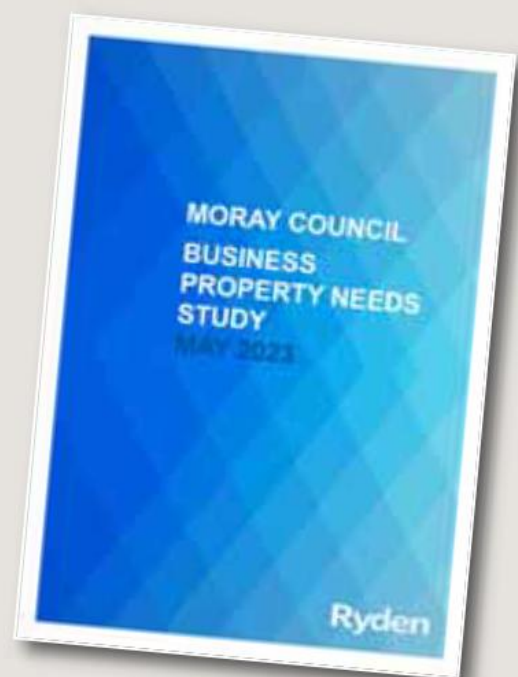
OUTCOMES:

Completed study reported to Planning and regulatory Services Committee in August 2023.

NAME OF KEY OFFICER:

Rowena MacDougall

Email rowena.macdougall@moray.gov.uk



Part 2

Supporting Evidence

Part 2 of this report was compiled using evidence from a variety of sources including:

- Development Plan Services Service Plan
- A range of committee reports
- Case Studies
- Informal benchmarking
- Partnership working

Case Study Topics	Issue covered by case study	Case Study Topics	Issue covered by case study
Design	CS2, P2; CS3, P4	Local Living	CS8, P11
Regeneration	CS2, P3	Green Spaces	CS8, P11
Town Centres	CS2, P3; CS8, P11	Carbon reduction	CS8, P11
Masterplanning	CS1, P2; CS10, P13	Conservation Area	CS9, P12; CS10, P13
Affordable Housing	CS1, P2; CS2, P3	Listed Buildings	CS9, P12
Development Management Processes	CS2, P3; CS3, P4; CS4, P6; CS5, P7; CS6, P8; CS11, P16;	Climate Change	CS10, P13; CS12, P16; CS14, P18
Planning Applications	CS1, P2; CS12, P15	Economic Development	CS10, P13; CS11, P15
Collaborative working	CS4, P6; CS5, P7; CS7, P10; CS10, P13	National Planning Framework 4	CS11, P15; CS12, P16
Placemaking	CS1, P2	Open Space	CS13, P17;
Process Improvement	CS4, P6; CS5, P7; CS6, P8	Planning Guidance	CS13, P17
Skills sharing	CS7, P10	Inclusive Play Areas	CS13, P17
Archaeology	CS7, P10	Local Development Plan Delivery	CS14, P18
Engagement	CS8, P11	Sustainable Design and construction	CS14, P18
		Community Wealth Building	CS14, P18

To assist with the 15 key performance markers hyperlinks have been added in below and the four sub-headings demonstrate a high quality planning service is being delivered.

Quality of Outcomes

[Making a Planning Application – What Information is Required?](#)

[Supporting Information Checklist](#)

[Heads of Planning Scotland Guidance Note on National Standards for Validation and determination of planning applications and other related consents](#)

[Developer Obligations Supplementary Guidance](#)

[Flood Risk and Drainage Supplementary Guidance](#)

[Open Space Strategy – January 2018](#)

[Dallas Dhu Masterplan – 2020](#)

[Kinloss Golf Course Masterplan](#)

[Local Development Plan Additional Guidance](#)

[Elgin City Centre Masterplan](#)

[Buckie South Masterplan](#)

[Elgin South Masterplan](#)

[Business Needs Study](#)

[Carbon Guidance](#)

[Community Wealth Building Guidance](#)

[MyMoray website - Moray Growth Deal](#)

Quality of Service & Engagement

[Moray Local Development Plan Scheme – December 2022](#)

[Moray Housing Land Audit - 2023](#)

[Employment Land Audit 2023](#)

[Making a Preliminary Enquiry – local developments guidance and form](#)

[Planning Enforcement Enquiry Form](#)

[Processing Agreements](#)

[Moray Council Complaints](#)

[Planning Enforcement Charter – 2022-2023](#)

[Customer Care](#)

[Development Management Service Charter](#)

Governance

[The Moray Council Corporate Plan 2024](#)

[Scheme of Delegation](#)

[Committee Diary](#)

Culture of Continuous Improvement

[Economic Growth & Development Services Service Plan](#)

Performance Markers Report 2022/23

No.	PERFORMANCE MARKER	EVIDENCE
1.	Decision-making: authorities demonstrating continuous evidence of reducing average timescales for all development types	See National Headline Indicators in the PPF. All average timescales are lower than the average timescales for Scotland. Most major applications for processing agreements, 15 weeks for major, 6.3 weeks for local, 6.2 weeks for householder.
2.	Project management: offer of processing agreements (or other agreed project plan) made to prospective applicants in advance of all major applications <u>and</u> availability publicised on planning authority website	Offer and encourage use of a processing agreement as a project management tool for major applications. Template and guidance publicised on website under Pre-application advice section for Major Developments Website link: www.moray.gov.uk/moray_standard/page_105746.html
3.	Early collaboration with applicants and consultees: <ul style="list-style-type: none"> • Availability and promotion of pre-application discussions for all prospective applications; • Clear and proportionate requests for supporting information 	Offer of pre-application advice available on website with request form, guidance and scale of fees. All are logged in uniform. Website link: www.moray.gov.uk/moray_standard/page_41735.html
4.	Legal Agreements: conclude (or reconsider) applications within 6 months of 'resolving to grant'	Front loading of Heads of Terms and identifying timescales in processing agreements. See Case Study.
5.	Enforcement Charter updated/re-published	Enforcement Charter reviewed and republished in March 2022 with enhanced focus on monitoring planning conditions for major developments. Web site link: www.moray.gov.uk/downloads/file147262.pdf
6.	Continuous Improvement: <ul style="list-style-type: none"> • Progress ambitious and relevant service improvement commitments identified through PPF report 	See case studies and details of continuous improvement in the PPF.

No.	PERFORMANCE MARKER	EVIDENCE/COMMENTS
7.	Local development plan less than 5 years since adoption	Moray Local Development Plan 2020 adopted on 27th July 2020 - replaced within 5 years. www.moray.gov.uk/MLDP2020
8.	Development Plan Scheme demonstrates next LDP:	Development Plan Scheme was approved December 2022. National target is to have new style place based LDP's in place within 5 years of NPF4 adoption.
9.	Stakeholders including Elected Members, industry, agencies the public and Scottish Government are engaged appropriately through all key stages of development plan preparation	Very early engagement has started on the new local development plan, this has included raising awareness and registering interest in preparing local place plans, a series of engagement events, including specifically targeting young people (see case study 8) have been held throughout Moray seeking ideas to include within the Regional Spatial Strategy, Evidence Report and Local Development Plan. A series of workshops and briefings is being arranged for elected members to consider the emerging evidence in advance of formal consideration of the Evidence Report at full Council in March 2024. A series of stakeholders groups are being set up to support development of the Regional Spatial Strategy and to consider the Evidence report.
10.	Kept for data continuity	
11.	Production of relevant and up to date policy advice	See case studies, further additional policy guidance has been published on Carbon Assessments, Community Wealth Building and Accessible and Inclusive Play Areas. A review of Developer Obligations supplementary guidance is underway. http://www.moray.gov.uk/moray_standard/page_148973.html
12.	Corporate working across services to improve outputs and services for customer benefit (e.g: protocols; joined up services; single contact; joint pre-application advice)	Protocols are in place with the Cairngorms National Park Authority and Aberdeenshire Council covering Archaeology, Health Working groups, Scotland Forestry Liaison Meetings.

No.	PERFORMANCE MARKER	EVIDENCE/COMMENTS
13.	Sharing good practice, skills and knowledge between authorities Delivering Development	See PPF case studies Heads of Planning Executive, Development Planning, Development Management, Energy Committees. North of Scotland Development Plans Forum, North East Scotland Local Biodiversity Action Plan Partnership.
14.	Stalled Sites/legacy cases: conclusion/withdrawal of planning applications more than one-year-old	All cases over 1 year old covered by processing agreement
15.	Developer Contributions: clear expectations <ul style="list-style-type: none"> • set out in development plan (and/or emerging plan); and • in pre-application discussions 	Adopted SG on Developer Obligations. Report on Developer Obligations being considered at Planning and Regulatory Services Committee August 2023 with ongoing review of the Guidance.

Part 3

Service Improvements 2023/24

Service Improvements in the coming year:

- Review of Procedures relating to governance
- Review Delegation Scheme
- Ensure new planning policy guidance is embedded within Development Management decision making
- Identify further shared working opportunities with Building Standards and Development Management
- Set up stakeholder groups to support development of Regional Spatial Strategy and Evidence Report
- Establish stronger networks to support work relating to biodiversity networks
- Development session between Strategic Planning and Development and Economic Growth and Regeneration to identify further shared working opportunities
- Collate and review actions identified in Plans and Strategies
- Review developer obligations evidence base

Delivery of service improvements in 2022/23:

Looking back at our service improvements we identified in 2022/23 we have made progress with many of them.

Commitment: Continue to implement the legislative requirements from the Planning Act 2019

Progress: All implemented and further legislative requirements to be brought into force

Commitment: Review & Embed SPEA Triage Framework into procedures

Progress: Completed, see case study 5

Commitment: Meet agents to ensure lines of communication are effective

Progress: Completed

Commitment: Continue to implement Enforcement & Condition Discharging requests into Enterprise in Uniform

Progress: Completed

Commitment: Implement new discharge of conditions procedure in line with the Enforcement Charter 2022-24

Progress: Completed

Commitment: Meet with Homes for Scotland representatives to discuss NPF4 policies and any local issues

Progress: Officers from Strategic Planning and Development met with Homes for Scotland to discuss NPF4 and the timetable for the new Local Development Plan.

Commitment: Complete carbon literacy training for all planners

Progress: Completed

Commitment: Introduce Performance Indicators for completing Quality Audit in tandem with streamlining process

Progress: Report on updated Quality Audit to be considered at August 2023 meeting of Planning and regulatory Services Committee.

Commitment: Review Approach to regeneration and delivery of LDP projects

Progress: Completed.



Infill housing, Forres

Part 4

National Headline Indicators (NHI's)

A: NHI KEY OUTCOMES - DEVELOPMENT PLANNING	2021-22	2022-23
LOCAL & STRATEGIC DEVELOPMENT PLANNING <ul style="list-style-type: none"> Age of local/strategic development plan(s) (full years) at the end of the reporting year. <i>Requirement: less than 5 years</i> Will the local/strategic development plan be replaced by their 5th anniversary according to the current development plan scheme? (Y/N) Has the expected date of submission of the plan to Scottish Ministers in the development plan scheme changed over the past Year? Were development plan scheme engagement/consultation commitments met during the year? (Y/N) 	Two years MLDP 2020 Adopted Yes No Yes	Three years MLDP 2020 Adopted No No Yes
EFFECTIVE LAND SUPPLY AND DELIVERY OF OUTPUTS <ul style="list-style-type: none"> Established housing land supply units 5-year effective housing land supply programming 5-year effective housing land supply total capacity 5-year effective housing supply target 5-year effective housing land supply (to one decimal place) Housing approvals Housing completions over the last 5 years Marketable employment land supply Employment land take-up during reporting year 	12,192 units 3,242 units 5,365 units 2,070 units 13 years 285 units 1,752 units 100.37 ha 4.74 ha	11,770 units 5,022 units 2,993 units 2,070 units 12 years 561 units 1,819 units 99.87 ha 1.24 ha

B: NHI Key Outcomes - DEVELOPMENT MANAGEMENT	2021-22	2022-23
DEVELOPMENT MANAGEMENT Project Planning <ul style="list-style-type: none"> Percentage and number of applications subject to pre-application advice Percentage and number of major applications subject to processing agreement Decision Making <ul style="list-style-type: none"> Applications approval rate Delegation rate Validation Decision Making Timescales Average number of weeks to decisions: <ul style="list-style-type: none"> Major developments Local development (non-householder) Householder developments Legacy Cases <ul style="list-style-type: none"> Number cleared during reporting period Number remaining 	5.7% 36 60% 3 95.3% 97.1% 58.3% 15.1 6.8 6.2 0 0	17.9% 101 7 94.4% 96.3% 17.8% 15 6.3 6.2 0 0
C: NHI Key Outcomes - ENFORCEMENT ACTIVITY	2021-22	2022-23
<ul style="list-style-type: none"> Time since enforcement charter published/reviewed Requirement: review every two years Cases Take up Notices served Reports to the Procurator Fiscal Prosecutions Number of breaches resolved 	5 months 302 3 0 0 241	17 months 313 15 0 0 334
ADDITIONAL DATA SET	NO. RECEIVED	
DISCON - Discharge of Conditions NMV - Non Material Variation ID - Informal Determination PEHOU - Preliminary Enquiry - Householder PELOC - Preliminary Enquiry - Local PEMAJ - Preliminary Enquiry - Major S.36 & S.37 ECU consultations	190 88 407 12 83 6 3	

Part 5

Scottish Government Official Statistics

A: Decision-making timescales (based on 'all applications' timescales) 2021/22

CATEGORY	TOTAL NUMBER OF DECISIONS 2022-23	AVERAGE TIME WEEKS 2021-22	AVERAGE TIME WEEKS 2022-23
Major Developments	10	15.1	15
All Local Developments	553	6.5	6.2
Local: less than 2 months	379	5.6	5.3
Local: more than 2 months	75	12.4	11.1
Local Developments (non-householder)	249	6.8	6.3
Local: less than 2 months	204	5.4	5.1
Local: more than 2 months	45	13.8	11.5
Householder Developments	205	6.2	6.2
Local: Less than 2 months	175	5.8	5.4
Local: more than 2 months	30	10.0	10.5
Housing	89	7.4	6.4
Local: less than 2 months	67	5.4	5.1
Local: more than 2 months	22	17.7	10.3
Business and Industry	109	6.2	6.3
Local: less than 2 months	91	5.4	5.0
Local: more than 2 months	18	10.8	12.7
Other Developments	29	6.3	6.4
Local: Less than 2 months	27	5.7	5.8
Local: more than 2 months	2	10.1	13.6
EIA developments	1	6.9	0
Other consents			
All Other Consents	85	6.1	6.6
Listed Buildings & Conservation Area	54	7.2	7.2
Advertisements	21	4.2	5.4
Hazardous Substances	0	7.0	-
Other consents and certificates	10	2.9	6.1
Planning/legal agreements**			
(major applications)	1	0	-
(local applications)	8	3.5	9.5

B: Decision-making: Local Reviews and Appeals

TYPE	TOTAL NUMBER OF DECISIONS	ORIGINAL DECISION UPHELD			
		2021-22		2022-23	
		No	%	No	%
Local reviews	15	6	40%	15	50%
Appeals to Scottish Ministers	0	1	100%	0	0%

Part 6

Workforce Information

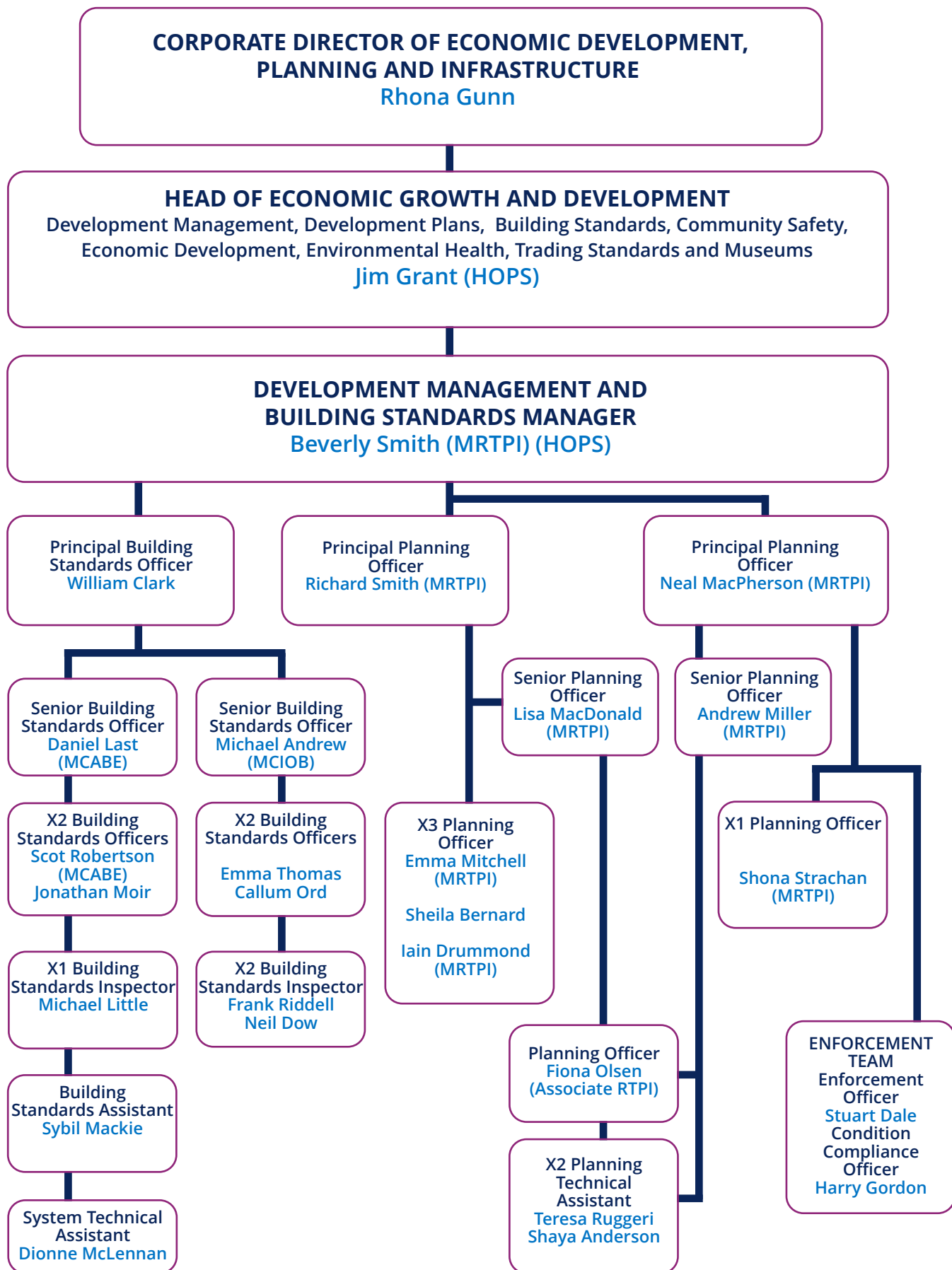
This information requested in this section is an integral part of providing the context for the information in part 1-5. Staffing Information should be a snapshot of the position on the 31 March 2023.

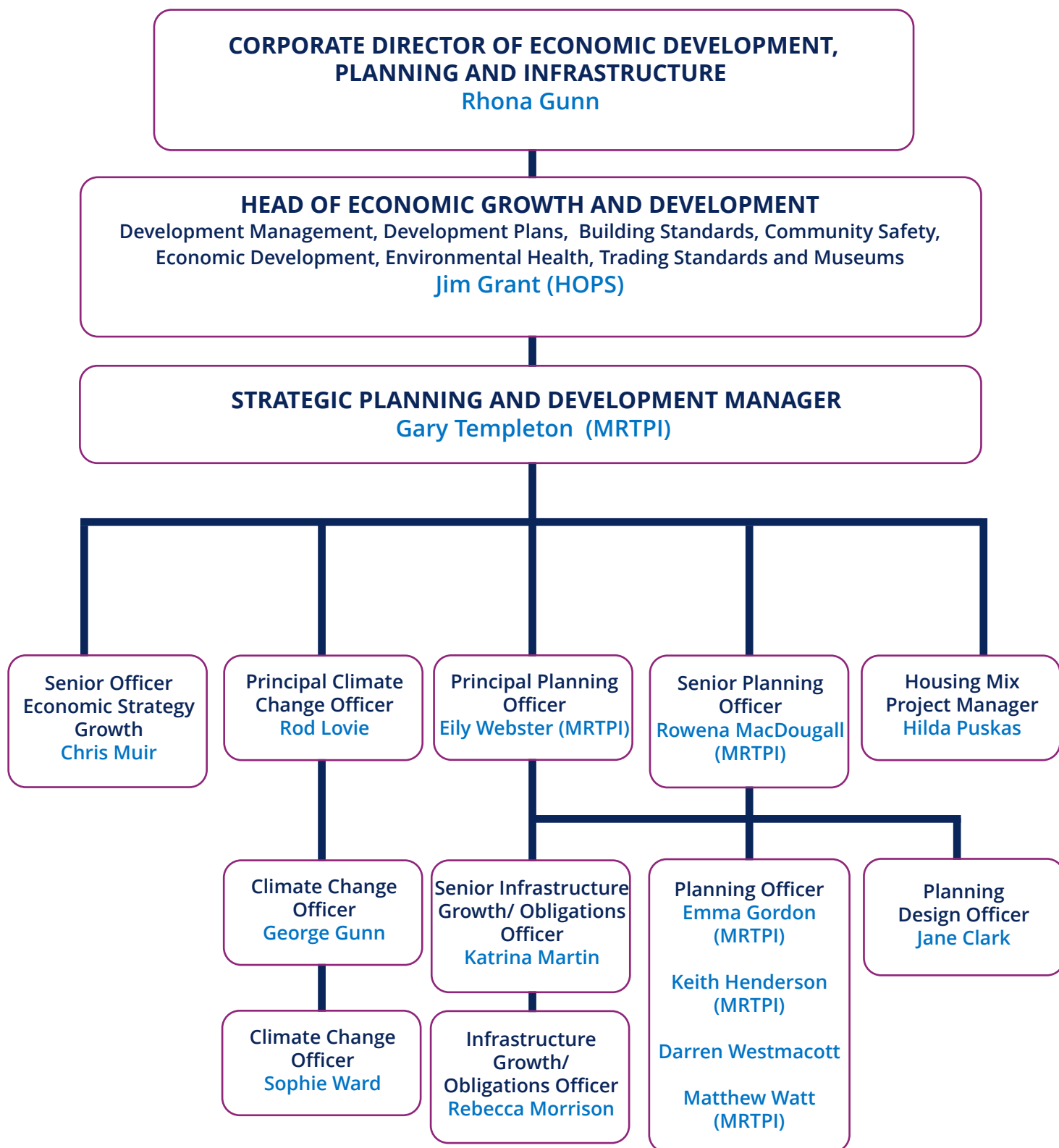
	TIER 1	TIER 2	TIER 3	TIER 4
Head of Planning Service			1	2

Note: Tier 1 = Chief Executive, Tier 2 = Directors, Tier 3 = Heads of Service, Tier 4 = Managers

RTPI QUALIFIED STAFF	HEADCOUNT
Chartered Staff	15

STAFF AGE PROFILE	HEADCOUNT
Under 30	3
30-39	4
40-49	6
50 and over	7





PART 7

Planning Committee Information

COMMITTEE & SITE VISITS*	NUMBER PER YEAR
Full council meetings	11
Planning committees	9
Committee site visits	4
LRB meetings*	6
LRB site visits	3

* This relates to the number of meetings of the LRB. The number of applications going to LRB are reported elsewhere.



Wind turbines Findhorn

Minister for Local Government Empowerment and
Planning
Ministear airson Cumhachdachadh is Dealbhachadh
Riaghaltas Ionadail
Joe FitzPatrick MSP
Joe Mac Giolla Phádraig BPA

Roddy Burns
Chief Executive
Moray Council

20 October 2023

Dear Roddy Burns,

I am pleased to enclose feedback on your authority's twelfth Planning Performance Framework (PPF) Report, for the period April 2022 to March 2023.

Across the country, performance against the key markers continues to be stable and there has been little variation in the overall total of green, amber and red markings awarded this reporting period compared with previous periods. It is clear that each of you continue to put in considerable effort to ensuring our planning system continues to run efficiently. I have been particularly pleased to see there has been a marked improvement on speed of determination for major applications across some authorities.


Resourcing remains a key priority which I will continue to discuss with the High Level Group on Planning Performance, which I jointly chair with COSLA. I also have asked officials to bring different parties together to talk about resourcing in the autumn, to identify practical solutions. We need options that work for all sectors, and I think it would be really beneficial to discuss a variety of issues including full cost recovery, the local setting of fees, charges for additional services and approaches which could enable authorities to access the skills and expertise at the time they require.

Finally, I am delighted that we have recently announced the appointment of the National Planning Improvement Champion (NPIC), Craig McLaren, who took up this new post in early September. Craig will play a pivotal role in supporting improvement and will also be looking at how we can improve the way we measure and assess the performance of the planning system in the future.

If you would like to discuss any of the markings awarded below, please contact us at chief.planner@gov.scot and a member of the team will be happy to discuss them with you.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot



JOE FITZPATRICK

CC: Jim Grant, Head of Development Services

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St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot

PERFORMANCE MARKERS REPORT 2022-23

Name of planning authority: **Moray Council**

The High Level Group on Performance agreed a set of performance markers. We have assessed your report against those markers to give an indication of priority areas for improvement action. The high level group will monitor and evaluate how the key markers have been reported and the value which they have added.

The Red, Amber, Green ratings are based on the evidence provided within the PPF reports. Where no information or insufficient evidence has been provided, a 'red' marking has been allocated.

No.	Performance Marker	RAG rating	Comments
1	Decision-making: continuous reduction of average timescales for all development categories [Q1 - Q4]	Green	<p>Major Applications Your average timescale is 15.0 weeks which is faster than the previous year and faster than the Scottish average of 39.5 weeks. RAG = Green</p> <p>Local (Non-Householder) Applications Your average timescale is 6.3 weeks which is faster than the previous year and faster than the Scottish average of 14.4 weeks and within the statutory timescale. RAG = Green</p> <p>Householder Applications Your average timescale is 6.2 weeks which is the same as last year but faster than the Scottish average of 8.9 weeks and within the statutory timescale. RAG = Green</p> <p>Overall RAG = Green</p>
2	Processing agreements: <ul style="list-style-type: none"> offer to all prospective applicants for major development planning applications; and availability publicised on website 	Green	<p>You have stated that you offer processing agreements for all major applications. RAG = Green</p> <p>You have a template and guidance on processing agreements publicised on your website within the pre-application advice section. RAG = Green</p> <p>Overall RAG = Green</p>
3	Early collaboration with applicants and consultees <ul style="list-style-type: none"> availability and promotion of pre-application discussions for all prospective applications; and clear and proportionate requests for supporting information 	Amber	<p>You offer pre-application advice and this is available to access through your website using the request form and supporting guidance. RAG = Green</p> <p>You have indicated that your website provides guidance on pre-application advice however you have not explained in your PPF how you set out clear and proportionate requests for supporting information. RAG = Amber</p> <p>Overall RAG = Amber</p>
4	Legal agreements: conclude (or reconsider) applications after resolving to grant permission reducing number of live applications more than 6 months after resolution to grant (from last reporting period)	Green	<p>Your average timescale for applications with legal agreement is 9.5 weeks which is slower than the previous year but considerably faster than the Scottish average of 41.1 weeks. Your timescales are consistently fast and this is evidenced in Case Study 6 which sets out the S75 processes in place to ensure you continue to deliver planning decisions within the 4 month target agreed at planning committee.</p>
5	Enforcement charter updated / re-published within last 2 years	Green	<p>Your enforcement charter was updated in March 2022 which is within the last 2 years.</p>

6	Continuous improvement: <ul style="list-style-type: none"> progress ambitious and relevant service improvement commitments identified through PPF report 	Green	You completed 7 out of 9 improvement commitments with a further 2 progressing near completion. You have identified a further 9 commitments for the coming year.
7	Local development plan less than 5 years since adoption	Green	Your LDP was adopted in July 2020 and is therefore less than 5 years since adoption.
8	Development plan scheme – next LDP: <ul style="list-style-type: none"> project planned and expected to be delivered to planned timescale 	Green	Your latest Development Plan Scheme was approved in 2022 and sets out that you will adopt a new LDP within 5 years of NPF4 adoption.
9 & 10	LDP Engagement: <ul style="list-style-type: none"> stakeholders including Elected Members, industry, agencies, the public and Scottish Government are engaged appropriately through all key stages of development plan preparation. 	Green	You have started preliminary engagement on the new LDP including raising awareness and ensuring communities are registering interest in preparing Local Place Plans for their area. You are also in the process of setting up a series of stakeholder workshops to help support development of the Regional Spatial Strategy and to consider the evidence report.
11	Policy Advice <ul style="list-style-type: none"> Production of relevant and up to date policy advice 	Green	You have published policy guidance throughout the reporting period including additional guidance being published on Carbon Assessments and Community Wealth Building. You have also started work on reviewing your supplementary guidance for Developer Obligations.
12	Corporate working across services to improve outputs and services for customer benefit (for example: protocols; joined-up services; single contact arrangements; joint pre-application advice)	Green	You have set out how you work alongside other authorities on protocols relating to Archaeology and Health Working groups. This is evidenced in Case Study 7.
13	Sharing good practice, skills and knowledge between authorities	Green	You are an active participant in various committees and partnerships including North East Scotland Local Biodiversity Action Plan Partnership.
14	Stalled sites / legacy cases: conclusion or withdrawal of old planning applications and reducing number of live applications more than one year old	Green	You have cleared 0 cases during the reporting period and had 0 cases remaining at the end of reporting period.
15	Developer contributions: clear and proportionate expectations <ul style="list-style-type: none"> set out in development plan (and/or emerging plan); and in pre-application discussions 	Amber	<p>You have guidance on Developer Contributions which came into effect in September 2020. The guidance sets out transparent and consistent requirements. You have also indicated a review of the guidance is underway. RAG = Green</p> <p>You have not provided information on how Developer Contributions are set out during pre-application discussions. RAG = Red</p> <p>Overall RAG = Amber</p>

MORAY COUNCIL
Performance against Key Markers

Marker		13-14	14-15	15-16	16-17	17-18	18-19	19-20	20-21	21-22	22-23
1	Decision making timescales										
2	Processing agreements										
3	Early collaboration										
4	Legal agreements										
5	Enforcement charter										
6	Continuous improvement										
7	Local development plan										
8	Development plan scheme										
9 & 10	LDP Engagement	N/A	N/A	N/A	N/A		N/A	N/A	N/A	N/A	
11	Regular and proportionate advice to support applications										
12	Corporate working across services										
13	Sharing good practice, skills and knowledge										
14	Stalled sites/legacy cases										
15	Developer contributions										

Overall Markings (total numbers for red, amber and green)

2012-13	3	6	6
2013-14	2	5	6
2014-15	1	4	8
2015-16	1	3	9
2016-17	0	1	12
2017-18	0	1	14
2018-19	0	0	13
2019-20	0	0	13
2020-21	0	0	13
2021-22	0	0	13
2022-23	0	2	12

Decision Making Timescales (weeks)

	13-14	14-15	15-16	16-17	17-18	18-19	19-20	20-21	21-22	22-23	2022-23 Scottish Average
Major Development	98.2	13.1	20.0	16.9	16.5	8.9	10.3	21.3	15.1	15.0	39.5
Local (Non-Householder) Development	13.5	8.5	7.5	7.2	6.6	6.5	6.5	7.1	6.8	6.3	14.4
Householder Development	7.1	5.8	6.3	5.7	5.3	5.3	5.7	6.7	6.2	6.2	8.9



**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON
19 DECEMBER 2023**

**SUBJECT: REVIEW OF ENFORCEMENT CHARTER AND UPDATE ON
ENFORCEMENT**

**BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND
FINANCE)**

1. REASON FOR REPORT

- 1.1 This report asks the Committee to agree the revised Enforcement Charter, and provides an update on Planning Enforcement activity.
- 1.2 This report is submitted to Committee in terms of Section III (E)) (1) of the Council's Scheme of Administration relating to the statutory functions of the Council as a Planning Authority.

2. RECOMMENDATION

- 2.1 It is recommended that the Committee;
 - (i) note the contents of this report; and
 - (ii) agree the updated Enforcement Charter as set out in Appendix 1

3. BACKGROUND

- 3.1 The Planning Enforcement Charter was last reviewed by this Committee on the 1 March 2022 (para 20 of the minute refers). The Planning Performance Framework (PPF) has 15 key markers that are reported annually to the Scottish Government and receive either a red, amber or green rating. Key marker number 5 relates to the Enforcement Charter and Moray has received a green rating every year by reviewing the content and effectiveness of the Charter - within the two year time period.

4. CURRENT ENFORCEMENT POSITION

- 4.1 Planning Enforcement during 2023 was undertaken by a full time Planning Enforcement Officer and a full time Condition Compliance Officer. The Planning Enforcement Officer deals primarily with breaches of planning Control relating to unauthorised development, amenity and use of land, High Hedge enquiries and unauthorised works to trees protected by a Tree Preservation Order. The Condition Compliance Officer monitors approved planning applications to ensure that they are developed as per the approved conditions and plans. This monitoring includes both local and major applications.

Supervision of Enforcement is undertaken by a Principal Planning Officer who monitors workload and advises on actions along with input from other internal, and where appropriate external consultees

- 4.2 Since 1 January 2023 there have been 353 enforcement cases opened that have required investigation and/or research. This is compared to a total of 306 cases over the same period in 2022. Of the 353 enforcement cases opened in 2023, 261 cases have been closed with the average time taken to deal with these cases being 6.82 weeks.
- 4.3 One of the Enforcement targets is to close 75% of cases received within 10 weeks, in 2023 76.2% of the cases received were closed within the 10 week period.
- 4.4 There are currently 104 cases which are pending consideration 92 of which are 2023 cases. Of the 261 cases that have been resolved it will be for one of the following reasons:
- i) through the submission of a retrospective planning application which is then approved;
 - ii) the breach not requiring planning permission as it does not constitute development;
 - iii) the development is considered Permitted Development;
 - iv) a planning assessment being made that it is not expedient to pursue any formal enforcement action.
- 4.5 In 2023 17 retrospective planning applications were submitted and either approved with planning conditions or refused. The ones refused then became subject of enforcement reports (unless a local review was sought and granted).
- 4.6 During the last year the following formal notices have been issued:-
- i) Enforcement Notice x 3
 - ii) Temporary Stop Notice x 1
 - iii) Stop Notice x 1
 - iv) Breach of Condition notice x 2
 - v) S.179 Amenity Notice x 1
 - vi) High Hedge Notice x 1
 - vii) Direct Action x 1

TOTAL NUMBER NOTICES = 9

- 4.7 Since the Covid pandemic there has been no meetings of the Scottish Planning Enforcement Forum.

5. ENFORCEMENT CHARTER

- 5.1 The Moray Planning Enforcement Charter (**Appendix 1**) has been reviewed and updated to make minor changes to sections for ease of reference and understanding.
- 5.2 Enforcement investigations are split into 3 categories headed as Priority 1,2 and 3 in the Enforcement Charter (**Appendix 1**). A number of these priorities have been either upgraded or downgraded to ensure the most urgent material considerations are dealt with due to our limited resources.
- 5.3 Other changes to the Charter include advising the public how their personal information is dealt with when they report an alleged breach of planning. The Charter also provides a link to the Enforcement Register which is now available online via Public Access on the Moray Council website. This allows members of the public to search the Register for Enforcement Notices issued by the Council reducing Officer time in replying to Freedom of Information requests.

6. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

No implications anticipated.

(b) Policy and Legal

Planning legislation requires Planning Authorities to have a Planning Enforcement Charter and by reviewing the Charter bi-annually the Council are complying with their legislative responsibility in this regard.

(c) Financial implications

No financial implications.

(d) Risk Implications

No risk implications anticipated

(e) Staffing Implications

Preparation of Charter and report undertaken by existing staff therefore no staffing implications.

(f) Property

No implications

(g) Equalities/Socio Economic Impact

No impact anticipated.

(h) Climate Change and Biodiversity Impacts

No impact anticipated.

(i) Consultations

Consultation has taken place with the Head of Economic Growth and Development, Development Management & Building Standards Manager, the Head of Housing and Property, the Legal Services Manager, the Senior Engineer Transportation, the Principal Climate Change Officer, the Equal Opportunities Officer, the Strategic Planning & Development Management and Lissa Rowan, Committee Services Officer and their comments incorporated into the report.

7. CONCLUSION

- 7.1 The Enforcement Charter has been the subject of a review and sets out the process for prioritising breaches of planning control, the tools available and the penalties for failing to comply with legislation. The Committee is asked to approve the updated Charter.**

Author of Report: Stuart Dale, Planning Enforcement Officer

Background Papers:

Ref:

ECONOMIC GROWTH & DEVELOPMENT

PLANNING ENFORCEMENT CHARTER

*Planning Enforcement, Monitoring Planning
Conditions, High Hedges & Advertisements*

2024 - 2026



moray
council



Moray Council Planning Enforcement Charter

Contents

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Main Issues Is it a Planning matter?	3
Section 1 Priorities for Enforcement	5
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Section 6 How to make a suggestion or complain about the lack of Planning Enforcement	10
Section 7 Powers available to deal with breaches of planning control	10



Planning Enforcement Overview

Planning legislation requires the Council to prepare and publish a Planning Enforcement Charter. The Charter explains how the enforcement process works, the role of the Council, how we engage with developers and the service standards it sets itself. It also details what happens at each stage of what can be a lengthy process.

Planning permission is required for the majority of development that takes place in Scotland, with the exception of development that is permitted under the Town and Country Planning (General Permitted Development)(Scotland) Amendment Order 2014 and other subsequent amendments. Sometimes, however, developers or householders undertake work without planning permission or fail to implement the consent they have been granted in accordance with the approved plans and conditions.

Councils have powers to enforce planning controls in such cases, if they consider it is expedient and in the public interest to do so. We monitor developments to ensure planning controls are being followed, but there is also a role for the public in alerting the Council to any breaches of planning control they become aware of.

Enforcement can, in some cases, be one of the most complex parts of the planning system and can affect many members of the community. The aim of this charter is to ensure that adopted procedures are fair, reasonable, consistent and accountable, and that interested parties are fully aware of the procedures involved in the process, the powers available to the Council, and the limits of those powers.

We hope you will find this enforcement charter helpful and let us know if you think we could improve the service further.

Further copies of this Charter are available on the Council's website at [Enforcement Charter](#), in local Libraries, local Council offices and from the address below:

Development Management & Building Standards Manager
Moray Council
Council Offices
Elgin
IV30 1 BX

Key points on planning enforcement

Breaches of planning control do not, in most cases, constitute a criminal offence; however, unauthorised works to a listed building, or to a tree protected by a Tree Preservation Order, both of which are investigated by the enforcement team, do. The purpose of planning enforcement is to try and resolve the breach of planning control in the first instance where appropriate. However, enforcement action will be taken when it is deemed necessary to control the breach and to prevent further breaches occurring. Any action taken has to be proportionate to the scale of the breach and to the effect that it has on local amenity. Not complying with any formal notice that is served will result in a criminal offence taking place.

The Moray Council has statutory powers to investigate development carried out without planning permission, the breach of conditions attached to planning consents and other environmental matters which give rise to concern over general amenity. This can include land which has been allowed to deteriorate to such an extent that it affects the appearance of a wider area. We will take formal action where a satisfactory outcome cannot be achieved through negotiation. This means that the Council has to consider whether it is in the public interest to take enforcement action, and may decide that no action is necessary.

Where development has taken place without the necessary planning consent the Council would in most circumstances seek a retrospective application to consider whether what has been undertaken complies with the National Planning Framework 4 and the Moray Local Development 2020 and associated guidance before considering formal enforcement action unless where it was considered expedient for the breach to cease more timeously (to prevent injury or harm to amenity or in the interests of road safety).

The Council's authority to take enforcement action comes from government legislation. Further information on the use of enforcement powers can be found in the Scottish Government publication [Planning Circular 10/2009: Planning Enforcement](#).

In relation to Listed Buildings and Conservation Areas guidance can be found in the [Managing Change Series \(Historic Environment Scotland\): Intervention by Planning Authorities](#)

Main issues

Is it a Planning Matter?

It is a common perception that planning can intervene to resolve all environmental matters. Many issues that are raised are controlled through other regulatory bodies.

The following are examples of issues that the Enforcement team cannot assist with:

- Civil disputes i.e. neighbour nuisance/boundary and land ownership disputes
- Enforcement of conditions on title deeds
- Noise and odour enquiries unless covered by a planning condition
- General land maintenance e.g. grass cutting
- Any wildlife Crime under the Wildlife & Countryside Act 1981 (as amended)

If we receive an enquiry which requires the involvement of another Council service we will pass it to the relevant service and we will inform you who we have contacted on the matter.

The main objective of planning enforcement is to remedy the undesirable effects of unauthorised development and to bring unauthorised activities under control, ensuring that the amenity of neighbours or a community is not adversely affected.

A breach of planning control is:

- Operational development such as building or engineering works which;
 - does not have planning permission or
 - benefit from permitted development rights.
- Material change of use of land or buildings which has a different or tangible impact in terms of land use.
- Development which has not been carried out in accordance with an approved planning permission.
- Failure to comply with a condition attached to a planning permission.

Other matters which also fall under the scope of planning control are;

- Demolition taking place in Conservation areas, without Conservation Areas consent.
- Works carried out to a Listed Building which effect the historic character or setting.

Planning and related consents, any conditions and also the approved plans can be viewed on line at [Public Access](#)

The Council follows guiding principles in relation to planning enforcement:

Expediency: Planning enforcement is a discretionary power which requires the Council to consider whether it is in the public interest to take enforcement action. There is no requirement for the Council to take any particular action on a breach of planning control; in many circumstances it is considered that action is not necessary or would be disproportionate to the breach. This approach is in line with Scottish Government guidance which states that formal enforcement action should not normally be taken where the breach does not cause harm.

Consistency: Each enquiry presents its own unique set of circumstances, we will endeavour to carry out our duties in a fair, equitable and consistent manner.

Proportionality: To ensure that any enforcement action taken is proportionate to the scale and nature of the breach that has occurred.

Negotiation: The enforcement powers provide leverage to resolve breaches and are not intended to be used as a punishment. In all but the most severe cases requiring immediate attention, we will seek to negotiate compliance in the first instance. However, negotiations will not be allowed to cause unreasonable and unjustified delay.

Section 1 - Priorities for Enforcement

Whilst all enquiries will be investigated we recognise that when an enquiry is made there is a high expectation for the matter to be resolved quickly and delays can be frustrating. Due to the large number of enforcement enquiries we receive it is necessary for them to be prioritised and the available resources allocated appropriately and proportionately. Below is the Council's classes of prioritisation.

1

Priority 1

- Breaches of planning conditions for major and local developments
- Demolition or alterations to Listed Buildings
- Unauthorised felling/inadequate protection measures of trees - either in a Conservation Area, covered by a TPO or protected by planning condition

2

Priority 2

- Any development that obstructs visibility or is a danger to pedestrian and highway safety
- Change of use of land and buildings
- Demolition or alterations to buildings in a Conservation Area

3

Priority 3

- Display of Advertisements
- Untidy land
- Householder (extensions, outbuildings etc)

What to Expect

On receipt of a legitimate planning enforcement enquiry it is standard procedure for Officers to:

- 1 **Register the enquiry**
- 2 **Acknowledge the enquiry**
- 3 **Undertake a site history search**
- 4 **Visit the site**
- 5 **Assess if unauthorised development has been carried out or a planning condition has been breached**
- 6 **Consult with relevant consultees**
- 7 **Make recommendations on whether it is expedient and in the public interest to take enforcement action**

Enquiries that do not fall within the planning remit will not be investigated further and in such instances the enquirer will be advised. Where there is a suspected breach of planning control it may be necessary to utilise the notices described below to aid the enquiry process.

Service Standards

Service Standard - Acknowledging enquiries

- We will acknowledge an initial telephone, written or email enquiry within five working days of receipt and will include a reference number and contact details for the investigating officer.

Service Standard - Replying to enquiries/keeping you informed

- If you make an enforcement enquiry, you will be updated as regularly as resources allow. This will be done in writing, preferably by email.

Service Standard - Timescales for resolving enquiries

- 75% of all new enquiries will be assessed within a period of 10 weeks up to the point of taking formal enforcement action or no further action.

Section 2 - How to request an investigation into a possible breach of planning control

Members of the public have a vital role in reporting breaches of planning control. Any concerns should be raised with us at the earliest opportunity. You can make enquiries by telephone on 0300 1234561. There is a [Planning Enforcement enquiry form](#) on the Council website which can be completed. This allows us to have a clear record of the enquiry and to keep you informed about any action we take. Full contact details are provided at the end of the Charter.

We need the following information when a suspected breach is reported:

- The address of the property concerned;
- The name of the owner of the property, or of the person responsible for the suspected breach; (if known)
- Details of the suspected breach of planning control, with times and dates if relevant;
- Your name, telephone number and address and email address;
- Information on how the breach impacts on you.

Email to: planning.enforcement@moray.gov.uk

By telephone to: 03001234561

The support of complaints is important in determining the outcome of an enforcement investigation. We will treat your complaint as confidential during our enquiries. However should the matter end in formal enforcement action your details may be required to be forwarded to the DPEA where an appeal is made against an enforcement notice. Should the matter end in court proceedings then you may be required as a witness. Before Court action is sought we will seek your permission to divulge your details to Court.

Planning Enforcement enquiry form

Or alternatively in writing to:

Development Management and Building Standards Manager,
Development Management, Moray Council Office, High Street, Elgin, Moray IV30 1BX

Section 3 - Monitoring of Planning Conditions

Monitoring of planning conditions will be carried out as resources allow, however, our number one priority for enforcement is numbers of conditions on major planning applications. It is not, practical or proportionate for the Council to monitor all permissions/consents. It is the responsibility of the developer to inform us of when they intend to implement their planning permission. This is done through the submission and registration of a Notification of Initiation of Development (NID). The Condition Compliance Officer will then check to ensure that any requirements contained within the pre development conditions have been fulfilled before work begins. Initiating development without submitting a NID is a breach of planning control and the planning authority may consider enforcement action. On completion of development the developer is required to submit a Notification of Completion of Development (NCD) as soon as practicable.

A collaborative approach to ensuring planning conditions are complied with is required to ensure our resources are used efficiently. A single point of contact will be given to all major developers to make contact regarding the monitoring of planning conditions and this will be added as a specific informative on all consents relating to major developments. Regular review meetings will be arranged with major developers to ensure that development is implemented timeously and in accordance with the agreed phasing/triggers imposed on planning conditions.

Notification of Initiation and Completion of Development (NID/NOCD) and display of notices while development is carried out

These are not enforcement powers. They are intended to improve planning enforcement by requiring landowners, householders and developers to confirm when development is due to commence or been completed, and in the case of on-site notices to raise community awareness of developments in the local area. The Moray Council will then be made aware of active development in their areas, enabling them to prioritise resources with a view to monitoring development.

A Notice of Initiation of Development (NID) must be submitted to the Moray Council for any development which has been granted permission and state when development will start. It must be submitted after planning permission has been granted and before development has commenced. Starting development without submitting an NID is a breach of planning control and the Moray Council may consider enforcement action.

The Notice of Completion of Development (NOCD) requires a developer to submit a further notice as soon as practicable after development has been completed.

Depending on the nature and scale of a development, the developer may also be required to display on-site notices while development is taking place. These notices contain basic information about the site and the development. They also provide contact details where members of the public may find out more information or report alleged breaches of planning control. It is a breach of planning control to fail to display such a notice when it is required to do so.

Section 4 - High Hedges

The High Hedges Act 2013 aims to provide a solution to the problem of high hedges, where neighbours have been unable to resolve the issue amicably. The Act gives home owners and occupiers a right to apply to the relevant Council for a High Hedge Notice but neighbours must attempt to resolve the dispute themselves first with recourse to the Council being a last resort.

The Scottish Government has also issued [guidance](#) to all Local Authorities to assist with implementation of the Bill and legislation.

[Local Guidance \(PDF\)](#) has also been prepared to help explain the process and give you guidance on all reasonable steps that must be taken prior to making a formal application under the Act. Potential applicants may wish to make contact with ourselves to discuss a possible application.

Should you wish to receive informal advice please contact Stuart Dale (Planning, Enforcement Officer) on 01343 563280.

Section 5 - Control of Advertisements

The display of advertisements is covered by the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984. Many advertisements are displayed with what is called 'deemed consent' which means they do not require advertisement consent if they meet the criteria and conditions set out in the regulations. One of these conditions is that the landowner has given permission for the advertisement to be displayed on their land. It should be noted however, that where an advertisement with 'deemed consent' is considered to be affecting amenity or public safety then in these circumstances the Moray Council can serve a Discontinuance Notice to have the offending advert removed.

Displaying an advertisement in contravention of the regulations is an offence and, if convicted in court, an offender can be fined. The court can impose further fines for each day the breach of the regulations continues. The Moray Council has the power to serve an advertisement enforcement notice. This specifies a time period (normally 28 days) for compliance with the notice. However, this period can be reduced to seven days if the Council believes there is an urgent need for the advertisement to be removed or altered in the interests of public safety, or if the advertisement can be removed without any other work being required.

An advertisement enforcement notice can also require that a particular piece of land should not be used to display advertisements. This remains in force even if the original advertisement is removed. Any subsequent advertising on this site would amount to a breach of the notice.

The Moray Council also has powers to remove or destroy placards and posters that do not have planning permission or deemed consent. If the person who put up the poster can be identified, they have to be given at least two days' notice that the Council intends to take the poster down. If they cannot be readily identified, then the advert can be removed immediately.

Council officials can enter unoccupied land, if necessary, to remove an advertisement. However they have no powers to remove advertisements displayed within a building to which there is no public access.

Planning enforcement also covers the display of advertisements such as billboards and advertisement hoardings, although slightly different procedures apply. These are set out in a separate section at the end of this Charter. The actual text and images on an advertisement are not covered by planning control.

Any enquiries about the content of an advertisement should be made to the:

**Advertising Standards Authority, Mid City Place, 71 High Holborn, London WC1V 6QT
Tel: 020 7492 2222, e-mail: enquiries@asa.org.uk**

Advertisement Discontinuance Notice

Where an advert enjoys deemed consent under the relevant advertisement regulations but the Council require its removal for amenity or safety reasons, a discontinuance notice may be served. This can be appealed to the Directorate for Planning and Environmental Appeals (DPEA).

Section 6 - How to make a suggestion or complain about the lack of Planning Enforcement

The Council tries hard to meet people's expectations and we hope that you will be satisfied with the planning enforcement service. We are committed to improving our service and dealing promptly with any failures or shortcomings. However, if you have any concerns or difficulties, we want to hear from you. **Planning Enforcement enquiry form**

We will respond to you within 5 working days of receiving a formal complaint about our Planning Enforcement Service where possible. If we feel that we need more time to investigate the matters raised you will receive an acknowledgement within five working days and a full response within 28 working days in accordance with the **Council's Complaints Procedure**. A copy of this can be viewed on the Council's website.

Lastly, if you are dissatisfied with the Council's Complaints process, you have the right to take your complaint to the Scottish Public Services Ombudsman, at: **www.spsso.org.uk/**

SPSO, FREEPOST EH641, Edinburgh EH3 0BR
Telephone: 0800 377 7330, or e-mail: ask@spso.org.uk

Generally, you must contact the Ombudsman within 12 months of the date of the complaint. Attached to this charter for your information is Appendix 1 which explains the powers available to deal with breaches of planning control.

Section 7 - Powers available to deal with breaches of planning control

Enforcement powers

The enforcement powers available to a planning authority are set out in Part VI of the Town and Country Planning (Scotland) Act 1997, Chapter IV of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and Part IV of the Planning etc. (Scotland) Act 2006. The Planning Acts are available from:

TSO, 71 Lothian Road, Edinburgh EH3 9AZ

Or can be viewed at: **www.legislation.hmsso.gov.uk**

- Government policy on enforcement is set out in **Planning Circular 10/2009: Planning Enforcement**.

Planning legislation is complex and therefore if you are served with a statutory notice from the Moray Council planning authority, we advise you seek legal or independent professional planning advice.

Types of Notices

Enforcement Notice (Section 123 & 127 - 129)

This generally deals with unauthorised development, but can also apply to breach of planning conditions. This must be served on the current owner, occupier and anyone else with an interest in the property or land in question. There are similar notices and powers to deal with Listed Buildings (see below), and advertisements. An Enforcement Notice will specify a time period for the notice coming into effect (a minimum of 28 days), the steps that must be taken to remedy the breach and the time for this to be completed. There is a right of appeal to the Directorate of Planning and Environmental Appeals (DPEA) up to the date the notice takes effect at which time the notice is suspended until a decision is reached. Failure to comply with an Enforcement Notice within time is an offence, and may lead to a fine of up to £50,000 in the Sheriff Court or the Moray Council considering direct action to remedy the breach.

Breach of Condition Notice (Section 145)

This enforces the conditions applied to any planning permission if they have not been complied with and is effective from the date it is served. It may be used as an alternative to Enforcement Notice (see above), and is served on anyone carrying out development and/or any person having control of the land. Anyone contravening a Breach of Condition Notice can be fined up to £5,000 in the Sheriff Court. There is no right of appeal to this notice.

Listed Building Enforcement Notice

This must be served on the current owner, occupier and anyone else with an interest in the property. The procedures are similar to those outlined above. The notice must specify the steps to be taken to remedy the breach and a final date for compliance. Failure to meet the terms of the notice by the date specified is an offence. There is the right of appeal to (DPEA) against the notice. Breaches of listed building control are a serious matter. It is a criminal offence to undertake unauthorised works to demolish, significantly alter, or extend a listed building. In certain circumstances, this can lead either to an unlimited fine or imprisonment.

Stop Notice (Section 140)

This is used in urgent or serious cases where unauthorised activity must be stopped, usually on grounds of public safety. When a Stop Notice is served, the planning authority must also issue an Enforcement Notice. There is no right of appeal against a Stop Notice and failure to comply is an offence. An appeal can be made against the accompanying Enforcement Notice. If a Stop Notice is served without due cause, or an appeal against the Enforcement Notice is successful, the Moray Council may face claims for compensation. Therefore, the use of Stop Notices needs to be carefully assessed by the Council. It should be noted that a Stop Notice cannot prohibit the use of a building as a dwelling house.

Temporary Stop Notice (TSN)

This requires the immediate halt of an activity which breaches planning control. The provisions make an exception in that a TSN cannot prohibit the use of a building or caravan as a dwelling house. TSNs are enforceable for 28 days, after which time, they expire. They may, however, be followed by further enforcement action such as an Enforcement Notice and associated Stop Notice. There is no provision to appeal against a TSN.

Fixed Penalty Notice (FPN)

This provides the Moray Council with an alternative process, in addition to the option to seek prosecution, to address situations where a person has failed to comply with an Enforcement Notice (EN) or a Breach of Condition Notice (BCN). By paying the penalty imposed by the FPN, the person will discharge any liability for prosecution for the offence. They will not, however, discharge the obligation to comply with the terms of the EN or BCN, and the Moray Council will retain the power to take direct action to remedy the breach and recover the costs of such from that person. The Moray Council is not required to offer the option of a fixed penalty. Any decision to do so would be dependent on considerations such as the scale of the breach and its impact on local amenity. The fixed penalty amounts to £2,000 for each step not complied with in an Enforcement Notice and £300 for each step not complied with in a breach of condition notice.

Notice requiring application for planning permission (Section 33A)

Where the Moray Council considers that a development which does not have planning permission may be acceptable, i.e. the Council considers that it might be granted planning permission, the Council may issue a S33A Notice requiring the landowner or developer to submit a retrospective planning application. This application will be considered on its planning merits and handled in the same way as any other planning application. Issuing a S33A Notice does not guarantee that permission will be granted; the Moray Council may, on consideration of the application, decide instead to refuse planning permission, or grant permission subject to conditions or amendments to make the development acceptable. There is no right of appeal to this notice.

Notice requiring information as to interests in land (Section 272 Notice)

This provides limited powers for planning authorities to obtain information on interests in land and use of land. Failure to provide the information required is an offence.

Planning Contravention Notice (PCN) Section 125

This is used to obtain information about activities on land where a breach of planning control is suspected. It is served on the owner or occupier, on a person with any other interest in the land or who is carrying out operations on the land. They are required to provide information about operations being carried out on the land and any conditions or limitations applied to any planning permission already granted. Failure to comply with the notice within 21 days of it being served is an offence and can lead to a fine in court.

Amenity Notice (Section 179)

This allows planning authorities to serve a notice on the owner, lessee or occupier of land which is adversely affecting the amenity of the area. This is also known as an Amenity Notice and sets out the action that needs to be taken to resolve the problem within a specified period.

Interdict and Interim Interdict

Planning authorities can apply to the courts to grant an interdict to stop or prevent a breach of planning control. Court proceedings can be expensive and the Moray Council would normally only seek interdicts in serious cases or where Enforcement Notices or Amenity Notices have previously been ignored.

However, the Council can seek an interdict in relation to any breach without having to use other powers first. Breaching an interdict is treated as a contempt of court and carries heavy penalties.

Direct Action (Section 135)

Failure to comply with the terms of an Enforcement Notice or Amenity Notice within the time specified can result in the Moray Council carrying out the specified work. The Moray Council can recover any costs it incurs from the landowner.

All planning authorities are required to keep an Enforcement Register of all notices issued by that planning authority. The Moray Council Enforcement Register can be accessed online through the Planning Portal on the Moray Council website.

Please Note

This Charter does not comprise of an authoritative interpretation of the Planning Acts. Planning legislation is complex and if you receive any notice from Moray Council, you are advised to seek legal or independent professional planning advice.



**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON
19 DECEMBER 2023**

**SUBJECT: PLANNING POLICY GUIDANCE – MORAY LOCAL
DEVELOPMENT PLAN**

**BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND
FINANCE)**

1. REASON FOR REPORT

- 1.1 This report asks Committee to approve the stance on the National Planning Framework 4 (NPF4) policy 8 Green Belts and the updated planning policy guidance on NPF4 policy 17 Rural Homes to support the delivery of the Moray Local Development Plan.
- 1.2 This report is submitted to Committee in terms of Section III (E) (2) of the Council's Scheme of Administration relating to the review and preparation of Local Development Plans.

2. RECOMMENDATION

2.1 It is recommended that the Committee:

- (i) **agree that NPF4 policy 8 Green Belts is not applicable within the Moray Local Development Plan boundary for the reasons set out in this report;**
- (ii) **approve the updated planning policy guidance for policy 17 Rural Homes as set out in Appendix 1 and agrees that this be used as a material consideration in the development management process; and,**
- (iii) **agree that the policy stance on NPF4 policy 8 and the updated planning policy guidance on policy 17 Rural Homes is used to inform the development of the new Local Development Plan.**

3. BACKGROUND

- 3.1 NPF4 was published and became operational on 1 February 2023. A report on NPF4 was considered and agreed at the meeting of this Committee on 14 March 2023 (para 10 of the minute refers). It has become evident through the operation of NPF4 that further clarification is necessary on the application of policy 8 Green Belts within the Moray Local Development Plan boundary. This has ramifications for interpretation of NPF4 policies that reference the green belt, such as policy 17 Rural Housing.

4. PROPOSED APPROACH

NPF4 Policy 8 Green Belts

- 4.1 NPF4 policy 8 Green Belts sets out that Local Development Plans should consider using green belts to support their spatial strategy as a settlement management tool to restrict development around towns and cities, and cites the types of development that will be supported within them. Whilst there is no definition of green belt in NPF4 or its predecessor, Scottish Planning Policy (SPP) green belts have generally been designated around larger cities. Moray has operated a Countryside Around Towns (CAT) policy through a number of successive LDP's. This long-established CAT policy is considered more appropriate than a greenbelt policy given the scale of the towns in Moray.
- 4.2 The Moray Local Development Plan 2020 (LDP) policy EP4 Countryside Around Towns (CAT) seeks to prevent development sprawl into the rural area around towns where there is the highest development pressures (Buckie, Elgin, Forres, Keith and Lossiemouth). This is similar to NPF4 policy 8 however the LDP policy EP4 is more restrictive in terms of the types of development that will be permitted in the CAT which reflects the local context and protects the special character of the CAT from inappropriate development.
- 4.3 NPF4 policy 8 is specific to Green Belts whilst LDP policy EP4 is specific to CAT's. Through the operation of the policies and being tested and challenged through legal opinions the designations cannot be considered to be the same as the underlying concepts are not synonymous or interchangeable despite their similarities. Given that there are no green belt designations within the LDP and as NPF4 policy 8 applies to green belts only this policy cannot be applied to CAT designations, and as such, it cannot be applied within the Moray Local Development Plan boundary.
- 4.4 The CAT designation is an integral and important part of the spatial strategy for Moray. It is considered to be an appropriate approach to development within these rural areas that reflects the local context. Given that NPF4 policy 8 cannot currently be applied within Moray then it is considered that development proposals within CAT's will only be acceptable where they meet the criteria of LDP policy EP4. In the absence of a green belt it is considered that the CAT policy prevails.

- 4.5 Since the publication of NPF4 there has been increasing pressure for renewable energy developments in the CAT areas, some of which are of a significant scale. NPF4 policy 8 allows for renewable energy developments where a number of criteria are met. As set out above, NPF4 policy 8 is not considered to apply in Moray and therefore, LDP policy EP4 prevails. Whilst the LDP is supportive of renewable energy developments in appropriate locations that comply with the LDP spatial strategy, these types of development are not supported in the CAT areas as they undermine their purpose to protect the special characteristics and prevent sprawl into the countryside.

NPF4 Policy 17 Rural Housing

- 4.6 Planning policy guidance to aid the delivery and interpretation of NPF4 policy 17 Rural Housing in the local context was considered and agreed at a meeting of this Committee on 30 May 2023 (para 12 of the Minute refers). Given that it has become evident through the operation of NPF4 that policy 8 is not considered applicable within the LDP boundary, the Committee are asked to approve the updated planning policy guidance on policy 17 Rural Homes set out in Appendix 1. This means that the CAT areas will be classed as sensitive in terms of LDP policy DP4 Rural Housing and development will only be supported where it meets the criteria of policy EP4 for example, a replacement or extension of an existing building.

Moray Local Development Plan 2027

- 4.7 Work is currently underway on the new Local Development Plan with the Evidence Report scheduled to be presented to a meeting of Moray Council in April 2024. The timeframe for the production of the new Local Development Plan is the subject of a separate report on the Development Plan Scheme (DPS) which is being presented to the meeting of this Committee. As part of the work on the new Local Development Plan a review of the CAT areas will be undertaken and where there is justification in having local policies for CAT's and/or Green Belts these will be included within the Proposed Plan which will be formally consulted upon.

5. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

The Development Plan plays an important role in delivering the Corporate Plan and 10 year Plan in terms of supporting economic growth, providing land for business and housing, safeguarding our environment and plays an important prevention role in terms of health and well-being. The policy stance on NPF4 policy 8 and guidance on policy 17 aims to support these key aims.

(b) Policy and Legal

The MLDP2020 and NPF4 taken together form the statutory Development Plan for Moray. NPF4 policy 8 is not applicable within Moray as there are no green belt designations and, therefore LDP policy EP4 CAT will prevail in the determination of planning applications as this is a key element of Moray's spatial strategy.

(c) Financial implications

None.

(d) Risk Implications

The policy stance on NPF4 policy 8 and guidance on policy 17 Rural Homes provides a consistent approach to the implementation of the policies within NPF4. There is a risk that without these the spatial strategy of the Moray LDP and the rural characteristics of CAT's will be undermined.

(e) Staffing Implications

Ensuring that NPF4 is delivered in the Moray context has staffing implications for the Strategic Planning and Development and Development Management sections, and Legal Services.

(f) Property

None.

(g) Equalities/Socio Economic Impact

No Equality Impact Assessment is required for this report.

(h) Climate Change and Biodiversity Impacts

National Planning Framework (NPF) 4 and Moray Local Development Plan (MLDP) policies also seek to ensure that development proposals reduce carbon emissions and enhance biodiversity. The policy stance on NPF4 policy 8 and guidance on policy 17 aims to ensure a more appropriate and sustainable pattern of development in rural areas, directing development to areas which support the spatial strategy in the local development plan.

(i) Consultations

The Depute Chief Executive (Economy, Environment and Finance), the Chief Financial Officer, the Head of Economic Growth and Development, the Development Management and Building Standards Manager, the Legal Services Manager, the Principal Climate Change Officer, the Senior Engineer (Transportation), the Equal Opportunities Officer and Lindsey Robinson, Committee Services Officer have been consulted and comments received have been incorporated into the report.

6. CONCLUSION

- 6.1 Since NPF4 became operational in February 2023 it has become evident that NPF4 policy 8 Green Belts and LDP policy EP4 Countryside Around Towns cannot be considered to be the same. Given there are no Green Belt designations within the LDP, NPF4 policy 8 cannot be applied in**

Moray. Therefore, the LDP policy EP4 CAT will prevail in the determination of planning applications.

- 6.2 The CAT areas are an important part of the spatial strategy for Moray. Development proposals must meet the criteria of LDP policy EP4 to be acceptable in a CAT area.**
- 6.3 Planning policy guidance on NPF4 policy 17 Rural Homes has been updated to reflect the position on NPF4 policy 8.**

Author of Report: Eily Webster, Principal Planning Officer (Strategic Planning & Development)

Background Papers:

Ref:

Appendix 1: NPF4 Policy 17 Rural Homes Planning Interpretation Note (PIN)

Tailored Approach and 'Allocated' Sites

NPF4 policy 17 sets out that the Local Development Plan should set out a tailored approach to rural housing and reflect locally appropriate delivery approaches. Moray Council's 'tailored approach' is based on a rural development hierarchy set out in policy DP4 Rural Housing of the Moray Local Development Plan 2020 (MLDP). Other associated policies such as policy EP4 Countryside Around Towns (CAT) and policy EP3 Sensitive Landscape Areas (SLAs) apply. Policy EP4 protects the special character of the CAT areas from inappropriate development and prevents development sprawl into the countryside. Similarly, policy EP3 prohibits rural housing in the Coastal (Culbin to Burghead, Burghead to Lossiemouth, Lossiemouth to Portgordon and Portgordon to Cullen coast), Cluny Hill, Spynie, Quarrywood and Pluscarden SLA's to protect the special and high value landscape qualities of these areas. This policy approach reflects the local context of Moray and is considered to be a sustainable approach directing growth into rural groupings where there is existing infrastructure and reducing carbon emissions from unsustainable patterns of travel.

A proposal for a single house will be supported on a site allocated for development within a rural grouping or an area of intermediate pressure as defined by MLDP policy DP4 where it meets the siting and design criteria of MLDP policy DP4. These sites will be considered to be 'allocated' in terms of NPF4 policy 17, criteria a i).

A proposal for a single house outwith a rural grouping or an area of intermediate pressure will not be considered 'allocated'. A proposal will only be supported in pressurised and sensitive areas, CAT or SLA areas where it meets criteria iii), vii) and viii) of NPF4 policy 17 along with the relevant LDP policy(s) and guidance requirements set out in this guidance.

As there are no designated Green Belts in Moray, NPF4 policy 8 Green Belts does not apply and LDP policy EP4 CAT prevails. This means that criteria iv), v) and vi) of NPF4 policy 17 which are reflected as exemptions within NPF4 policy 8 Green Belts will not be supported within CAT areas as they do not accord with the LDP policy EP4 criteria.

This tailored approach is in accord with the Moray spatial strategy and is considered to provide a balance between supporting rural housing and preventing further suburbanisation of the countryside and unsustainable patterns of travel.

A summary table setting out the types of proposals for NPF4 policy 17 criteria ii-viii that will be supported within rural allocations defined in the MLDP 2020 is shown in Appendix 1.

Brownfield Land

NPF4 policy 17 criteria ii) states that a proposal for new housing will be supported on brownfield land where a return to a natural state has not or will not happen without intervention. Proposals on land that have been *made* to look visually unattractive, for example by fly tipping, will not be supported.

Brownfield land that has returned to a natural state (i.e. naturalised) is characterised as being dominated by colonised vegetation. Brownfield land that has been naturalised is rich in biodiversity and the reuse of these sites for development will not be supported. The applicant will be required to submit a statement to include information such as a habitat survey by a suitably qualified professional to demonstrate the biodiversity of the brownfield land to determine whether its redevelopment is appropriate.

The reuse of brownfield land for housing will only be supported where the siting and design criteria of policy DP4 is met. Proposals will be assessed on a case-by-case basis however, for the avoidance of doubt brownfield sites that are in a visually intrusive location and/or are out of keeping with the rural character of the area will not be supported. The long-lasting negative impact of these types of development will be considered to outweigh those associated with the redevelopment of brownfield land.

Redevelopment of brownfield land will be limited to one house unless a viability assessment is submitted to evidence that the development is required to finance the remediation of the land. In these circumstances, the number of houses permitted will also depend on an acceptable layout and design that reflects the rural character (i.e. steading arrangement or clusters) and compliance with the siting and design criteria of MLDP policy DP4.

Proposals for the redevelopment of brownfield land for housing will be supported within intermediate areas as defined by MLDP policy DP4 d) iii).

Reuse of Redundant or Unused Buildings

The reuse of redundant or unused traditional stone and slate buildings in the countryside will be supported subject to compliance with MLDP policy DP4 c). This applies to proposals within all rural areas including pressurised and sensitive areas as defined by MLDP policy DP4 d) and within CAT areas and SLA's as defined by MLDP policy EP3 c).

Enabling Development for Historic Environment Assets

Enabling house(s) will be supported in rural areas where it can be demonstrated that they are necessary to secure the future a historic environment asset such as a Listed Building. MLDP 2020 Policy EP10 Listed Buildings also sets out that "Enabling development may be acceptable where it can be shown to be the only means of retaining a listed building(s). The resulting development should be of a high design quality protecting the listed building(s) and their setting and be the minimum necessary to enable its conversion and re-use". This means that the new development is to address the *conservation deficit* as opposed to funding the restoration. Preservation of the setting of the historic environment asset remains a key consideration in these circumstances.

The 'conservation deficit' is the gap between the costs of repairing and converting a historic environment asset (e.g. listed building) to bring it back into use and the market value of the asset aonce the works are complete. For example, where the cost of repairing a listed building is £500k and the end market value after restoration is £350k, the conservation deficit is £150k. Applicants must submit an evaluation including a detailed financial appraisal and plans to identify the conservation deficit. The following information is expected to be submitted by the applicant:

- Condition survey of the historic environment asset (in the form of a conservation statement or conservation management plan) identifying the desired reasonable level of conservation to sustain the asset in the long term;
- Options appraisal comprising an assessment of alternative solutions to secure the assets future (e.g. grant funding, charitable ownership);
- Assessment of cost of repairs and how future maintenance liabilities will be met;
- Assessment of market value of the asset in current and repaired condition to calculate the conservation deficit;
- Detailed scheme design for the preferred option (i.e. this includes the proposed development but are there also plans drawn up for the historic environment asset?);

- Development appraisal to demonstrate the financial contribution the proposed development makes to the conservation of the asset; and,
- Delivery plan demonstrating how the conservation benefits will be secured in a timely manner.

When preparing the development appraisals for the asset(s) and the enabling development, the applicant is expected to use the Applicant Viability Data (AVD) form which can be found within the Appendices of the Developer Obligations Supplementary Guidance. This includes the level of information and format required which is necessary to assess appraisals. The development appraisal will need to be verified by the District Valuer (DV) who is independent of the Council and the cost of the DV will be borne by the applicant.

Enabling development will be restricted to the level of the conservation deficit. This reflects Historic Environment Scotland's (HES) position that enabling development should be controlled to reflect the gap/deficit.

Enabling development must meet the siting and design criteria of MLDP policy DP4 as well as the requirements of policy EP10.

Proposals will be supported within intermediate areas as defined by LDP policy DP4 d) iii) in Moray subject to the satisfaction of the above criteria.

Home(s) for Essential Needs Workers for Rural Businesses

A proposal for a house to support the sustainable management of a viable rural business, or where it is necessary for a worker to live permanently or near their place of work (e.g. a person taking majority control of a farm business) will be supported where the following is submitted to the planning authority's satisfaction:

- An appraisal by a suitably qualified professional to ascertain that the business is viable and that a full-time presence by a worker on-site is necessary to continue its operation. 'Open book' accounting will be necessary and this will be treated on a strictly confidential basis. This may be required to be independently verified by a suitably qualified professional appointed by the Council at the applicant's expense. If required, the fee for this service will be determined on case by case basis and a written quotation will be provided to the applicant for payment prior to the assessment of the appraisal;
- Details of existing houses and live planning consents located within the land holding owned by the business and reasons as to why these cannot be used for an essential worker. Rental homes or holiday lets within the ownership of the business will be considered as suitable accommodation for a full-time essential worker;
- Details of house(s) consented within the previous 5 years on the business land holding and reasons why these have not been accounted for in the future planning of the business;
- Site selection report evidencing that a hierarchical approach has been applied to the site assessment process whereby the conversion of traditional stone and slate buildings are the first preference with new build on a greenfield site the last;
- The proposed house forms part of a cluster with the businesses existing building premises; and,
- Compliance with the siting and design criteria of the MLDP policy DP4.

Security of premises, vehicles, etc. will not be considered a suitable reason for a house given the technology that is available to address this matter.

Proposals will be supported within intermediate areas as defined by MLDP policy DP4 d) iii) subject to the satisfaction of the above criteria.

Crofts/Woodland Crofts

Moray is identified as one of seven traditional Crofting Counties by the Crofting Commission. A croft is defined as “a relatively small agricultural land holding, which is normally held in tenancy, and which may or may not have buildings or a house associated with it”, (Crofting Commission). It has its own specific legislation ‘The Crofters Holding Act of 1886’ and ‘The Crofting Reform (Scotland) Act 2010’. The average size of a croft is 5 hectares.

A proposal for a house associated with a croft will be supported provided that the following evidence is submitted to the planning authority’s satisfaction:

- Croft registration information including reference number, size of croft, and access to common grazing or woodland;
- Information on croft land quality and how this has influenced the siting of the proposed house;
- Business Plan and Woodland Management Plan (where applicable);
- Site selection report evidencing that a hierarchical approach has been applied to the site assessment process whereby the conversion of traditional stone and slate buildings are the first preference with new build on a greenfield site the last; and,
- Compliance with the siting and design criteria of MDLP policy DP4.

A woodland croft is defined as a croft with sufficient tree cover overall to be considered under the UK forestry policy, and is subject to the UK forestry regulations. To support a proposal for a house associated with a woodland croft the following evidence must be submitted, in addition to the above, to the planning authority’s satisfaction:

- A business plan setting out how the woodland croft will be controlled/managed (including tenancy conditions);
- A woodland management plan to the UK Forestry Standards; and,
- An ecological report by a suitably qualified professional.

Crofts/Woodland Crofts will be supported within intermediate areas as defined by MLDP policy DP4 d) iii) subject to the satisfaction of the above criteria.

Home for a Retiring Farmer

A proposal for a single house for a retiring farmer will be supported where the following is submitted to the planning authority’s satisfaction:

- Evidence from a suitably qualified professional that the farm has been managed by the farmer for at least the previous 10 years and that the farm is an ongoing viable business that requires a full-time presence on-site to continue its operation. ‘Open book’ accounting will be necessary and this will be treated on a strictly confidential basis. This may be required to be independently verified by a suitably qualified professional appointed by the Council at the applicant’s expense. If required, the fee for this service will be determined on case by case basis and a written quotation will be provided to the applicant for payment prior to the assessment of the appraisal;
- Details of what is intended for the farmers existing residential accommodation;

- Details of houses located within the land holding owned by the farmer/farming business and reasons as to why these cannot be used as a home for the retiring farmer. Rental homes or holiday lets within the ownership of the farming business will be considered as suitable accommodation for a retiring farmer;
- Details of previous consents for houses within the farmer/farming business land holding and reasoning as to why these were not accounted for in planning for the succession management of the farm/farming business;
- Site selection report evidencing that a hierarchical approach has been applied to the site assessment process whereby the conversion of traditional stone and slate buildings are the first preference with new build on a non-prime agricultural greenfield site the last. A proposal on prime agricultural land will not be supported;
- The proposed house should be sited so that it forms part of a cluster with existing farm buildings; and,
- Compliance with the siting and design criteria of the MLDP policy DP4.

Only one application for a house for a retiring farmer on the farmer's family and/or business land holding will be permitted within the LDP period. Proposals will be supported within intermediate areas as defined by LDP policy DP4 d) iii) subject to the satisfaction of the above criteria.

Sub-Division, Replacement Homes and Reinstatement of Former Homes

NPF4 policy 17 Rural Homes supports the replacement of an existing permanent home in rural areas. As set out in NPF4 policy 9 Brownfield, Vacant and Derelict Land, and Empty Buildings criteria d) demolition and replacement of the house will be regarded as the least preferred option given the need to conserve embodied energy. A statement by a suitably qualified professional setting out the alternative options to demolition and the reasons these are not suitable will be required. Where possible, materials are to be recycled and reused and stone and slate are to form part of the design of the new building.

The replacement of an existing permanent house will be supported on a one-for-one basis in all rural areas including pressurised and sensitive areas as defined by MLDP policy DP4 d), CAT areas and SLA's as defined by MLDP policy EP3 c) providing there is clear physical evidence that the previous building has a complete shell (level 5 in MLDP policy DP4), overlaps the footprint of the original building and complies with the siting and design criteria of MLDP policy DP4. A suburban design will not be acceptable even if this was the design of the original house as this is out of keeping with the character of a rural area.

For the purposes of NPF4 policy 17, replacement and reinstatement are considered to be the same thing, and as such the criteria set out above applies regardless of the proposal's description.

The subdivision of 'large' houses will be supported where the relevant policies of NPF4 and the MLDP are met. The subdivision of 'large' houses will be supported in all rural areas including pressurised and sensitive areas as defined by MLDP policy DP4 d), CAT areas and SLA's as defined by MLDP policy EP3 c). Any extension must be in keeping with the character, scale and proportion of the original house.

Remote Rural Areas

Remote Rural Areas are defined as those 'with a greater than 30 minute drive time to the nearest settlement with a population of 10,000 or more'. The extent of Remote Rural Areas in Moray can be viewed online at http://www.moray.gov.uk/moray_standard/page_133434.html.

NPF4 policy 17 c) states that new homes in Remote Rural Areas will be supported where they support and sustain existing fragile communities. Highlands and Islands Enterprise (HIE) identify the Cabrach as the only fragile community in Moray for investment purposes. The Cabrach is located within an area of intermediate pressure as defined by MLDP policy DP4, and therefore the tailored approach to rural homes set out within this guidance complies with NPF4 policy 17 c).

Local Housing Needs/Outcomes

The 'tailored' approach to supporting proposals for a rural home is considered to be a balanced approach to addressing the local housing needs in these areas. A financial contribution will be sought from proposals towards the provision of affordable housing in the relevant Local Housing Market Area (LHMA). This is in accord with MLDP policy DP2.

Resettlement of Previously Inhabited Areas

New rural homes within the fragile community of the Cabrach fall within intermediate areas of pressure as defined by MLDP policy DP4 and these proposals will be supported subject to meeting the siting and design criteria of MLDP policy DP4. There are no previously inhabited areas other than the Cabrach that are deemed suitable for resettlement in Moray.

Prime Agricultural Land

NPF4 Policy 5 Soils sets out that a proposal for a house on prime agricultural land will not be supported unless it is to support essential workers for a rural business to be able to live on site. In all circumstances, apart from the aforementioned, proposals on prime agricultural land will not be supported.

Primary Industries

Primary industries within Moray are agriculture and forestry.

Appendix 1: NPF4 Policy 17 Type of Rural Homes Supported in MLDP Rural Area Categories criteria ii-viii

The table below sets out the types of house proposals set out in NPF4 policy 17 criteria ii-viii that will be supported within the rural allocations defined in the Moray Local Development Plan 2020 policies.

NPF4 Policy 17 Criteria	Pressurised and Sensitive Area (PSA)	CAT	Special Landscape Areas (SLA)*	Intermediate Area
ii. Brownfield Land	No	No	No	Yes
iii. Redundant and Unused Buildings	Yes	Yes	Yes	Yes
iv. Enabling Development for Historic Environment Assets	No	No	No	Yes
v. Essential Needs Workers for Rural Businesses	No	No	No	Yes
v. Crofts/ Woodland Crofts	No	No	No	Yes
vi. Retiring Farmer	No	No	No	Yes
vii. Subdivision of Existing Houses	Yes	Yes	Yes	Yes
viii. Replacement Homes and Reinstatement of Former Homes	Yes	Yes	Yes	Yes

**This applies to SLA's defined by MLDP policy EP3 criteria c which are the Culbin to Burghead, Burghead to Lossiemouth, Lossiemouth to Portgordon, Portgordon to Cullen coast, Cluny Hill, Spynie, Quarrelwood, and Pluscarden.*

A proposal that is located within a PSA and a CAT or SLA defined by MLDP policy EP3 c) will only be supported where it is acceptable within both rural categorisations. For example, if a proposal is within an intermediate area but would not be permitted in a SLA as defined by policy EP3 c) the development won't be supported.

All proposals will have to comply with the siting and design criteria of MLDP policy DP4.



**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON
19 DECEMBER 2023**

**SUBJECT: DEVELOPMENT PLAN SCHEME 2024- MORAY LOCAL
DEVELOPMENT PLAN 2027**

**BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND
FINANCE)**

1. REASON FOR REPORT

- 1.1 This report asks the Committee to consider the current timetable for the preparation of the new Local Development Plan (LDP) 2027 and to agree that the Development Plan Scheme (DPS) and Participation Statement is submitted to the Scottish Government.
- 1.2 This report is submitted to Committee in terms of Section III E (2) of the Council's Scheme of Administration relating to the Review and Preparation of Strategic and Local Plans.

2. RECOMMENDATION

- 2.1 **It is recommended that the Committee agree the DPS and Participation Statement for 2024, as set out in Appendix 1 and that the Scheme is submitted to the Scottish Government.**

3. BACKGROUND

- 3.1 Planning authorities have a statutory requirement to set out a timetable for the review/production of their LDP in the form of a DPS and to submit this annually to the Scottish Government.
- 3.2 The Planning (Scotland) Act 2019 introduces changes to the LDP preparation process. The most significant changes include;
 - The need to produce an Evidence Report rather than a Main Issues Report. This is to ensure that sufficient evidence is in place to justify the spatial strategy in the LDP and to justify any local policy positions.
 - The introduction of a Gatecheck to consider areas of dispute in the Evidence Report. This is intended to help streamline the later Examination

process by agreeing key aspects such as housing land requirements at an earlier stage.

- Regional minimum housing land requirements being set by the Scottish Government.
- The LDP will be place based, with National Planning Framework 4 (NPF4) setting national policies which will form part of the LDP and an expectation that only limited “local” policies will be included in the LDP, where the need is evidenced. NPF4 policies will have greater weight in decision making until any new local policies are adopted.
- The need to produce a Regional Spatial Strategy (RSS) either individually or collectively with adjacent authorities. The RSS and LDP will together form the long-term spatial plan to manage change.
- The need to invite and consider Local Place Plans.
- A greater focus on engagement and delivery.

3.3 NPF4 and new Local Development Plan regulations and guidance have been published during 2023, however guidance on Regional Spatial Strategies has been pushed back to 2024.

3.4 The target date for adopting new LDP’s is 5 years from the date of adoption of NPF4 (February 2023). The key milestones for preparing LDP2027 are;

- Development Plan Scheme and Participation Statement published December 2023
- Evidence Report to Council April 2024
- Gatecheck procedure April 2024- December 2024
- Proposed Plan to Council August 2025
- Examination process September 2026- April 2027
- Adoption of new Plan September 2027

3.5 The LDP process involves extensive community and stakeholder participation throughout, moving from informal evidence gathering and support for LPP to more formal consultation, awareness raising and neighbour notification at Proposed Plan stage.

3.6 The timescales for the Gatecheck and Examination processes are difficult to predict as they are largely outwith the Council’s control and managed by an independent person appointed by Scottish Ministers. However, the Council can ensure that these are carried out as timeously as possible by ensuring the Evidence Report and Examination casework are thoroughly researched, evidenced and presented. Officers are also liaising closely with the DPEA regarding submission dates and procedures for the Evidence Report and Gatecheck.

4. PROPOSALS

4.1 The DPS for 2024 is set out in **Appendix 1** and is intended to be a project management tool.

- 4.2 The DPS identifies other workstreams required to inform the Evidence Report, the lead service/section, where there is a cost involved beyond staffing and when external consultancy has/will be required.
- 4.3 The Participation Statement sets out who, when, where and how engagement will take place, including how members will be involved. A range of engagement tools will be used at different events to engage with as wide an audience as possible across the Moray LDP area.
- 4.4 There are a number of workstreams already underway or completed. Work already completed includes;
- Housing Need and Demand Assessment- led by Housing service
 - Natural Capital Study
 - Business Needs Survey
 - Brownfield sites review
 - Tree Preservation Order review
 - Town Centre Improvement Plans
 - Retail Study
 - Forestry and Woodland Strategy
- 4.5 Engagement planned during 2024 includes;
- Direct engagement with key stakeholders on the Evidence Report seeking agreement or to identify “areas of dispute”
 - Potential engagement regarding the Regional Spatial Strategy
 - Engagement regarding the revised, updated Elgin City Centre Masterplan.
 - Engagement on updated Developer Obligations Supplementary Guidance.

5. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

The LDP is a vital aspect of supporting and facilitating the Council's priority for economic growth. The Plan also aims to deliver other key objectives including the delivery of affordable housing, provision of land for employment purposes and conservation and enhancement of our high quality natural and historic environment.

The annual DPS monitors progress of the Plan and is submitted to the Scottish Government to ensure Moray has an up to date LDP, which is a key performance indicator in the Planning Performance Framework (PPF) and a statutory requirement.

(b) Policy and Legal

Preparation of the LDP, RSS and DPS is a statutory responsibility in the Council's role as Planning Authority. Preparation must follow statutory procedures.

(c) Financial implications

A budget pressure was highlighted in the report to this Committee on 23rd March 2021 (para 13 of minute refers) for critical transportation appraisals of £250,000. These transportation studies are essential to support the LDP, meet the requirements of Transport Scotland and identify mitigation measures, which form the basis for transportation related developer obligations.

Transport budgets commence this financial year and continue into 2024/25 and 2025/26, likely to be split £100,000, £100,000 and £50,000. Once Transport Scotland guidance has been updated the proportions over the financial years may change.

Other costs required to inform and develop the LDP will be met from the LDP annual revenue budget.

The cost of the Gatecheck and Examination processes will result in a budget pressure in 2024/25 and 2026/27.

(d) Risk Implications

Key risks identified are set out below which all raise risks of delays to the LDP process or risk of not delivering the proposals within the Plan;

- Insufficient evidence collated and included within the Evidence Report- risk of delay, Reporter requests additional information and/ or re-write Evidence Report
- Inclusion of evidence indicating a local policy pathway at odds with national policy- risk of delay if local policy approach contrary to NPF4.
- Staff resources- risks associated with other competing workloads and risks associated with losing experienced members of staff which would add delay, not only within Strategic Planning and Development but other services.
- Uncertainty over procedures until the new LDP regulations are adopted.
- Failing to meet the governments aspirations for wide engagement in the process.
- Risk of not resourcing services to deliver the plan and meet the aspirations for planners to be enablers of change.

The proposed approach and timelines set out in the DPS endeavours to mitigate these risks, where possible.

(e) Staffing Implications

Preparing the LDP is a statutory requirement and will therefore be a priority for the Strategic Planning and Development section over the next few years. At key peaks in workload this can have an impact upon other workload commitments.

The new Plan will have a strong focus on climate change and the climate change officers within Strategic Planning and Development are/ will be heavily involved in the Evidence Report, Regional Spatial Strategy, interpretation of NPF4 and development of the Proposed Plan.

Preparation of the LDP and its subsequent delivery involves other services, particularly Transportation, Housing, Education, Estates, Legal, Consultancy and Development Management, which impacts upon workloads and performance within these services.

(f) Property

None at this stage.

(g) Equalities/Socio Economic Impact

None.

(h) Climate Change and Biodiversity Implications

The new planning system will include national and local planning policies aimed at reducing carbon emissions and addressing our nature crisis as well as concepts such as 20 minute neighbourhoods which will be key drivers in delivering change. The DPS subject of this report is a project management tool, setting out key milestones for the preparation of the next LDP and is not considered to have any direct carbon or biodiversity impacts.

As referenced in the staffing implications above, climate change officers will be involved in the LDP process.

A full Carbon and Biodiversity Assessment will be undertaken at Evidence Report stage.

(i) Consultations

Consultation has taken place with the Depute Chief Executive Economy, Environment and Finance, the Head of Economic Growth and Development, the Head of Education Resources and Communities, the Legal Services Manager, the acting Housing Strategy and Development Manager, the Senior Engineer (Transportation), the Equal Opportunities Officer, the Principal Climate Change Officer, the Development Management and Building Standards Manager, Deborah O'Shea (Principal Accountant) and Lindsey Robinson (Committee Services Officer) and their comments incorporated into the report.

5. CONCLUSION

5.1 Planning authorities are required to annually review their DPS which sets out the timetable for the review/replacement of the LDP.

5.2 The DPS 2024 sets out the timetable for the preparation of the next LDP and the Participation Statement sets out details of how the Council will engage throughout the process.

Author of Report: Gary Templeton
Strategic Planning and Development Manager

Background Papers:
Ref:

STRATEGIC PLANNING AND DEVELOPMENT SERVICES
DEVELOPMENT PLAN SCHEME

DECEMBER 2023



moray
council



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INTRODUCTION

The Town and Country Planning (Scotland) Act 1997 (as amended by the Planning etc (Scotland) Act 2006), the Town and Country Planning (Development Planning) Regulations 2008, and the Planning (Scotland) Act 2019 require planning authorities to prepare a Development Plan Scheme each year.

The Development Plan Scheme sets out the timelines for preparing the new Local Development Plan 2027, updates on planning guidance and masterplanning and includes a Participation Statement which sets out who, when and how we will consult with stakeholders.

The Scheme is reviewed annually. The process for preparing local development plans in Scotland has changed. National Planning Framework 4 became operational on 13th February 2023 and new Development Planning Guidelines have

been published. Guidance on Local Place Plans has also been published, however guidance on preparing Regional Spatial Strategies has been delayed until 2024. Key changes included within the Planning (Scotland) Act 2019 include the replacement of the Main Issues Report stage with a new Evidence Report and Gatecheck procedure aiming to streamline the Examination process and ensure an evidence led approach is taken to preparing the Proposed Plan.

The timelines will be reviewed and updated as work progresses on the various workstreams to support the existing LDP and to prepare the new LDP. Preparing the new Plan will involve extensive stakeholder and community engagement and the Planning (Scotland) Act 2019 requires engagement with specific stakeholder groups such as young people. The Participation Statement is included as an Appendix to this Scheme.



Moray Local Development Plan 2020

The MLDP2020 was adopted on 27th July 2020. A number of Masterplans, Supplementary Guidance and additional planning guidance have been produced to support the Plan and these can be viewed at http://www.moray.gov.uk/moray_standard/page_133431.html

The following policy/ guidance and studies were progressed during 2023 to support delivery of the LDP2020 and NPF4;

- Carbon guidance
- Community Wealth Building guidance
- Mosstodloch Masterplan
- Findrassie Masterplan review
- Blackhillock Masterplan
- Landscape Sensitivity Study
- Business Needs Study
- Housing Need and Demand Assessment

Work is ongoing on a number of policy/ guidance and studies to support delivery of LDP2020 and to inform the Evidence Report for LDP2027, including;

- Natural Capital Study
- Forestry and Woodland Strategy
- Developer Obligations Supplementary Guidance
- Lochyhill, Forres Masterplan
- Biodiversity studies and guidance
- Findrassie Masterplan
- Mosstodloch Masterplan
- Rural Housing Planning Interpretation Note
- Flooding and Drainage Supplementary Guidance

Moray Local Development Plan 2027

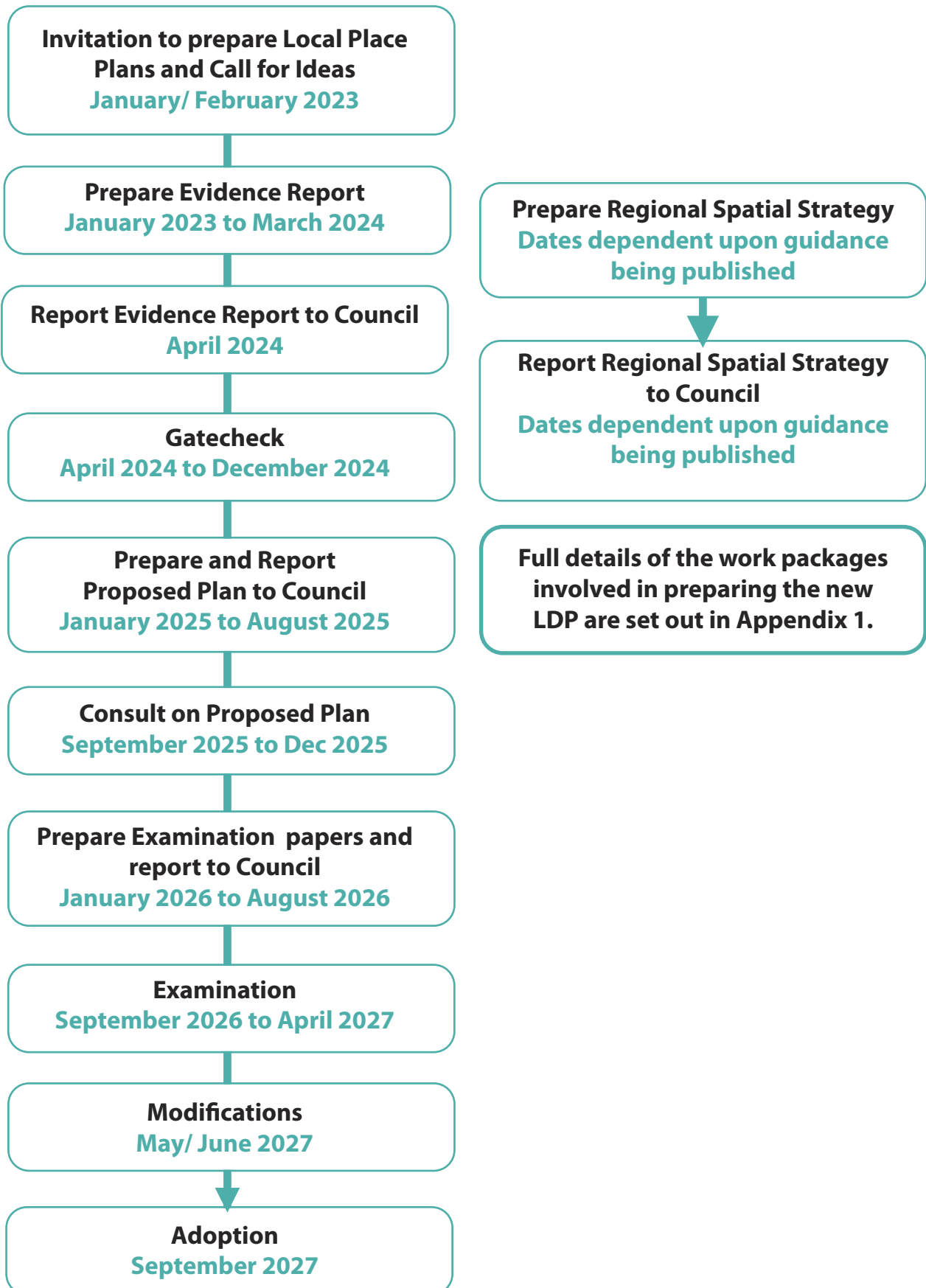
The diagram below summarises the key timelines in preparing the new LDP27 which will replace the current LDP2020.

As with many planning authorities in Scotland, the early stages of the plan process were delayed due to uncertainties around the final content and timescale for implementation of the Planning (Scotland) Act 2019 which received royal assent in summer 2019.

Under the new requirements, the Scottish Government has confirmed that the target is to have new LDP's in place within 5 years of NPF4 being adopted. The timelines below reflect that target.



Key timelines in preparing the new LDP27



Participation Statement

The Council is committed to encouraging participation from as wide a range of stakeholders as possible in all Local Development Plan related activities, such as masterplans, development briefs and other guidance published throughout the lifetime of the Plan. This Participation Statement outlines how communities and stakeholders will be engaged and have the opportunity to engage, shape and inform the Local Development Plan and associated documents, in line with National Standards for Community Engagement.

The Council aims to ensure that;

- All engagement events are inclusive, open and transparent, this will be reflected in the venues we use, the documents we produce and our methods of engagement;
- Representations are fully considered and help to shape our approach and that feedback is provided to all representations received;
- We take the extra step to engage with as wide an audience as possible, reflecting the diverse nature of our community.

From the outset of the Local Development Plan process we have engaged with the local community, launching a Call for Ideas and a series of community engagement events across the LDP area. Comments received are being collated and will form part of the Evidence Report. The opportunity for community groups to prepare Local Place Plans has been advertised with around 14 groups currently expressing an interest. A series of 4 workshops with elected members have been organised covering a wide range of issues which are to be included within the Evidence Report.

Key agencies such as SEPA, Historic Environment Scotland, NatureScot, Scottish Forestry, Transport Scotland, Highlands and Islands Enterprise, NHS Grampian and Scottish Water will be engaged at relevant stages of the process including consideration of the Evidence Report. The Council has an infrastructure Delivery Group which includes representation from Transport Scotland, NHS Grampian, Scottish Water and officers from the Council Housing, Transportation and Planning service. The Council will continue to liaise with and consult with Homes for Scotland as an umbrella group and with its individual members.

The full Participation Statement is set out in Appendix 2.



KEY

Ongoing



Complete



Delayed/ Not started



5

Work package	Internal/ External	Timelines	Budget requirement	Progress on track
Participation Statement	Internal	Dec 2023	No	Ongoing
Self-Build land register	Internal	Publish November 2023	No	Complete
Invitation to prepare Local Place Plans	Internal	Publish January/ February 2023	No	Complete
Call for Ideas	Internal	Publish January/ February 2023	Advertisement	Complete
Early engagement to inform Evidence Report (see Participation Statement)	Internal	February 2023 to September 2023	No	Complete
20 minute approach for Moray	Internal	Agreed approach December 2023	No	Ongoing
Demographics-population, migration, households, employment for ER	Internal	Review Complete October 2023	No	Complete
Brownfield sites assessment	Internal	September 2023	No	Complete
Prepare Housing Land requirement	Internal	Complete HLR paper July 2023	No	Complete
Town and village capacity studies	Internal	Complete studies end May 2023	No	Complete
Review Countryside Around Town boundaries	Internal	Complete review end 2023	No	Ongoing



Work package	Internal/ External	Timelines	Budget requirement	Progress on track
Review Special Landscape Area boundaries	Internal	Complete review end 2023	No	Ongoing
Review Town Centre boundaries	Internal	Complete review end 2023	No	Ongoing
Housing Need and Demand Assessment	Internal- led by Housing	Complete by June 2023	Financed by Housing Services	Awaiting Scottish Government Approval
Review of action taken to support and promote construction and adaptation of housing to meet the needs of older people and disabled people	Internal	Complete by February 2024	No	Ongoing
Strategic Housing Investment Plan	Internal	Annual review	No	Annual
Summary of the action taken by the planning authority to meet the accommodation needs of Gypsy/ Travellers and an analysis of the extent to which that action has helped meet those needs.	Internal	Complete by end October 2023	No	Complete
Housing Land Audit 2023 & 2024	Internal	Annual reviews. Complete by end June	No	Annual
Need for short term let control areas	Internal	Review complete by February 2024	No	Ongoing
Annual Monitoring report 2023 and 2024	Internal	Annual reviews	No	Annual



Work package	Internal/ External	Timelines	Budget requirement	Progress on track
Employment Land Audit	Internal	Annual review complete by end June	No	Annual
Town Centre Health Checks 2023	Internal	March 2024	No	Ongoing
Retail Study	External	Reported to P&RS Committee April 2022	No	Complete
Tourism development opportunities	Internal	Complete December 2023	No	No progress
Minerals survey Demonstrate capable of meeting the 10 year landbank of construction aggregate in all market areas, existing permitted minerals reserves and relevant elements from aggregates survey	Internal	Complete by end February 2024	No	Ongoing
Tourism Strategy	Internal	Complete by end 2023	No	No progress
Moray Economic Strategy	Internal	Complete by end October 2023	No	Complete
Annual economic activity report/ Council strategy	Internal	Complete by end October 2023	No	Delayed to March 2024
Business Needs survey	External	Complete by end September 2023	£20k	Complete
Town Centre Improvement Plans	Internal	Report to P&RS Committee October 2022	No	Complete



Work package	Internal/ External	Timelines	Budget requirement	Progress on track
Community benefits (NPF4 policy)	Internal	Community benefits report going to Nov Corporate Services Cttee. NPF4 approach to be progressed by Q1/Q2 2023	No	Complete
Open Space Strategy	Internal	Audit complete end February 2023. Complete draft by end 2023	No	Ongoing
Carbon calculations NPF4 policy methodology	Internal	Completed by end Q1/Q2 2023	No	Complete
Play Sufficiency Assessment	External	Commission April 2023, complete end 2023	£30k	Complete
LBAP- priority habitats and species and site data	External	April 2023 to February 2024	£12,000	Ongoing
Forestry/ Woodland & potential wider land uses and recreation	External	January 2023 to December 2023	£45k split between Moray Council, HIE and Scottish Forestry	Ongoing
Conservation Area Appraisals phase 1	External	Complete March 2023	£12,000 in 22/23, potential for further appraisal work in 23/24	Complete
Heat mapping to inform potential for co-locating developments with high heat demand with sources of heat supply	Internal	Complete by end 2023	No	Complete



Work package	Internal/ External	Timelines	Budget requirement	Progress on track
Realise full potential for electricity and heat from renewable, low carbon and zero emission sources	Internal	Complete by end 2023	No	Ongoing
Local waste data	Internal	Complete Feb 2024	No	Ongoing
Strategic Flood Risk Assessment	Internal	Required for Proposed Plan	No	Ongoing
Data on peat and carbon rich soils	Internal	Complete by end 2023	No	Ongoing
Native Woodland Survey of Scotland and Ancient Woodland Inventory	Internal	Complete by end 2023	No	Ongoing
Review Tree Preservation Orders	Internal	Reports to P&RS Committee	No	Complete
Review of areas designated for their local nature conservation interests	Internal	Complete by March 2024	No	Ongoing
Coastal evidence and information- erosion, coastal change	Internal	Complete by February 2024	No	Ongoing
Landscape Sensitivity Study, details of wind turbines and solar farms and other RE infrastructure	Internal	Report to P&RS Committee Q3 2023/24	£5k	Complete
Allotments and Food growing areas	Internal	Complete by February 2024	No	Ongoing
Sport and Recreation Strategy	TBD	TBD	TBD	Ongoing



Work package	Internal/ External	Timelines	Budget requirement	Progress on track
Details of infrastructure capacity and planned investments, including communications, drainage, water, energy, healthcare, education, digital and grey, green and blue infrastructure, drinking water facilities, sewerage, gas, electricity networks	Internal	Complete by February 2024	No	Ongoing
Learning Estate Strategy	Internal- Education	Assess implications by February 2024	No	Ongoing
Transport Appraisal and model	External	1st stage Complete by April 2024, 2nd stage timeline to be confirmed	£250,000	Ongoing
Evidence base on public transport	Internal	Complete by February 2024	No	Ongoing
Condition, use and proposals for harbours	Internal	Complete by February 2024	No	Ongoing
Active travel networks and data	Internal	Complete by September 2023	No	Complete
Active Travel Strategy	Internal	Complete by November 2023	No	Complete
Digital infrastructure and not spots, gaps in provision, investment plans	External	Complete by September 2023	No	No progress



Work package	Internal/ External	Timelines	Budget requirement	Progress on track
Electric Vehicle Infrastructure Strategy	Internal	Complete by November 2023	No	Complete
How we have sought views	Internal	Complete by January 2024	None	Ongoing
How we have invited LPP and taken account of registered LPP	Internal	Complete by January 2024	None	Ongoing
Site appraisal methodology	Internal	Complete by end 2023	None	Ongoing
Areas of prime agricultural land	Internal	Complete July 2023	None	Complete
High risk development areas (HSE)	Internal	Complete July 2023	None	Complete
Creative Scotland plans and local cultural plans	Internal	Complete February 2024	None	Ongoing
Number and range of cultural venues and facilities, including live music	Internal	Complete February 2024	None	Ongoing
LOIP, Community Plan implications for LDP	Internal	Complete February 2024	None	Ongoing
Draft Evidence Report chapters sent to stakeholders. Set out any areas of dispute regarding evidence and areas of agreement	Internal	Send January/ February 2024	None	Ongoing
Report to full Council	Internal	Report to full Council April 2024	None	



Work package	Internal/ External	Timelines	Budget requirement	Progress on track
Gatecheck Procedure	External- DPEA	April 2024 to December 2024	Yes - Cost of Gatecheck to be clarified by Scottish Government	
Template for settlement statements- place based approach	Internal	March 2024	None	Ongoing
Prepare Delivery Plan	Internal	April to June 2025	None	Not Started
Draft spatial strategy	Internal	February 2024 to November 2024	None	Ongoing
Report proposed plan to full Council	Internal	August 2025	None	
12 week consultation	Internal	September to end November 2025	None	
Prepare schedule 4's for Council and Examination	Internal	December 2025 to April 2026	None	
Report Schedule 4's to Council and request Examination	Internal	August 2026	None	
Reporter issues further information requests and convenes hearings if necessary	Internal	September 2026 to April 2027	None	
Reporter issues Examination report and Plan modified	External	May/ June2027	Council required to pay for cost of Examination	
Intention to adopt Adopt Plan	Internal	July 2027	None	
Publish Delivery Programme	Internal	September 2027	None	



Work package	Internal/ External	Timelines	Budget requirement	Progress on track
Strategic Environmental Assessment Scoping Report	Internal	March 2023	None	
SEA Draft Environmental Report	Internal	January 2025	None	
Final Environmental Report	Internal	June 2025	None	
Publish post adoption SEA Statement	Internal	November 2027	None	
Habitats Regulation Assessment	Internal	June 2025	None	

Participation Statement

Engagement Outcomes

14

- Early meaningful and inclusive engagement meeting National Standards for Engagement
- Youth Engagement linked to the Curriculum for Excellence
- Geographic and demographic spread of engagement
- Spatial outputs from engagement to inform “Place” based plan
- Partnership working to engage beyond Local Development Plan both locally and strategically on Moray Growth Deal, Regional Spatial Strategy and Locality Plans
- Deliver engagement through a climate change lens







**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON
19 DECEMBER 2023**

SUBJECT: KEITH GREEN ENERGY AND INFRASTRUCTURE FRAMEWORK

**BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND
FINANCE)**

1. REASON FOR REPORT

- 1.1 This report asks the Committee to note the representations received to the draft Keith Green Energy and Infrastructure Framework, agree the Council's response to these and approve the final Framework.
- 1.2 This report is submitted to Committee in terms of Section III (E) (2) of the Council's Scheme of Administration relating to the review and preparation of Local Development Plans.

2. RECOMMENDATION

2.1 It is recommended that the Committee agree to:

- (i) note the representations received to the public consultation on the draft Keith Green Energy and Infrastructure Framework and agrees the Council's response to these, as set out in Section 4 of the report; and**
- (ii) approve the final Keith Green Energy and Infrastructure Framework, as set out in Appendix 1, and agrees that this be used as a material consideration in the development management process and to inform the development of the new Local Development Plan.**

3. BACKGROUND

- 3.1 In November 2022, the Moray Just Transition Masterplan received £881,000 from the Scottish Government's North East Just Transition Fund. Consisting of five interlinked projects – Buckie Harbour Feasibility; Blackhillock Masterplan; Hydrogen Feasibility Study; Carbon Offset Feasibility Study and

Vacant Land Development Feasibility – the Masterplan seeks to support the area’s transition towards a zero-carbon economy.

- 3.2 The Keith and Blackhillock areas are coming under increasing development pressure, on a piecemeal basis, from development that supports the National Grid and there is no forward planning to identify necessary infrastructure or development potential, which undermines the plan-led system advocated by the Government.
- 3.3 With national developments promoted in National Planning Framework 4 (NPF4), including Strategic Renewable Electricity Generation and Transmission Infrastructure, a development framework was proposed for the Keith and Blackhillock areas in order to make best use of surrounding land and appropriately control the opportunities arising from renewables associated with the grid infrastructure and energy systems/storage.
- 3.4 The draft Keith Green Energy and Infrastructure Framework was approved for an 8-week public consultation by this Committee at its meeting on 15 August 2023 (para 12 of the minute refers). The Framework provides a strategic framework for grid infrastructure and energy systems/storage associated with renewable energy in and around Keith.

4. PUBLIC CONSULTATION

- 4.1 The 8-week public consultation commenced on 21 August and ended on 16 October 2023. The draft Framework was published on the Council's website and the consultation advertised as widely as possible via social media, press release and emails. A drop-in exhibition for the Local Development Plan was held on 9 September 2023 in the Longmore Community Hall, Keith, at which the draft Framework was displayed for people to comment on.
- 4.2 3 responses were received to the consultation and a summary of the representations received is provided below along with the Council's response:

Organisation	Comment	Response
Strathisla Community Council	Welcome strategy as a sensible and positive approach.	Support is noted.
SEPA	Support proposals for riparian planting and note that fluvial flood risk is adequately considered.	Support is noted.
Transportation (Moray Council)	Corrections to figure numbers.	Accepted.
	Keith NE Study Area: Maps make reference to the A96 instead of the A95.	Accepted.
	Utilities Implications: Recent work identified underground utilities in	List and map of utilities are not extensive and report is caveated that

	the vicinity of Keith NE Study Area which aren't identified on map.	further investigations for constraints would be required. Wording updated to reinforce this requirement.
	Constraints and Opportunities: Concern that local roads are not covered in sufficient detail.	Additional wording added to first bullet point under subsection 'Transport Implications.
	Transport Implications (Bullet point 4): Include the potential need to provide/extend service routes to within walking distances of developments.	Accepted.
	Transport Implications: Incorrectly makes reference to speed limit for HGVs on A96 as being 40mph.	Remove reference as relates to temporary speed limit in place at Whitehillock.
	Transport Implications (Bullet point 12): Query data source used in relation to high accident rates within Keith as not aware.	Bullet point removed.
	Transport Implications: The specifics of potential A96 corridor routes and improvements are unknown.	References updated to generalise the requirement to take account of the position at the time of application.
	Access & Movement: Include reference to the local road network in consideration of transport improvements for any potential development.	Accepted.
	Planning Applications: Highlights a number of recent, pending applications.	No change. Contents of Framework is a snapshot at the time of production and applications highlighted are still to be determined.

- 4.3 The proposed changes have been incorporated into the revised Framework which is provided as **APPENDIX 1** to the report. The final Framework is considered to be an appropriate tool to guide development to the most suitable locations in and around Keith.

- 4.4 A copy of the Framework's appendix has been uploaded to CMIS along with the agenda, as an additional meeting document.

5. **SUMMARY OF IMPLICATIONS**

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

Whilst promoting economic development, growth and diversity, the Framework seeks to balance this with maintaining Moray's landscape and biodiversity by guiding development to the most appropriate locations in and around Keith.

(b) Policy and Legal

The Framework will become a material consideration for development management purposes and will be used to inform the new Local Development Plan.

(c) Financial implications

None.

(d) Risk Implications

Without the Framework, there is a risk that there is continued unplanned energy infrastructure related development in the Keith area resulting in piecemeal development which has no forward planning to identify necessary infrastructure or development potential and unacceptable landscape and visual impacts (including cumulative).

(e) Staffing Implications

Work on the Framework has been carried out within existing staff workloads of the Strategic Planning and Development team, with input and review of documents by Transportation.

(f) Property

None.

(g) Equalities/Socio Economic Impact

The purpose of the Framework, as a strategic document, is to facilitate the planning process. Following screening, a full Integrated Impact Assessment (IIA) is not required.

Future development proposals should have an assessment to see how benefits can be distributed fairly and in particular how they can assist in alleviating fuel poverty.

(h) Climate Change and Biodiversity Impacts

National Planning Framework (NPF) 4 and Moray Local Development Plan (MLDP) policies also seek to ensure that development proposals reduce carbon emissions and enhance biodiversity. The Framework provides opportunities for renewable energy development in the Keith area.

(i) Consultations

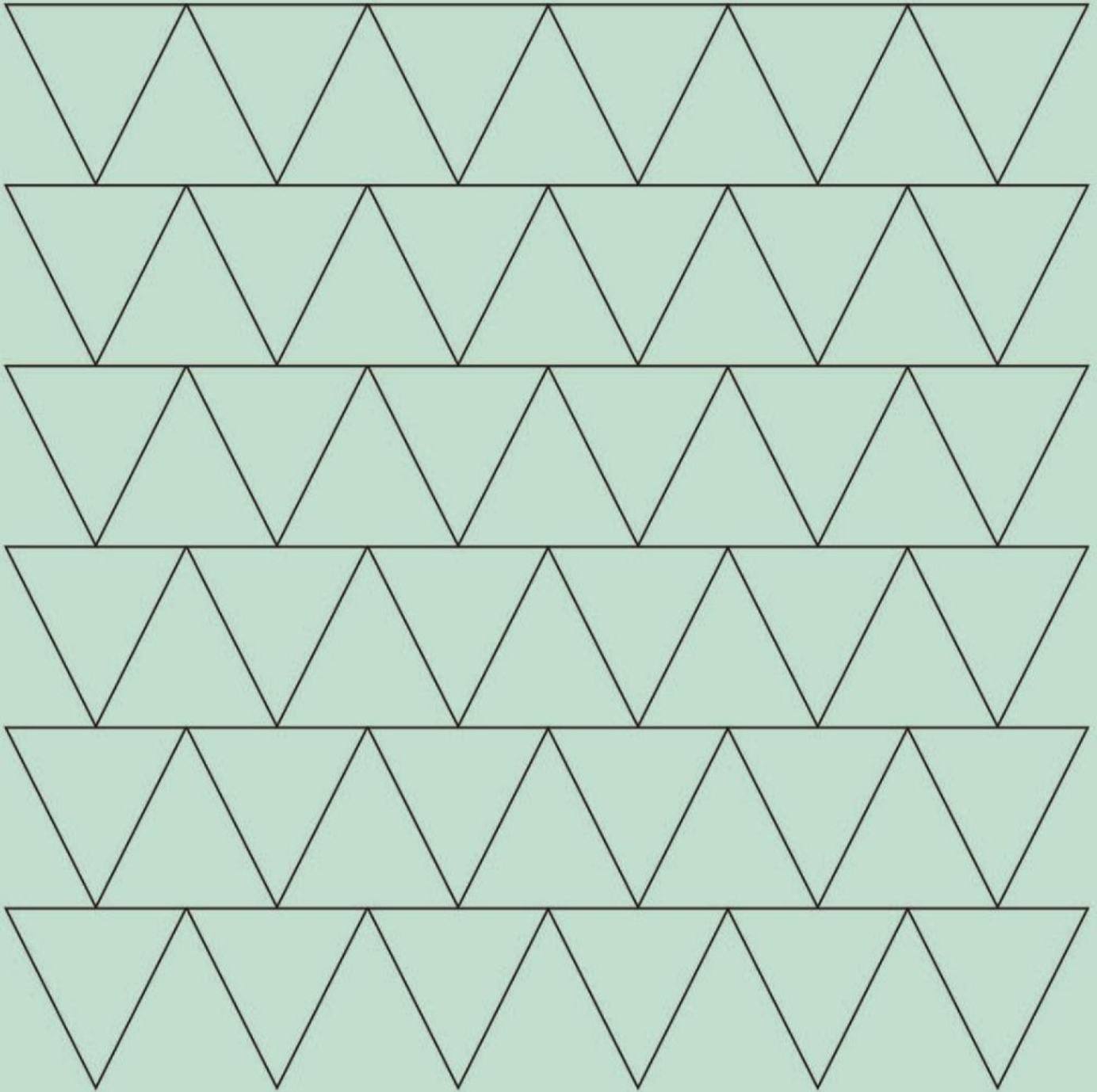
The Depute Chief Executive (Economy, Environment and Finance), the Chief Financial Officer, the Head of Economic Growth and Development, the Development Management and Building Standards Manager, the Legal Services Manager, the Principal Climate Change Officer, the Senior Engineer (Transportation), the Equal Opportunities Officer and Lissa Rowan, Committee Services Officer have been consulted and comments received have been incorporated into the report.

6. CONCLUSION

- 6.1 As part of the Moray Just Transition Masterplan, the Keith Green Energy and Infrastructure Framework seeks to guide development proposals for grid infrastructure and energy systems/storage associated with renewable energy to the most appropriate locations in and around Keith.**
- 6.2 This report asks Committee to approve the final Framework, as set out in Appendix 1, which has been updated to reflect the representations received to the public consultation.**

Author of Report: Darren Westmacott, Planning Officer (Strategic Planning & Development)

Background Papers:
Ref:



Keith Green Energy & Infrastructure Framework

November 2023

A Just Transition strategy
for Moray



Prepared by: Collective Architecture Client: Moray Council
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 Transport Consultant: Meinhardt

Revision:	Date:	Status:	Reason for Issue:	Checked:	Approved:
1st	01.06.2023	draft		MC	JB
2nd	16.06.2023	draft		MC	JB
3rd	30.06.2023	draft		MC	JB
4th	25.07.2023	final		MC	JB

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05	STUDY AREA 2 KEITH NORTH EAST – CONSTRAINTS + OPPORTUNITIES
06	KEITH – A GREEN INDUSTRIAL HUB?
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“The brief is to develop a strategic framework for Blackhillock and Keith North East (NE) in order to clearly guide development proposals for grid infrastructure and energy systems/storage associated with renewable energy to the most appropriate locations in and around Keith. This will help to speed up the planning process, delivery of associated facilities and jobs and the overall transition to Net Zero.’

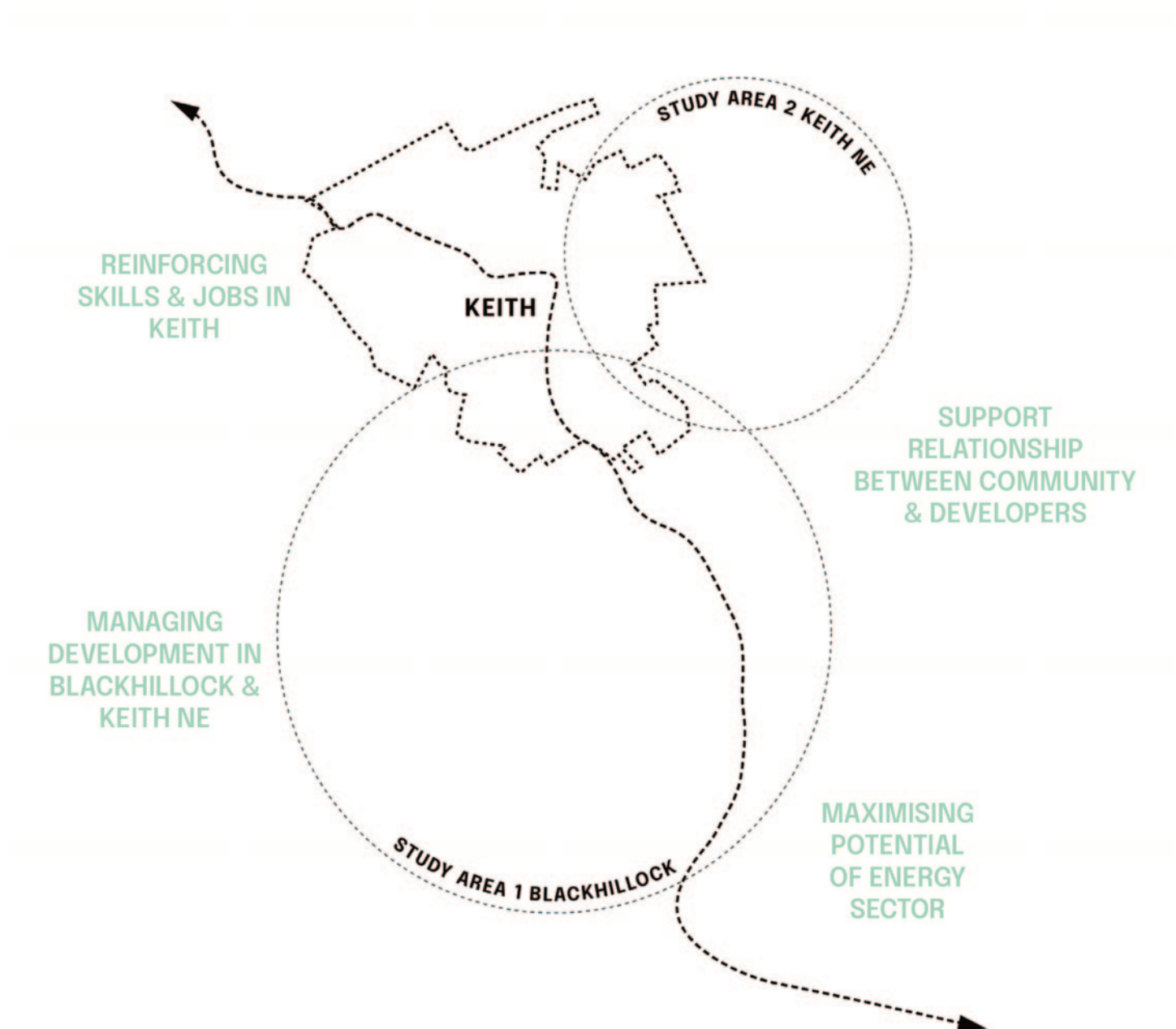


Figure 1 Diagram Presenting Keith and the study areas

Introduction

This draft strategy seeks to develop a strategic framework with a focus on energy & infrastructure for Keith NE and Blackhillock and sets out the following:

- 01** A strategy for future development in Keith NE and Blackhillock.
- 02** A landscape sensitivity assessment of the Blackhillock and Keith NE area.
- 03** Identifies potential development sites, including any requirements for the expansion of the existing Substation and opportunities identified in the Moray Hydrogen Strategy.
- 04** Identifies infrastructure improvements required to accommodate a variety of uses on opportunity sites.
- 05** Consultation and engagement with public/private sector organisations, including SSEN and Keith and Strathisla Community Council, on how the area surrounding Blackhillock should develop.
- 06** Recommendations for landscape mitigation required to integrate future development opportunities.

Strategic Framework For Blackhillock & Keith NE

A framework to guide holistic and considered development in the area based on the National Planning Framework (NPF4) and other national development policies including the Energy Strategy, and future and existing development demands in order with the aim to safeguard the landscape and setting of the town.

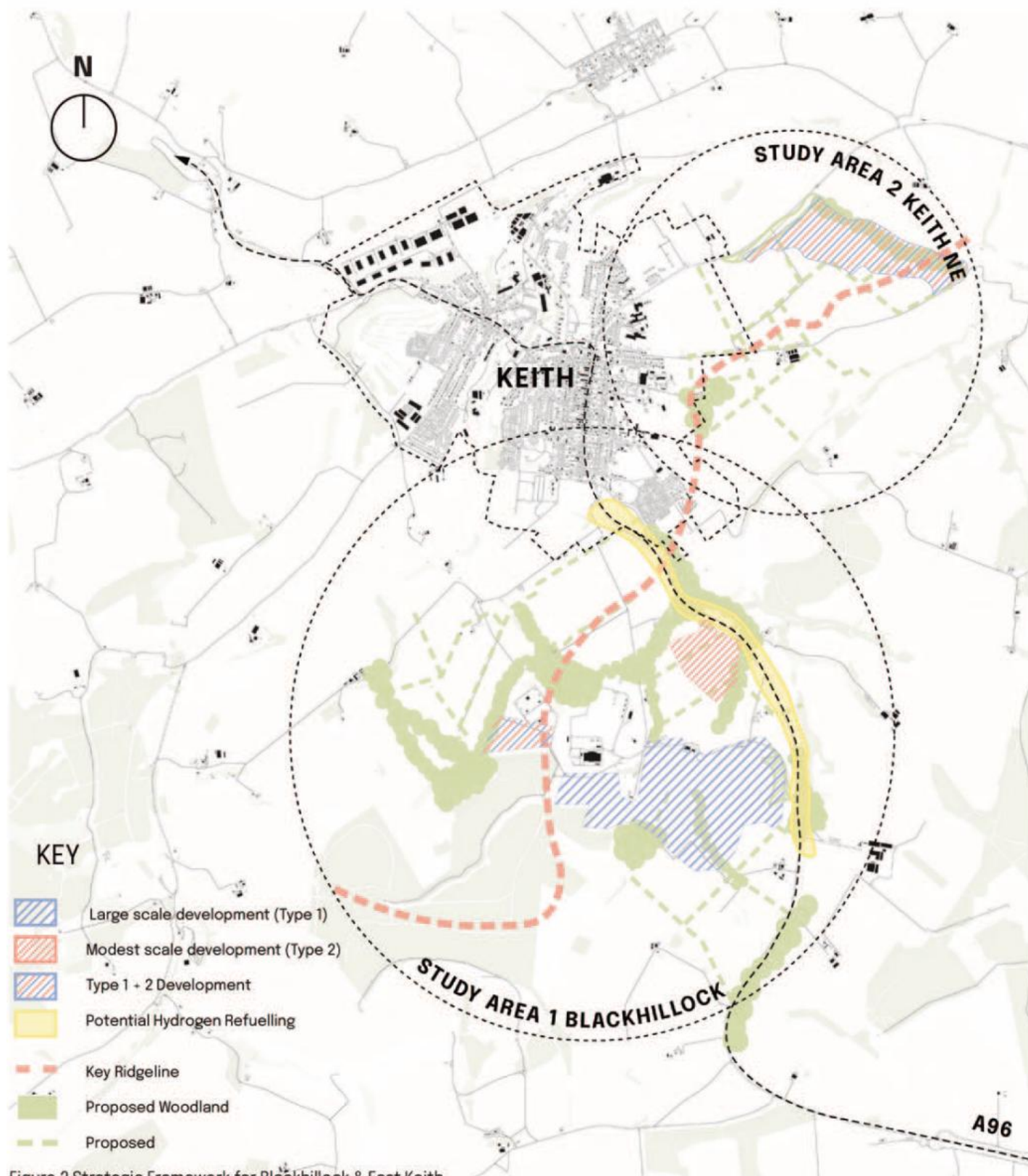


Figure 2 Strategic Framework for Blackhillock & East Keith

01 NATIONAL AND MORAY CONTEXT

This chapter sets out the national and local policy context and Moray's role in the transition to Net Zero



National Planning Framework 4 (NPF4)

National Planning Framework 4 (NPF4) was adopted in February 2023 and sets out Scottish Government spatial principles, regional priorities, national developments and national planning policy. The six overarching spatial principles of the Plan are described opposite.

NPF4 sets out the National Spatial Strategy for Scotland up to 2045 and National Planning Policy to inform its delivery. NPF4 forms part of the Statutory Development Plan along with the Moray Local Development Plan 2020 (LDP) and associated planning guidance. The Strategy sets out the spatial priorities for the five regions of Scotland as identified by NPF4. In terms of Moray, the National Spatial Strategy aims to deliver:

- **Sustainable Places** – Protect environmental assets and stimulate investment in natural and engineered solutions to climate change and nature restoration, whilst decarbonising transport and building resilient connections.
- **Liveable Places** – Maintain and help to grow the population by taking a positive approach to rural development that strengthens networks of communities.
- **Productive Places** – Support local economic development by making sustainable use of the areas' world-class environmental assets to innovate and lead greener growth.

This needs to be balanced with protecting the natural and built environment from inappropriate development.





Just transition

We will empower people to shape their places and ensure the transition to net zero is fair and inclusive



Local living

We will support local liveability and improve community health and wellbeing by ensuring people can easily access services, greenspace, learning, work and leisure locally.



Conserving and recycling assets

We will make productive use of existing buildings, places, infrastructure and services, locking in carbon, minimising waste, and building a circular economy.



Rebalanced development

We will target development to create opportunities for communities and investment in areas of past decline, and manage development sustainably in areas of high demand.



Compact urban growth

We will limit urban expansion so we can optimise the use of land to provide services and resources, including carbon storage, flood risk management, blue and green infrastructure and biodiversity.



Rural revitalisation

We will encourage sustainable development in rural areas, recognising the need to grow and support urban and rural communities together..

Scottish Government Draft Energy Strategy and Just Transition Plan

The Scottish Government's Just Transition Plan aims to ensure that the economic advantages of a green economy are widely shared amongst regions, industries, communities, and consumers.

The public consultation on the Scottish Government's Draft Energy Strategy and Just Transition Plan ran from January – May 2023. The strategy sets out key ambitions for Scotland's energy future proposing a vision for a just energy transition that benefits communities and workers across Scotland, provides high-quality jobs and economic benefit, delivers affordability, and protects the environment and energy security. Figure 3 sets out the vision for a net zero future will be delivered.

The Scottish Government's draft Energy Strategy sets out the following action to deliver their vision for net zero:

- **Significantly scale up renewable energy production.**
- **Maximise community benefit from energy projects.**
- **Continue to invest in the net zero energy economy and provide certainty through clear market signals to attract increased private investment.**
- **Ensure the energy transition supports Scotland's ambitions for restoring nature and reversing biodiversity loss, including through avoidance of negative impacts**

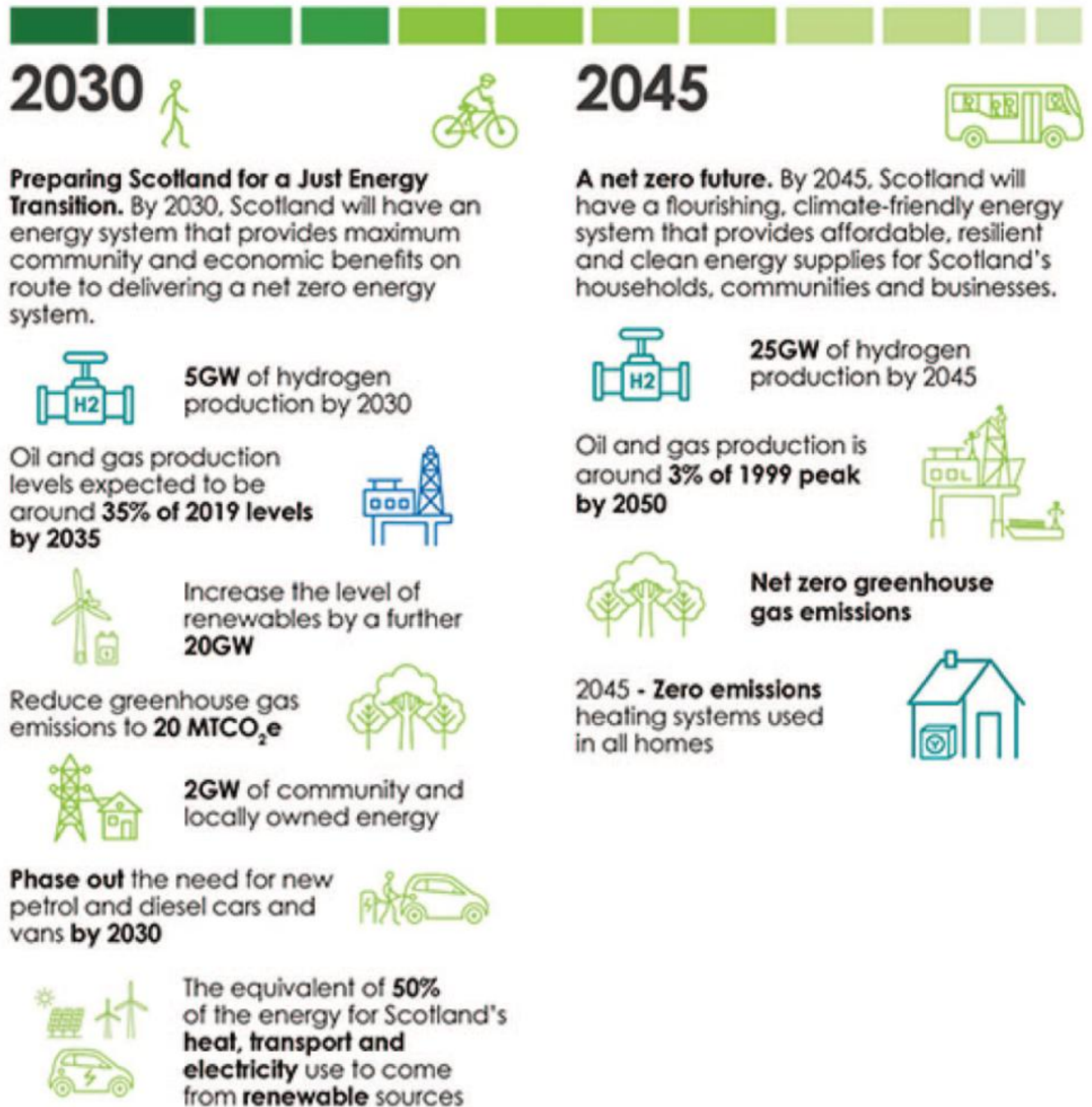


Figure 3 - Scotland's Journey to Net Zero - Delivering the Vision
 Source - Pg 21, Draft Energy Strategy and Just Transition Plan (2023)

NPF4 and the Keith Green Energy and Infrastructure Framework

The Keith Energy and Infrastructure Framework seeks to ensure that the principles of NPF4 are delivered in a balanced and appropriate way for Keith and the surrounding area.

Along with the 6 spatial principles outlined in NPF4, the plan has also identified 18 national development which will help deliver the spatial strategy. These are listed on the page 15.

Strategic Renewable Electricity Generation and Transmission Infrastructure

Keith and Blackhillock currently operate as strategic locations for energy infrastructure, providing a nationally significant role in energy transmission. With another substation proposed in the Keith locality by SSEN and the co-location opportunities for secondary energy associated technologies such as battery storage systems coming forward,

This study seeks to inform the management of future change in the area, implementing the spatial objectives of NPF 4 to provide an integrated strategy to bring together cross-cutting priorities and achieve sustainable development.

Once adopted the strategy will therefore be used as a decision making tool in the planning process to support Moray Council in the delivery of their climate change and biodiversity obligations under NPF4.

National Developments:

1. Energy Innovation Development on the Islands
2. Pumped Hydro Storage (Scotland Wide)
3. Strategic Renewable Electricity Generation & Transmission Infrastructure (Scotland Wide)
4. Circular Economy Materials Management Facilities (Scotland Wide)
5. Urban Sustainable, Blue and Green Surface Water Management Solutions (Edinburgh & Glasgow)
6. Urban Mass/Rapid Transit Networks (Aberdeen, Edinburgh and Glasgow)
7. Central Scotland Green Network
8. National Walking, Cycling and Wheeling Network (Scotland Wide)
9. Edinburgh Waterfront
10. Dundee Waterfront
11. Stranraer Gateway
12. Digital Fibre Network
13. Clyde Mission
14. Aberdeen Harbour
15. Industrial Green Transition Zones
16. Hunterston Strategic Asset
17. Chapelcross Power Station Redevelopment
18. High Speed Rail

Legend

-  Strategic maritime routes
-  Strategic connection
-  Blue economy
-  Transmission infrastructure

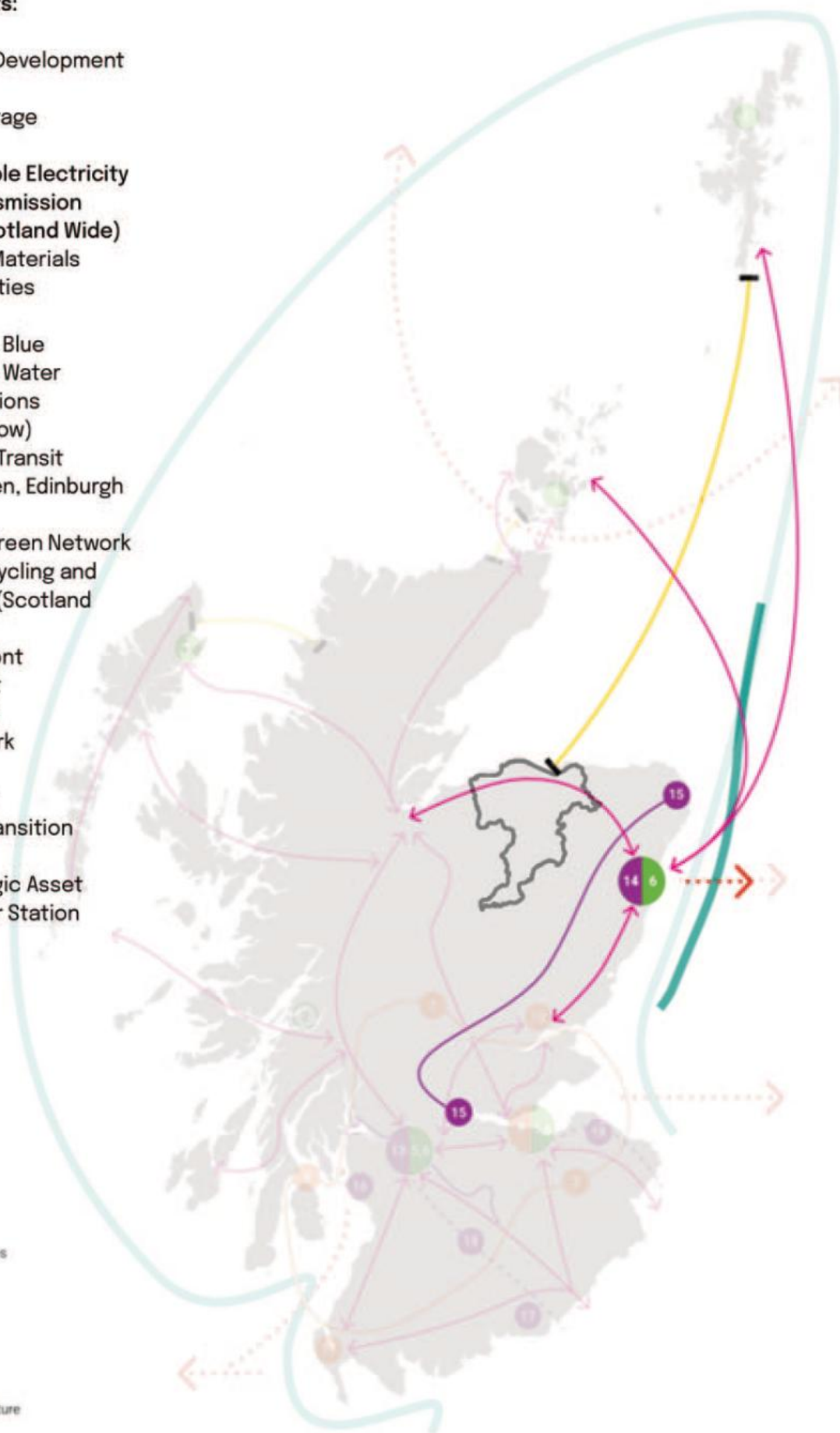


Figure 4 Extract from NPF4 outlining National Developments and their relevance to North East Scotland

NPF4's key policies in regard to climate change are set out below. Community Wealth Building is an important aspect of any development proposal and therefore is also cited. These policies are not exhaustive and any renewable energy proposal must be balanced against policies which protect the natural and built environment of Moray to guide development to the most suitable locations.

1 - Tackling the Climate and Nature Crises

seeks to encourage, promote, and facilitate development that addresses the global climate emergency and nature crisis. Key policy outcomes include promoting zero carbon and nature positive places.

2 - Climate Mitigation and Adaptation seeks to encourage, promote, and facilitate development that minimises emissions and adapts to the current and future impacts of climate change. Development proposals must be sited and designed to minimise lifecycle greenhouse gas emissions and adapt to risks from climate change. Any retrofit measures to existing developments that reduce emissions or support adaptation to climate change will be supported. Key policy outcomes are to minimise emissions from development and to make Scotland more resilient to climate change impacts.

3 - Biodiversity aims to protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks. Any potential adverse impacts, including cumulative impacts, of development proposals on biodiversity, nature networks and the natural environment will require to be minimised through careful planning and design, and where required adverse impacts will be fully mitigated. Key policy outcomes of Policy 3 are to enhance biodiversity and strengthen nature networks and nature-based solutions.

4 - Natural Places seeks to protect, restore, and enhance natural assets making best use of nature-based solutions. Policy 4 sets out specific guidance on development which

impacts local to internationally important natural assets. The key policy outcomes are to protect and restore natural places, and to manage and grow natural assets in a sustainable way.

11 - Energy seeks to encourage, promote, and facilitate all forms of renewable energy development onshore and offshore including energy generation, storage, new and replacement transmission and distribution infrastructure and emerging low-carbon and zero emissions technologies including hydrogen and carbon capture utilisation and storage. Key policy outcomes include the expansion of renewable, low carbon and zero emissions technologies and maximising net economic benefits, including local and community socio-economic benefits.

25 - Community wealth building seeks to encourage, promote and facilitate a new strategic approach to economic development that also provides a practical model for building a wellbeing economy at local, regional and national levels. The key policy outcomes include local economic development that focuses on community and place benefits as a central and primary consideration and supports community ownership and management.

29 - Rural Development seeks to encourage rural economic activity, innovation and diversification whilst ensuring that the distinctive character of the rural area and the service function of small towns, natural assets and cultural heritage are safeguarded and enhanced. Key policy outcomes include to create vibrant, balanced, and sustainable rural communities.

Moray Local Development Plan (MLDP) 2020

The MLDP was formally adopted in July 2020. The MLDP provides a vision for the area as a place where “people want to live, work and invest in Moray because of the outstanding quality of life and environment.” This is supported by a series of objectives including the below which is relevant to this framework:

- **Protect and enhance the built and natural environment.**
- **A strong framework for investment that provides sufficient land for development and supports sustainable economic growth.**
- **Encourage efficient use of land and promote low carbon and sustainable development.**
- **Improve resilience of the natural and built environment to climate change.**

MLDP Land Use Allocations for Framework Study Areas

The land use allocations for the Study Areas in this Framework (Blackhillock and Keith North East) are set out below.

Figure 5 shows the allocations and designations within the larger study area to the south of Keith. The northern edge of the site is allocated as other functional greenspace (environmental) with a smaller plot as a long-term residential site. The area in green to the south of Keith is allocated as ‘Countryside Around Towns (CAT)’ where only specific uses will be accepted as set out under Policy EP4 below. The red strip to the southern edge of the site is identified as an area with potential for wind farm development in Moray Council’s wind farm spatial framework.

Blackhillock Study Area

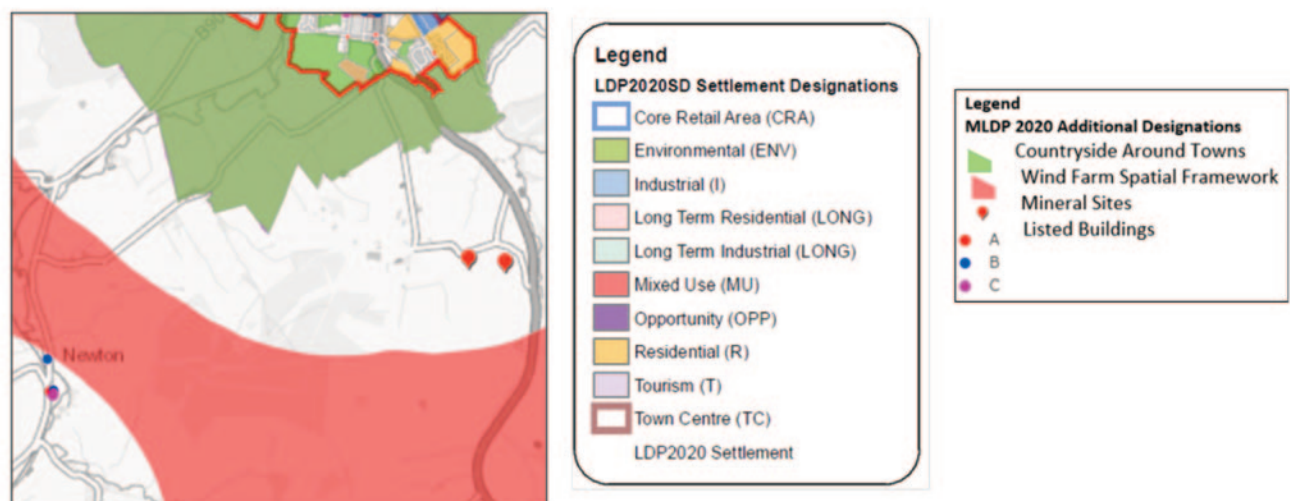


Figure 5 - Extract from MLDP (2020) Sites and Designations Map - Keith Study Area
Source - MLDP Website (2020)

Keith NE Study Area

As shown in figure 6 and 6.1 below, within the Keith NE study area, there are a number of allocations on the western edge of the site. To the west of Keith substation are sites allocated for environmental protection, industrial use, and long-term industrial use. There is also a large mixed use site to the north of the existing substation and a residential site to the southwest of the substation.

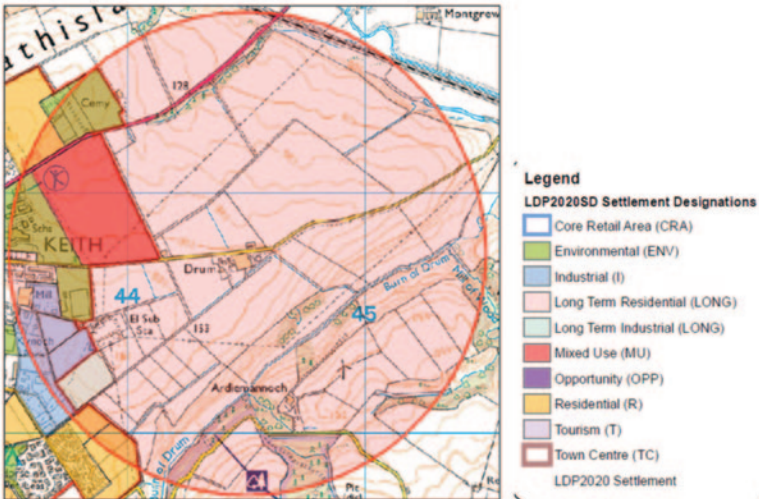


Figure 6 – Extract from MLDP (2020) Proposals Map – Keith NE Study Area
Settlement Designations
Source – MLDP Website (2020)

Figure 6.1 shows that the setting of Keith is protected by a Countryside Around Towns (CAT) land use allocation. The Mill Wood SSSI is located in the eastern edge of the site.

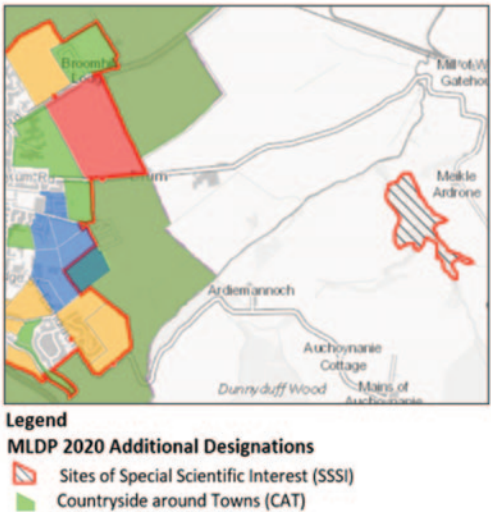


Figure 6.1 – Extract from MLDP (2020) Proposals Map – Keith NE Study Area
Additional designations
Source – MLDP Website (2020)

The key MLDP policies are outlined below. This is not an exhaustive list and other policies may be applicable depending on the type, scale and nature of the development proposal along with any other relevant planning guidance.

EP1 – Natural Heritage Designations – seeks to protect any local, national, or international natural heritage designations and protected species.

EP2 – Biodiversity – seeks to retain, protect, and enhance features of biological interest and provide for their appropriate management.

EP3 – Special Landscape Areas and Landscape Character – seeks to protect any landscape designations and to ensure new development reflects the landscape characteristics of the locale identified in the landscape character assessment.

EP4 – Countryside Around Towns – seeks to restrict development around towns including Keith unless they meet certain criteria to prevent development sprawl into the countryside.

EP5 – Open Space – seeks to protect existing allocated open space and sets out guidance for open space in new development.

EP6 – Settlement Boundaries – seeks to limit the expansion of the existing settlement boundaries.

EP7 – Forestry, Woodlands and Trees sets out Moray Council’s forestry and woodland strategy including guidance on tree retention, controlling woodland removal and compensatory planting.

DP9 – ‘Renewable Energy’ states that all renewable energy proposals will be considered favourably where they meet the relevant criteria. The policy criteria includes safeguarding and enhancing the built and natural environment, avoiding any unacceptable significant adverse landscape and visual impacts, etc., ensuring that proposals do not result in the loss of prime agricultural land, and consideration of the extent that the proposal contributes to renewable energy targets, its effect on greenhouse gas emissions and net economic

Moray Hydrogen Strategy

In September 2022, the Moray Hydrogen Strategy was adopted having been developed with the Highland and Islands Enterprise (HIE) to coordinate the development of a hydrogen economy in Moray. The Moray Hydrogen Strategy examines the short, medium, and long-term actions required to develop a hydrogen economy for Moray and assesses the significant opportunities to generate local community benefits in relation to social, economic, and environmental wellbeing, supporting Scotland's ambitions for a Just Transition.

Blackhillock substation is identified as a Medium -Term Production Location (2030-2040) suitable for producing and distributing hydrogen using tube trailers or a new pipeline network to nearby industrial users and the wider transport network within Moray. There is opportunity to create a Hydrogen Corridor through Moray by considering hydrogen refuelling stations along the route of the A96 (with Blackhillock offering a location approximately halfway between Aberdeen and Inverness).

The Strategy outlines that the Blackhillock area has potential to be the renewable hub of Moray, because of access to power from offshore wind.

02 Keith in Context

This chapter sets out the national and local policy context and Keith's role in the transition to Net Zero.



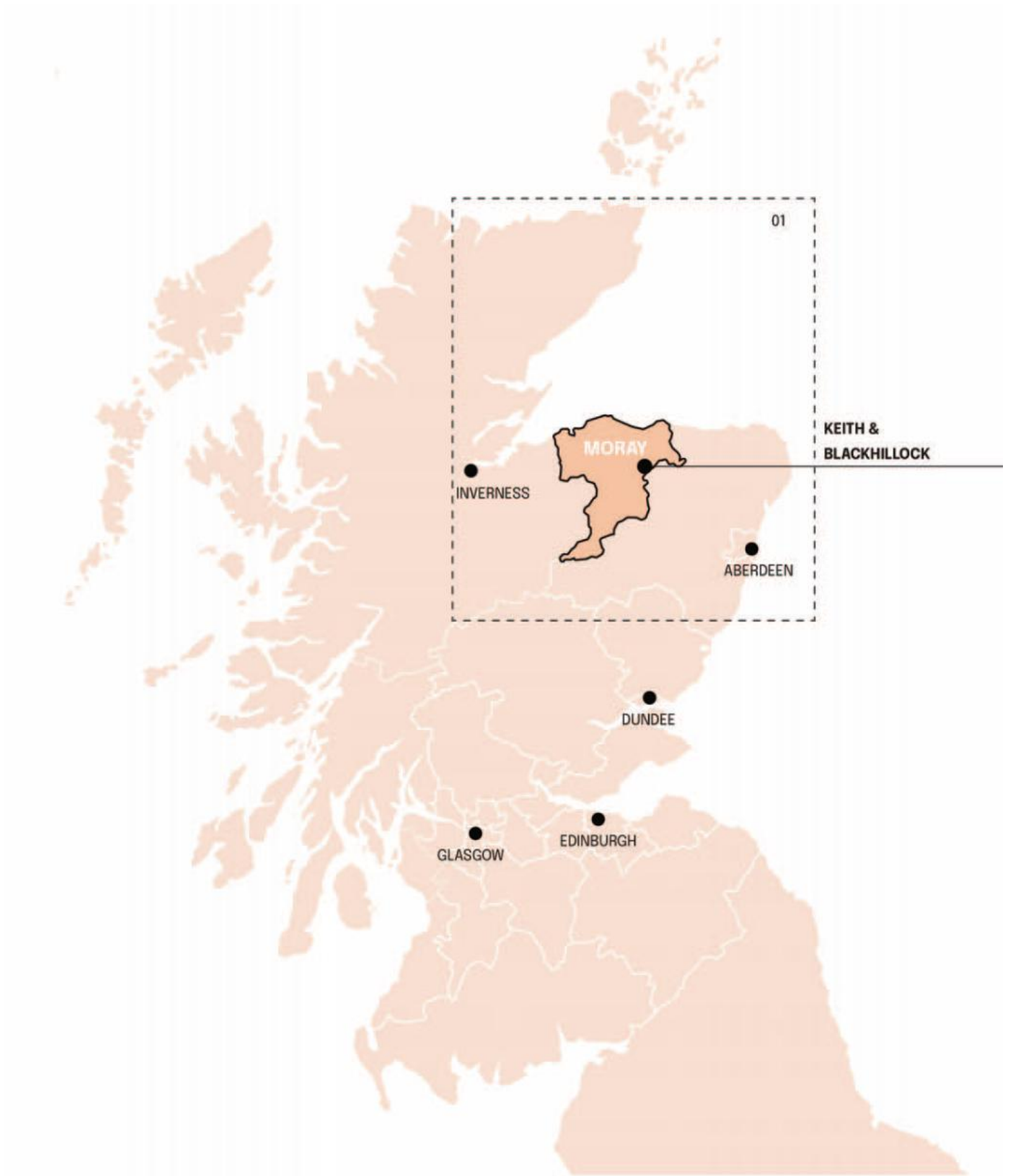


Figure 7: Map of Scotland identifying Moray Region, Keith and Blackhillock

2.1 National Level

Moray is located in the north east of Scotland between the Aberdeenshire and Highland local authority areas. The Moray area includes the coastline of the Moray Firth and stretches inland to the Cairngorms. The majority of towns in Moray are situated in the northern area of the district where most of the population resides.

Blackhillock, which lies just below the town of Keith, is home to the largest substation in the UK and covers an area of at least 24 football pitches (approximately 17 hectares). The station allows power generated by renewable sources to be processed and transferred to the national grid.

It is seen as important to the UK electricity grid since the north of Scotland generates the majority of its renewable energy through windfarms.

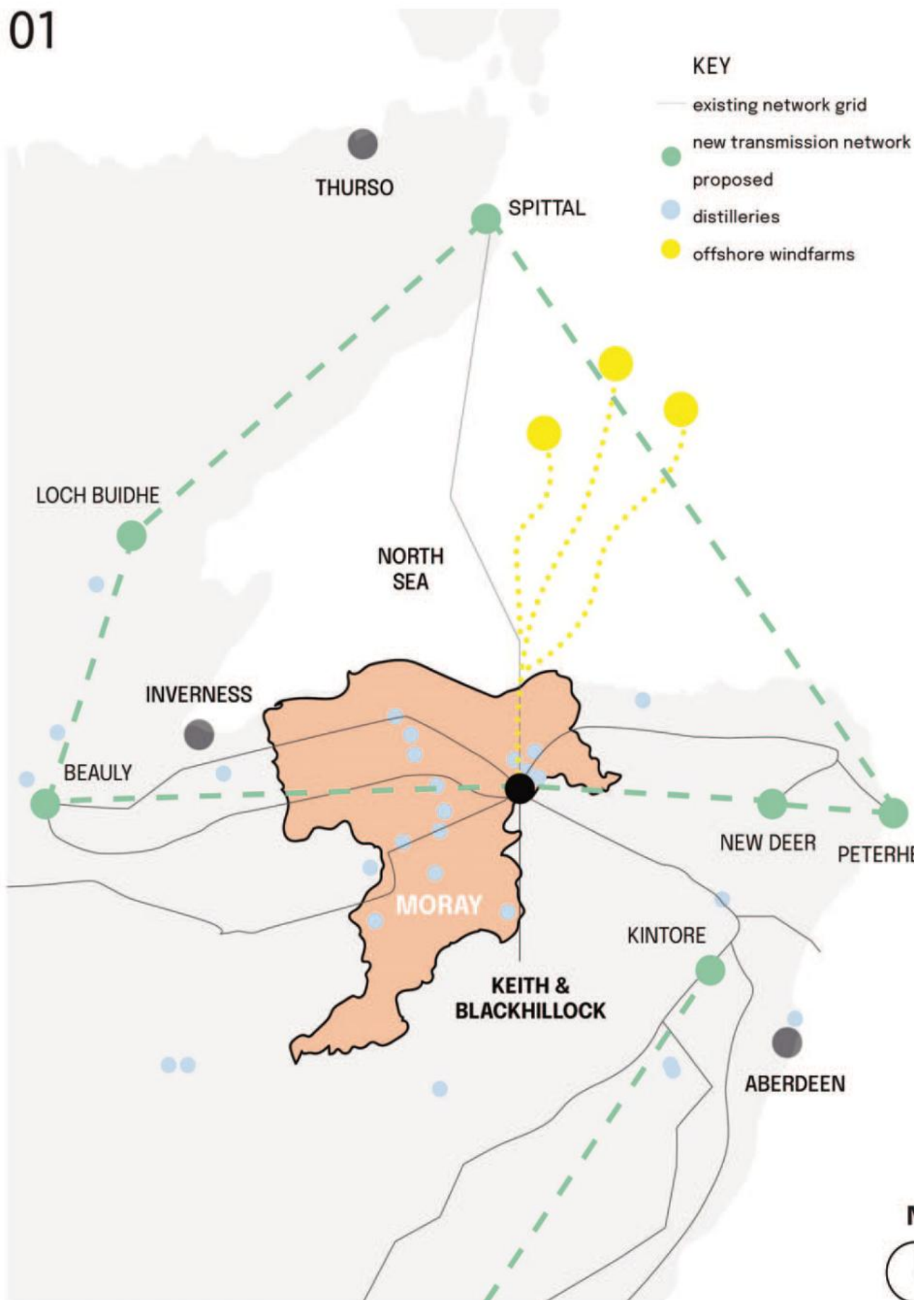


Figure 8 Regional Map - Information extracted from 'Pathway to 2030' by SSEN

2.2 Regional Level

At a regional level, Keith and Blackhillock sit within a network of energy infrastructure spanning from Spittal in the far North to Peterhead in the East. It sits between the two cities of Inverness and Aberdeen connected by the A96 and in proximity to the North Sea. The area is also home to a large number of distilleries and various industries.

Blackhillock substation was upgraded in 2019 to accommodate a new station. The Beatrice substation completed in 2022 which, alongside the Blackhillock substation processes the electricity generated by the Beatrice offshore windfarm (90km away). This electricity is then transmitted to the adjacent Blackhillock station where it is transferred to the national grid.

The Scottish Government has identified that efforts should be focused on wind energy, as this is one of the cheapest form of electricity making it the most viable option. The aim is to generate at least 50% of Scotland's energy demand through renewables.

Both of these stations are owned and operated by Scottish Southern Electricity Network (SSEN).

"In July 2022, National Grid, the Electricity System Operator (ESO) responsible for making sure that the electricity flows across the UK's system, balancing supply and demand at all times, set out how the transmission network needs to develop to accommodate the growth in renewable electricity across Great Britain. This includes delivering the UK and Scottish Government's 2030 offshore wind targets of 50GW and 11GW." – SSEN

To enable the projects identified in the 'Pathway to 2030' by SSEN, which have been recognised as vital to meeting the ambitions set out by the UK and Scottish Government with regards to energy, a new substation is required in the Keith/Blackhillock area.

2.3 Local Scale








On a local scale Keith NE and Blackhillock areas lie outwith the town of Keith. The vital A96 road which connects Aberdeen to Inverness passes directly through the town and past Blackhillock.

The map overleaf identifies the two key study areas outlined in this framework

Blackhillock - Study Area 1

Keith NE - Study Area 2

These areas, specifically around the substation are largely industrial and farmland and consist of the following industries (See map for location):

- | | |
|--|--|
| <ul style="list-style-type: none">1 Blackhillock substation2 Beatrice substation3 Blackhillock & Cairdshill Quarry4 A number of whisky distilleries in Keith5 Keith substation6 Edintore Windfarm7 Agricultural land8 One of the sites being looked at by SSEN for a new substation | <p>KEY</p> <ul style="list-style-type: none"> Train Train station Roads Industrial Woodland Keith Distillery |
|--|--|

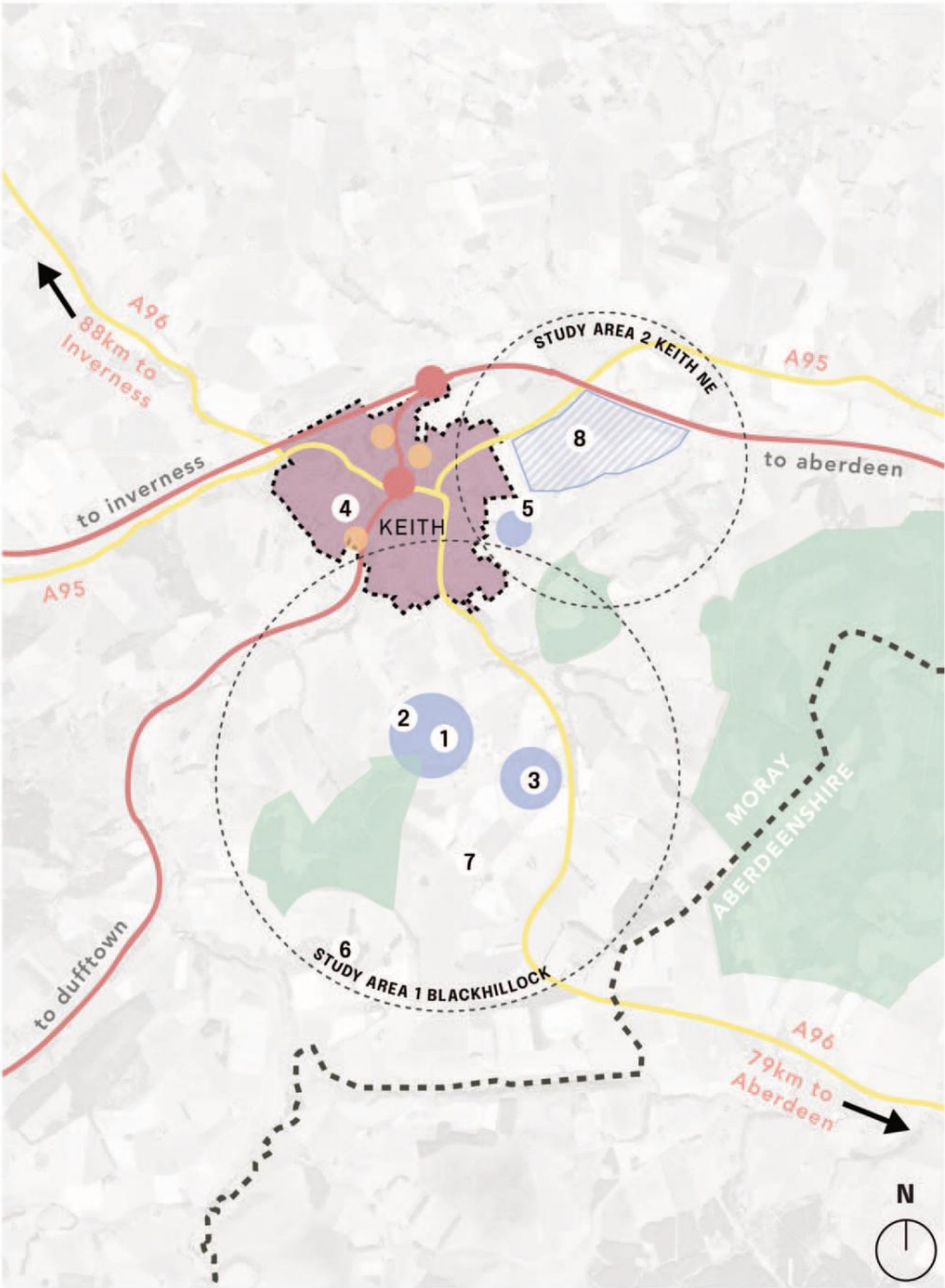


Figure 9 Map of Keith and the two study areas

03 Town of Keith

The following outlines a high level urban analysis of the town of Keith, that charts its evolution and its current form.



KEITH TOWN

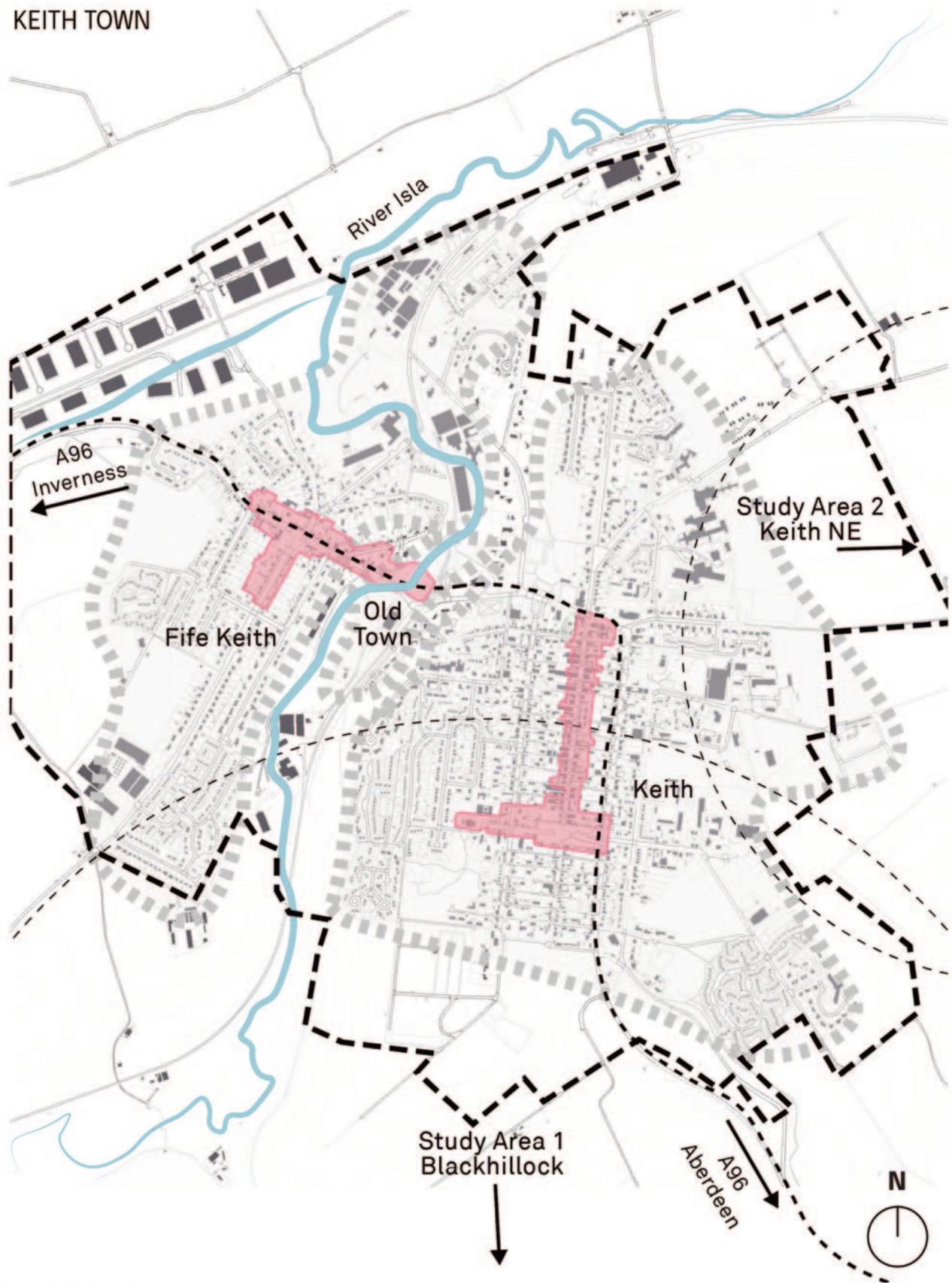


Figure 10 - Keith Town

3.1 Historical Context

The town of Keith is located in the north-east of Moray and has a population of around 4700. It is divided into three distinct areas: Keith, the main commercial centre, Old Town, where the town originated and Fife Keith. Fife Keith, once a separate town created in rivalry by the Earl of Fife, was finally combined to form one village, presently divided only by the river.

The Old Town has become nearly indistinguishable from the rest of the town and was first established around the old bridge in Keith about the year 1180. The town’s central area was planned around 1750 and is located on higher ground above the river.

KEY (Diagram Opposite)

- ■ Keith Town Boundary
- Keith Areas
- Conservation Areas
- River
- Study Area Boundary



Figure 11 Historical Maps of Keith

TRANSPORT INFRASTRUCTURE

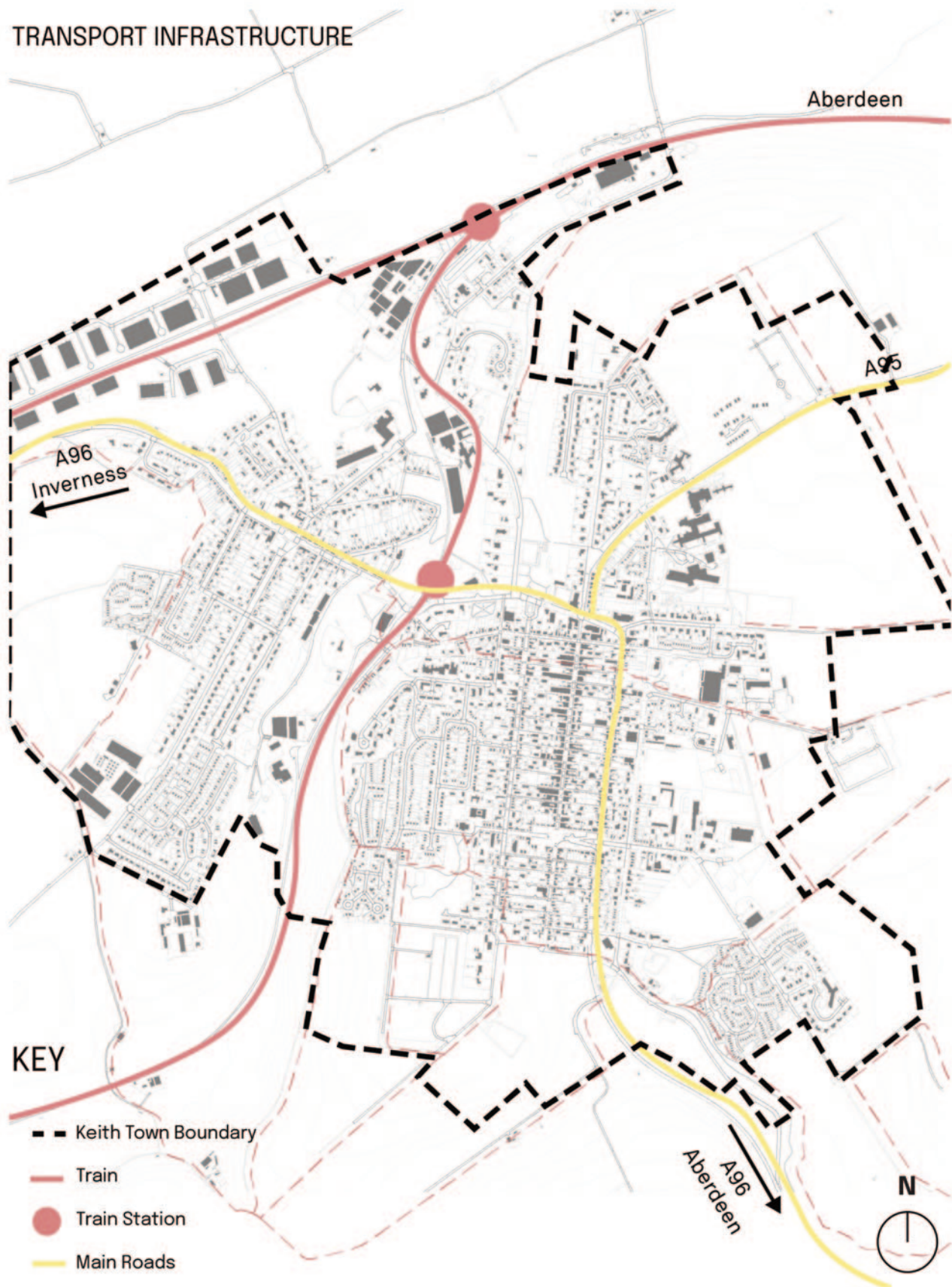


Figure 12 - Keith Transport & Infrastructure

3.2 Baseline Analysis

This section presents a series of maps outlining:

Transport Infrastructure

Community & Education

Green spaces

Industry & New Development

The map overleaf shows that the town of Keith lies at an intersection between the A95 and A96 roads which means that there is a significant level of traffic passing through the town as the A96 is the main route that connects Inverness to Aberdeen. The river Isla divides the town into Fife Keith and Keith.

Currently the town has 3 schools: Keith Grammar School, Keith Primary school and St Thomas Primary school. The town is well connected with a number of bus routes and one main train station with direct lines to Inverness and Aberdeen. A heritage train station exists in the old part of the town with a direct route to Dufftown.

The edge of Keith is defined by new housing developments to the east with the Keith substation located just outside the town.

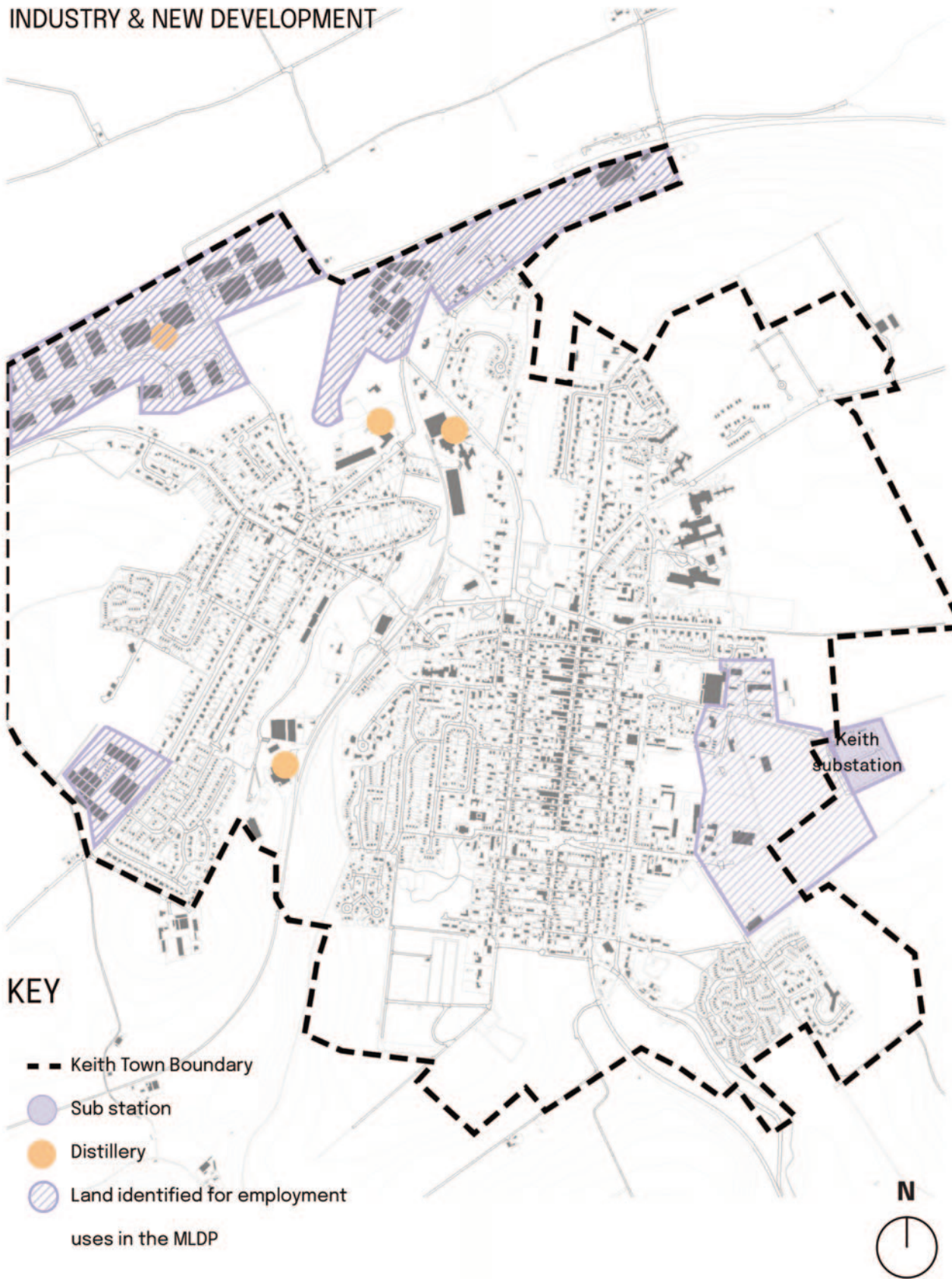
The following pages present the other baseline maps of Keith.

GREEN SPACE



Figure 13 - Keith Green Spaces

INDUSTRY & NEW DEVELOPMENT



KEY

- Keith Town Boundary
- Sub station
- Distillery
- ▨ Land identified for employment uses in the MLDP

Figure 14 - Keith Industry

04 Study Area 1 - Blackhillock Site & Context

The following section explores the study area of Blackhillock to the south of the town of Keith, highlighting the constraints and opportunities. It begins by providing an executive summary of the comprehensive landscape sensitivity assessment which is included in more detail in Appendix (i)



4.1 Landscape Sensitivity Study

The following section is an executive summary of the landscape sensitivity study (LSS) carried out by Land Use Consultants (LUC) as part of the wider study on behalf of Moray Council. The full report can be found in Appendix (i).

The LSS focuses on the area immediately surrounding the existing Blackhillock Substation, within a radius of 2km. It is considered that this area captures potential development pressure and landscape sensitivities within the masterplan area and its immediate surroundings.

Development Scenarios:

NatureScot's Landscape Sensitivity Assessment Guidance (2022) recommends that sensitivity studies consider the likely levels of sensitivity to specified types of development or land use (para 21). The use of high-level scenarios for development types recognises that different types of built development have different physical and visual characteristics, different infrastructural requirements and different landscape and visual impacts.

The following scenarios have been used to reflect the different scales of development that may be proposed in the study areas:

Type 1 - Electricity sub-stations / converter stations, representing large-scale industrial-style development, in the form of large buildings, outdoor electrical infrastructure and associated road infrastructure. Development will potentially occupy a large footprint than Type 2; and

Type 2 - Battery Energy Storage Systems / solar farms, representing industrial style development of more modest scale, in the form of 'shipping container' size buildings and / or solar arrays and associated road infrastructure. Development will potentially occupy a smaller footprint than Type 1 (unless it relates to a larger scale solar farm).

Landscape Sensitivity Criteria

The landscape sensitivity assessments are based on an assessment of Local Landscape Character Areas (LLCAs) using carefully defined criteria. LLCAs are shown on Figure 15. The criteria are summarised below:

- Physical character (including topography and scale);
- Natural character;
- Historic landscape character;
- Form, density, identity and setting of existing settlement/development;
- Views and visual character including skylines;
- Access and recreation; and
- Perceptual and experiential qualities.

Making an overall judgement on levels of landscape sensitivity

An overall sensitivity judgement for each LLCA was derived based on the individual criteria ranks. This is not a linear process as it recognises that some attributes or elements of particular landscape parcels may be more important in defining character than others and may be given more 'weight' in reaching an overall judgement. Professional judgement is therefore used rather than a system of numerical scoring. Sensitivity ratings are given on a scale of low, low moderate, moderate, moderate-high, and high.

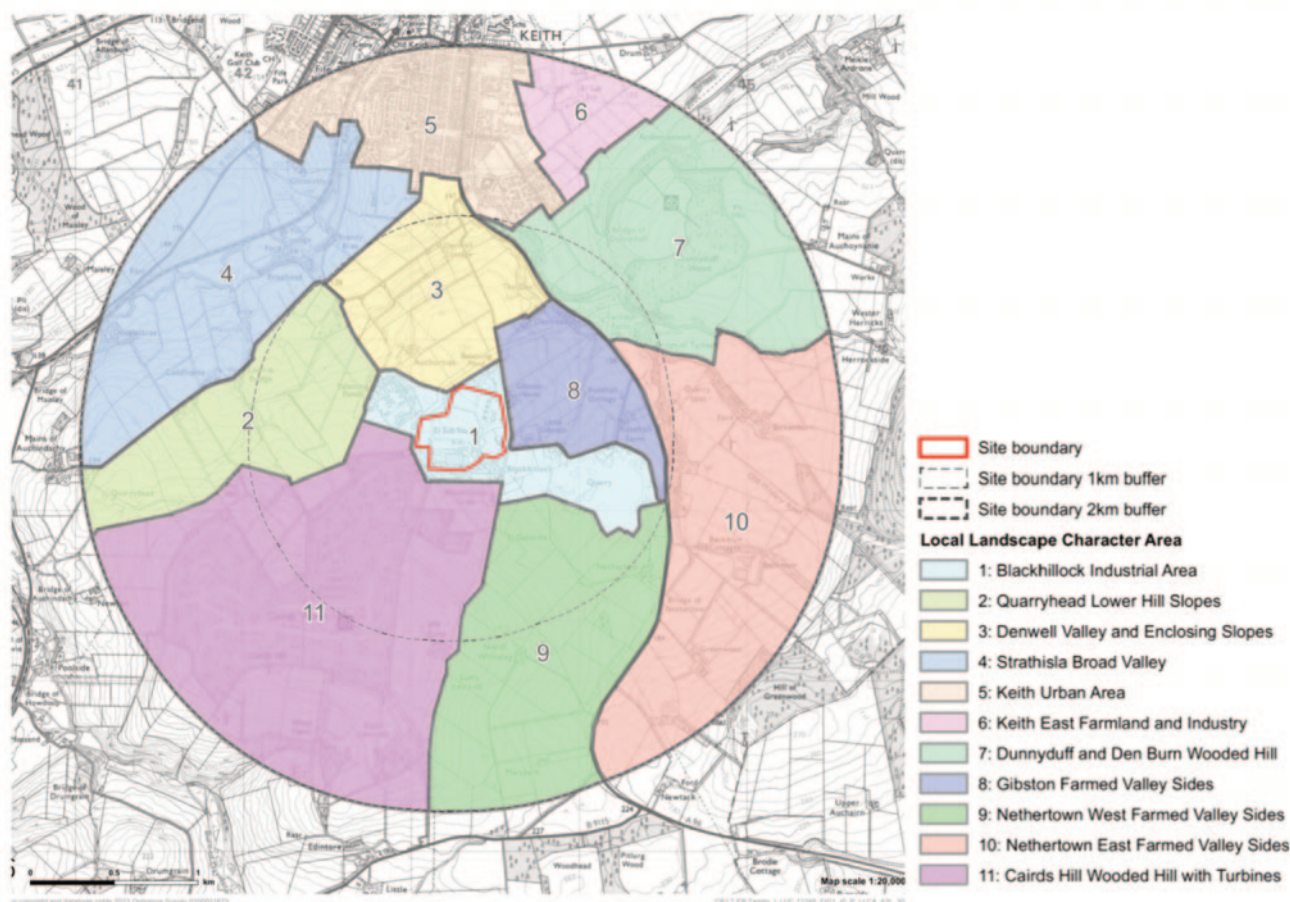


Figure 15 - Blackhillock Landscape Character Areas

Blackhillock Substation - Conclusions & Recommendations

The overall findings of the sensitivity assessment for Blackhillock are summarised in Table 1, see below, and on Figures 16 and 17.

Figure 16 illustrates sensitivity to Type 1 development (i.e. large scale industrial development such as sub-stations or converter stations). Areas of higher sensitivity (orange/red/dark red) are unlikely to be suitable for Type 1 development. There may be some limited scope for Type 1 development in areas of lower sensitivity (yellow), subject to appropriate siting and landscape mitigation.

Figure 17 illustrates sensitivity to Type 2 development (i.e. industrial development of a more modest scale such as battery energy storage systems of solar farms). Areas of higher sensitivity are unlikely to be suitable for Type 2 development. There may be some scope for Type 2 development in areas of lower sensitivity (yellow) and also in parts of areas of moderate sensitivity (orange) subject to appropriate siting and landscape mitigation.

The landscape sensitivity assessment has identified that the following areas are of high or moderate-high sensitivity to Type 1 (column 1) and Type 2 (column 2) development.

LLCA NO.	LLCA Name	Overall Sensitivity Rating: Type 1	Overall Sensitivity Rating: Type 2
1	Blackhillock Industrial Area	Low - Moderate	Low - Moderate
2	Quarryhead Lower Hill Slopes	Moderate	Low - Moderate
3	Denwell Valley & Enclosing Slopes	High	Moderate - High
4	Strathisla Broad Valley	Moderate	Moderate
5	Keith Urban Areas	High	High
6	Dunnyduff and Den Burn Wooded Hill	Moderate - High	Moderate - High
7	Gibston Farmed Valley Sides	Moderate	Low - Moderate
8	Netherton West Farmed Valley Sides	Moderate - High	Moderate
9	Nethertown East Farmed Valley Sides	Moderate - High	Moderate
10	Cairds Hill Wooded Hill with Turbines	Moderate - High	Moderate

Table 1: Overall landscape sensitivity score for the local landscape character areas (Blackhillock)

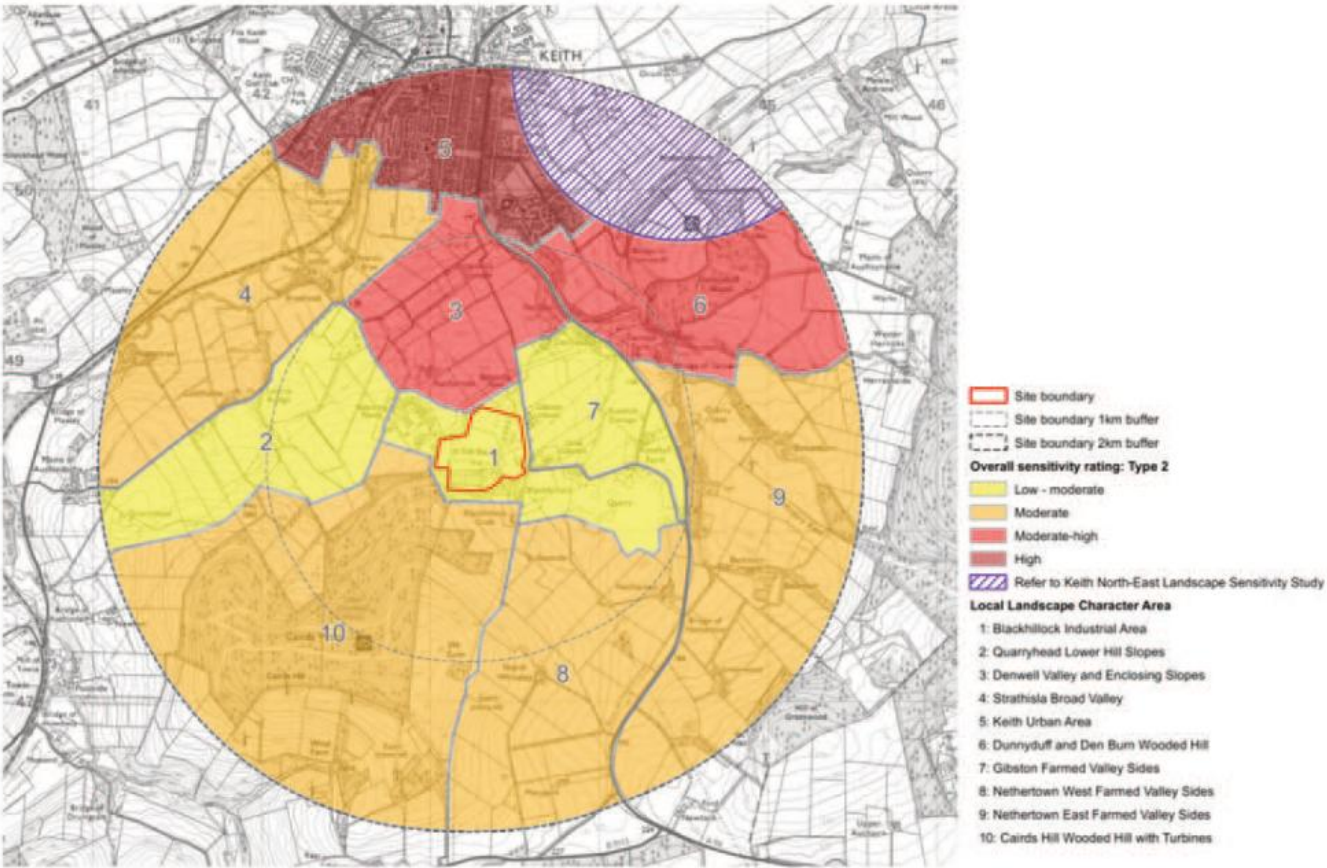
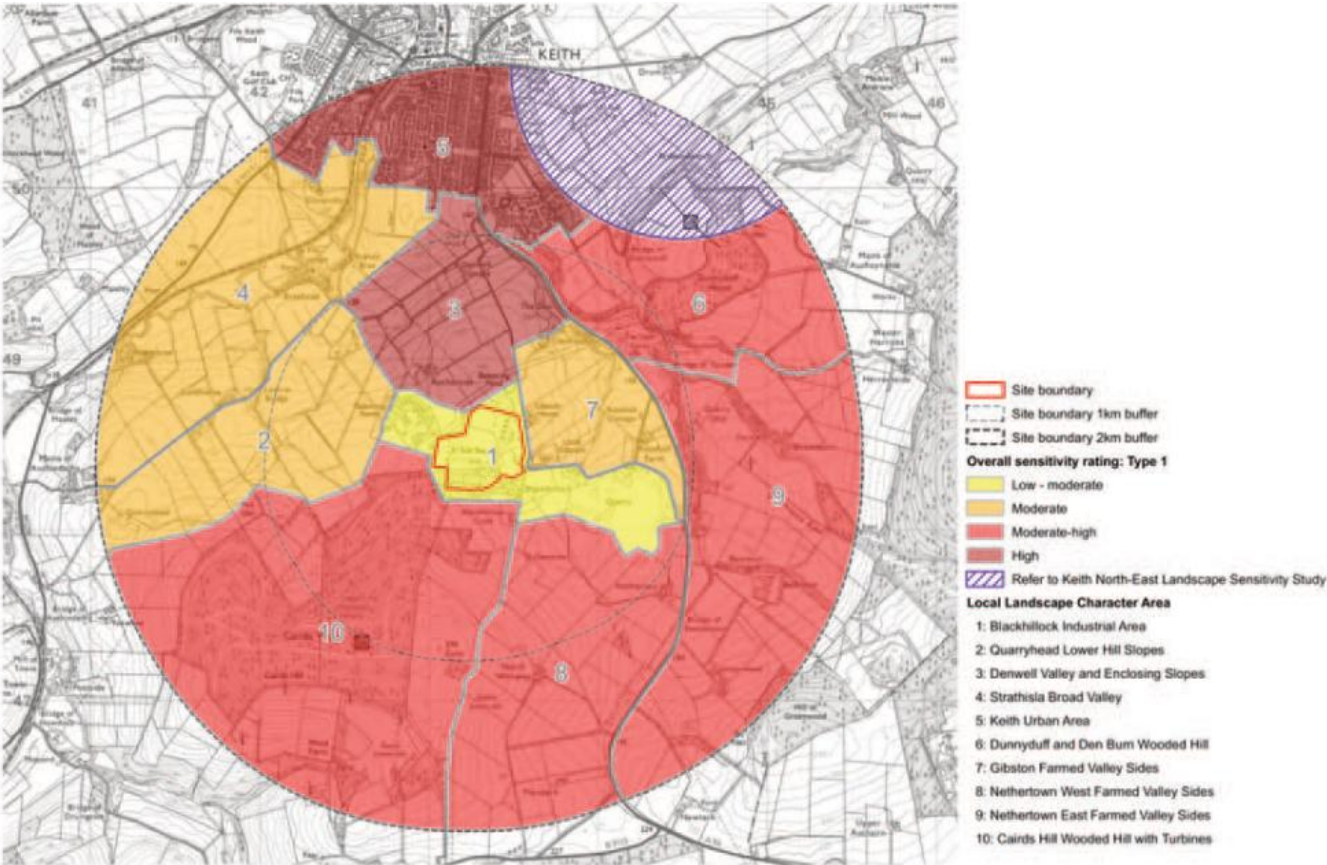


Figure 16 (Above) - Landscape Sensitivity Study for Type 1 Development
Figure 17 (Below) - Landscape Sensitivity Study for Type 2 Development

The following types of landscape/visual mitigation and landscape enhancement have been identified as potentially appropriate:

- Reprofilng of platforms where possible to provide a more naturalistic landform across Cairds Hill (LLCA 1).
- Mixed woodland planting along A96 to screen views towards Blackhillock substation, the quarries and potential development sites (LLCAs 3, 7, 8).
- Enhanced planting around Blackhillock Substation and Beatrice HVDC Converter station to screen in views from the west, north and east (LLCA 1).
- Rationalisation/ potential undergrounding of overhead lines in the vicinity of the substation, to help reduce the prominence of larger scale vertical electricity infrastructure in the area (LLCAs 1, 3, 7, 8).
- Consider colour palette of buildings in substation sites, using colours which help structures recede into views (LLCA 1). Recessive colours which are likely to be suitable for the Moray landscape include greys, greens and browns.
- Native hedgerow planting along field boundaries to enhance landscape character and strengthen the habitat network / enhance biodiversity (LLCAs 2,3,7, 8).
- Native riparian woodland along tributary burns to enhance landscape character, strengthen habitat networks / enhance biodiversity and filter views towards the Beatrice Converter Station, Blackhillock Substation or quarries (LLCAs 2,3,7,8).
- Expansion and diversification of woodland on Cairds Hill to soften the linear forestry edge, strengthen the habitat network / enhance biodiversity and filter / screen views towards existing development and potential development site from the north-west (LLCA 10).

4.2 Constraints & Opportunities

The town of Keith lies to the north of the site, just 2.5km from the Blackhillock substation. A number of residential properties are dotted around the area, most of which are adjacent to agricultural buildings.

The vast majority of the area is used for agriculture with the central area, around Blackhillock substation mainly focused around energy use and the quarry sites to the east of the sub station.

The road infrastructure mainly consists of rural roads, with the A96, that connects Inverness and Aberdeen, bypassing the site leading straight into Keith. Cairds Wood to the south west of the substation lies at the top of a hill and the smaller Dunnyduff Wood lies to the north east of the site.

Importantly, in terms of underground utilities, a main gas line intersects the site as shown in the diagram opposite, which will restrict certain developments happening in this area.








The diagram opposite provides an overview of the key existing constraints which exist in the area, which is extensive for such a small area. More information on these infrastructure constraints are provided over the next few pages.

KEY

TRANSPORT (p.52)

-  Train line
-  A96
-  Rural tracks/roads
-  Bus stops
-  Train stop

UTILITIES (p.50)

-  High pressure gas main
-  Beatrice offshore windfarm infrastructure
-  Extra High Voltage Cables
-  Overhead Electricity Cables & Pylons
-  Industrial (p.49)
-  Woodland & Landscape (p.48)
-  Consented Development (p.48)

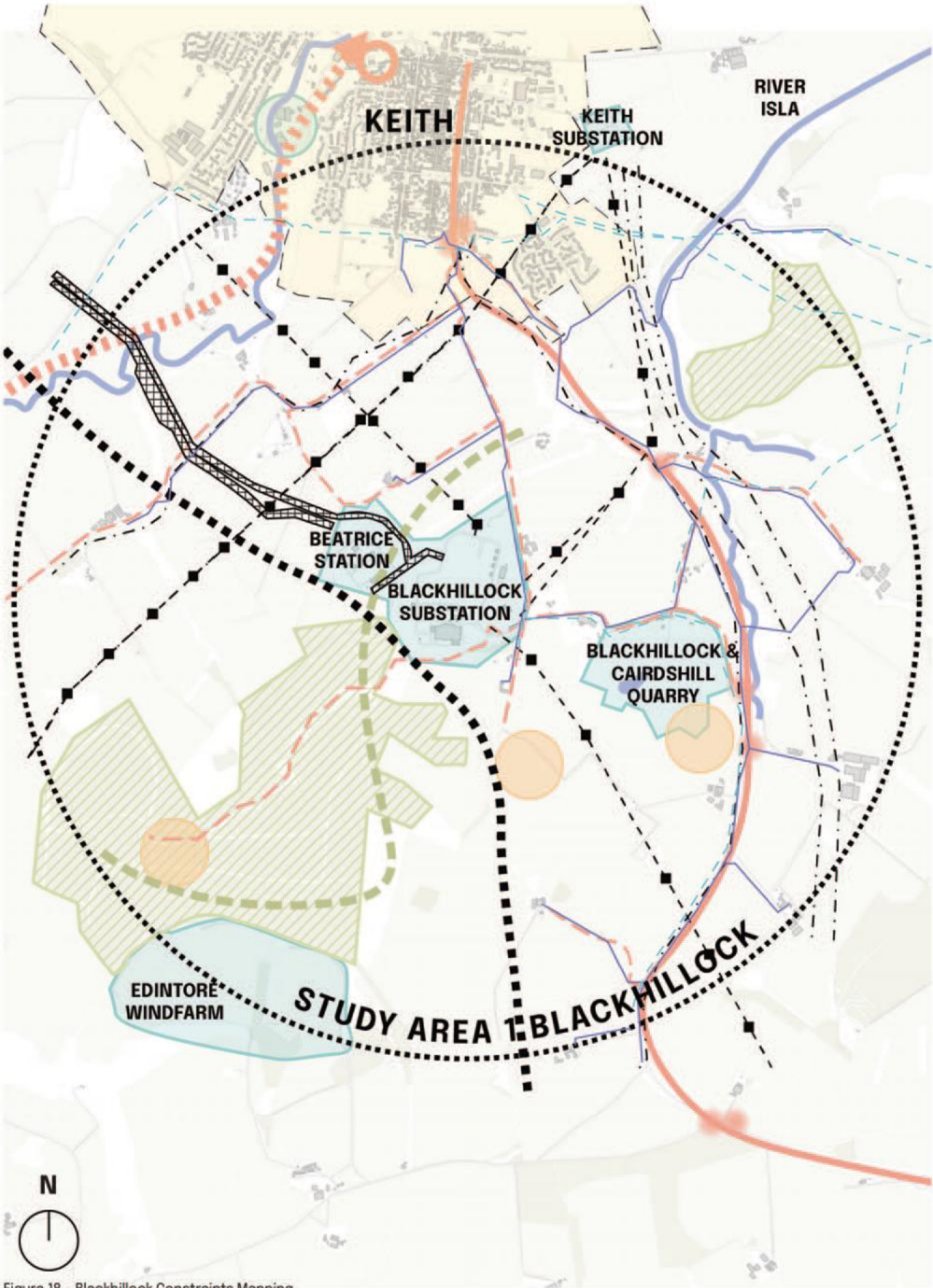


Figure 18 – Blackhillock Constraints Mapping

KEY

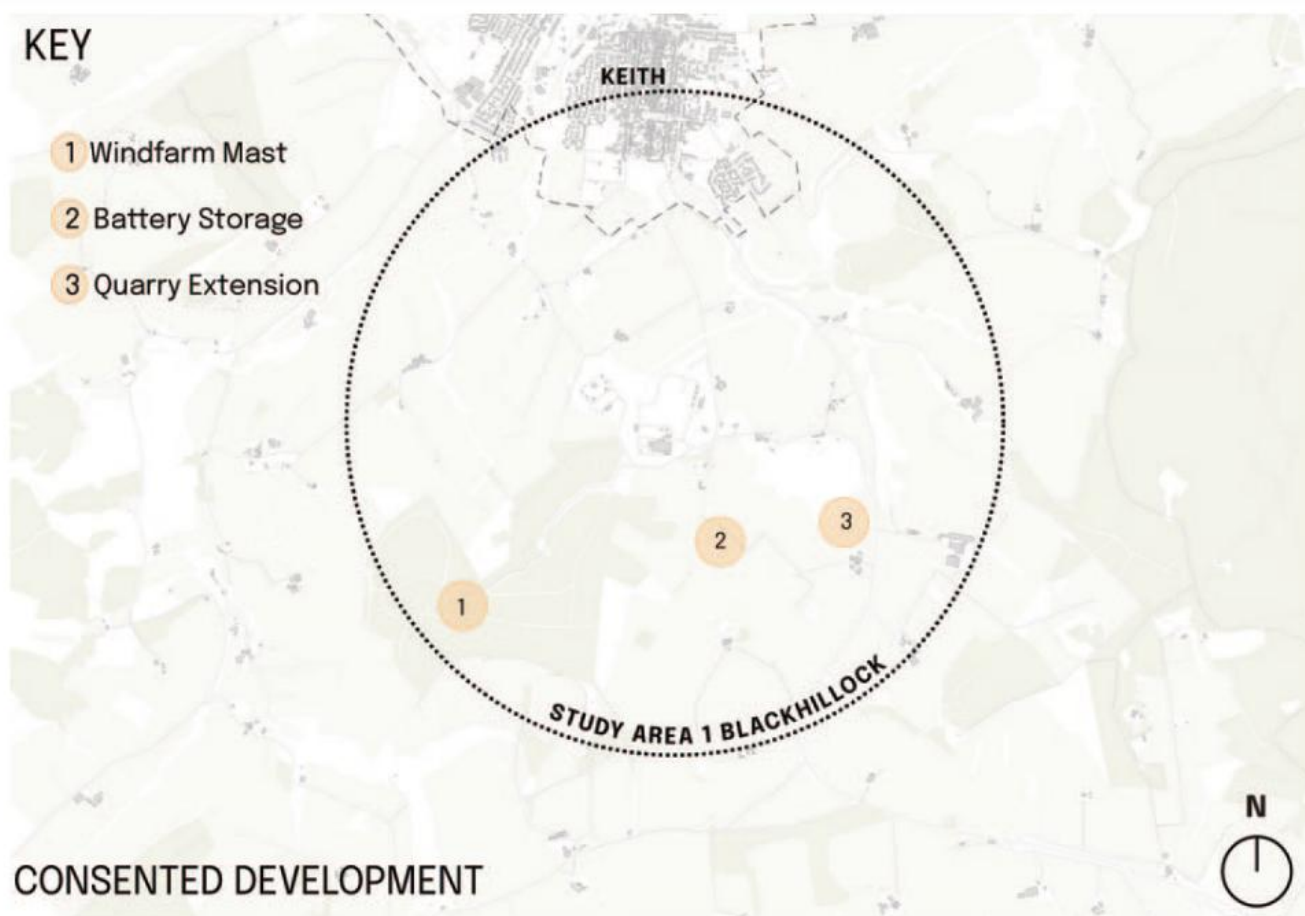
- 1 Cairds Wood
- 2 Dunnyduff Wood
- 3 Ridgeline



LANDSCAPE & WOODLAND

KEY

- 1 Windfarm Mast
- 2 Battery Storage
- 3 Quarry Extension



CONSENTED DEVELOPMENT

Figure 19 (Above) - Blackhillock Constraints - Landscape & Woodland

Figure 20 (Below) - Blackhillock Constraints - Consented Development

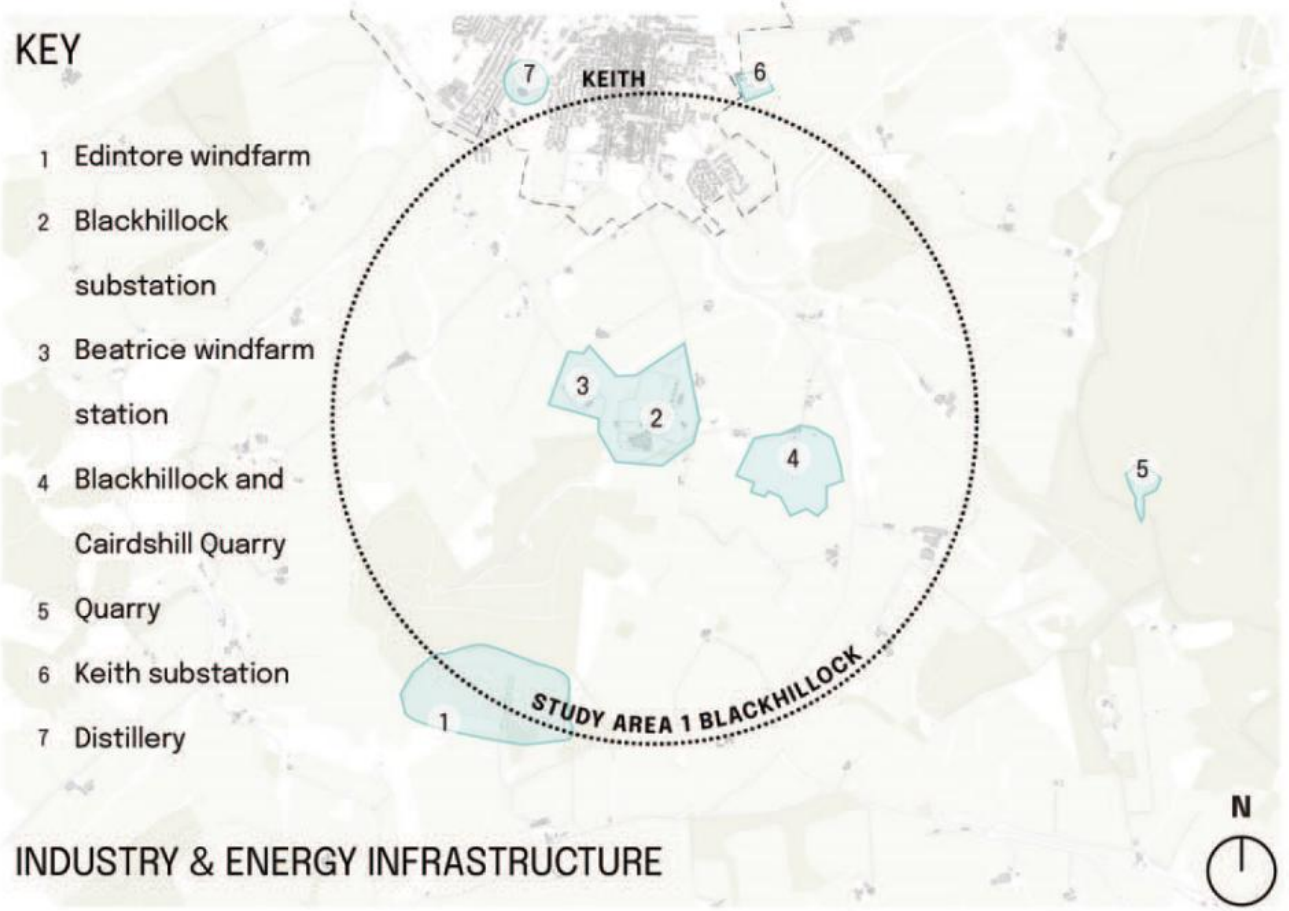
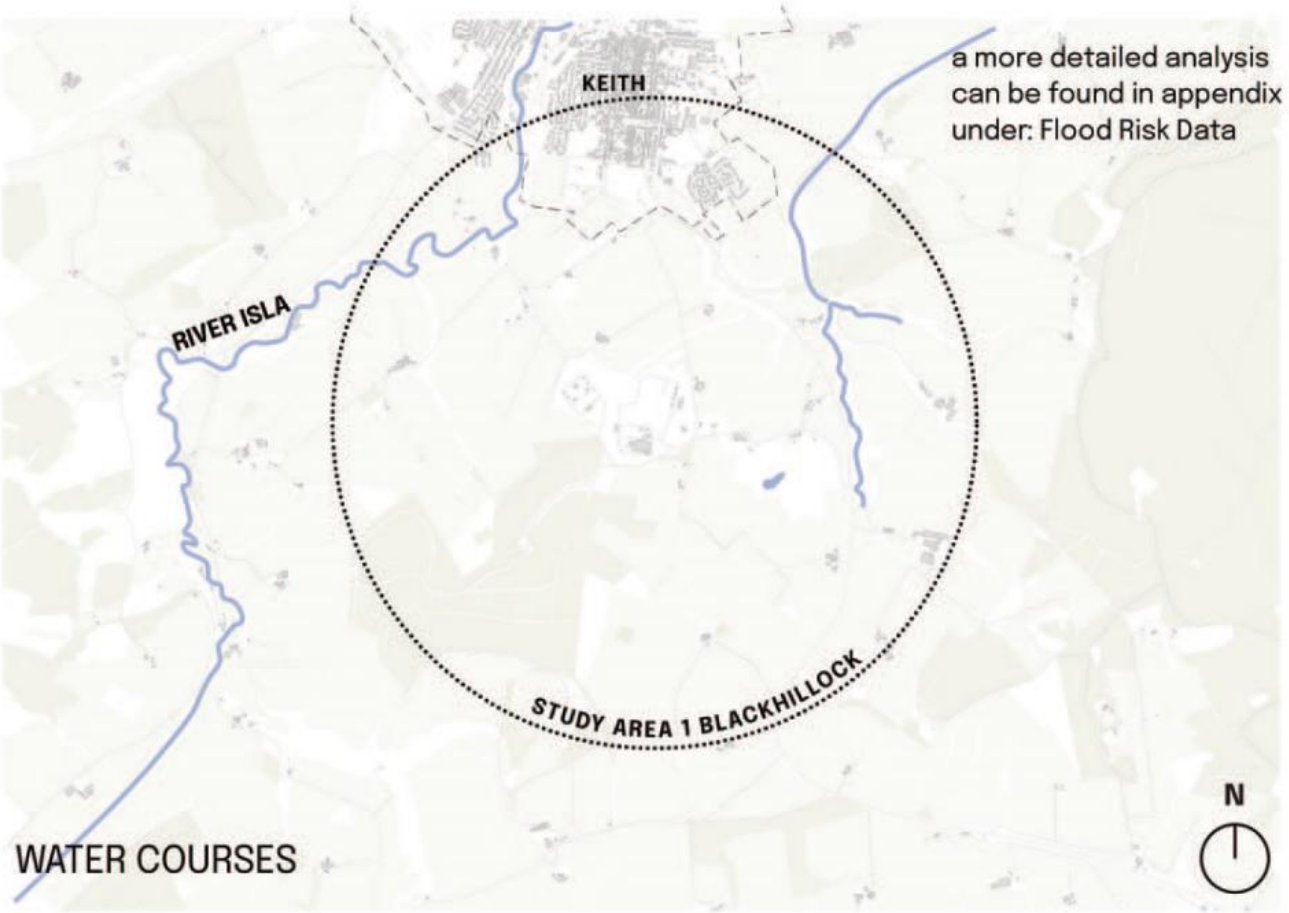


Figure 21 (Above) - Blackhillock Constraints - Water Courses

Figure 22 (Below) - Blackhillock Constraints - Industry & Energy Infrastructure

Utilities Implications

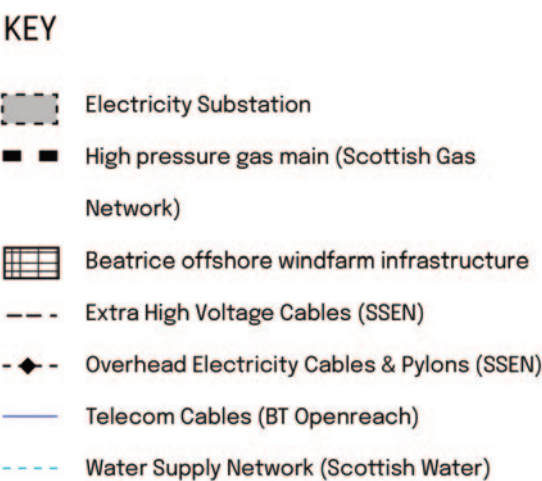
The following desktop utilities study of the Blackhillock area outlines the existing underground and overground utilities present. Most of the existing utilities indicated within the study area are a significant constraint to any prospective development as most of those identified on the record plans are part of main distribution networks that are likely serving a much larger area.

- Existing large electrical substation complex in the middle of the study area with overhead electricity cables and pylons radiating out from this heading north and south
- Offshore windfarm infrastructure corridor running from the substation complex out in a west/north-westerly direction
- Extra high voltage cables running north to south through the eastern part of the study area
- High pressure gas mains running across the western and south part of the study area
- Trunk water mains running across the eastern part of the study area
- Telecoms cables, typically along the existing road infrastructure (A96,)

Minimum clearance distances to existing utilities vary and will be dictated by each of the individual utility providers. It could typically be somewhere between 6 and 12m, dependant on the specific details of the infrastructure and the provider.

Note: This list of utilities is not extensive and further investigation for constraints (including underground cables/pipes) should be undertaken as part of any planning application.

A detailed map with additional utilities can be found in the Appendix under: Existing Utilities



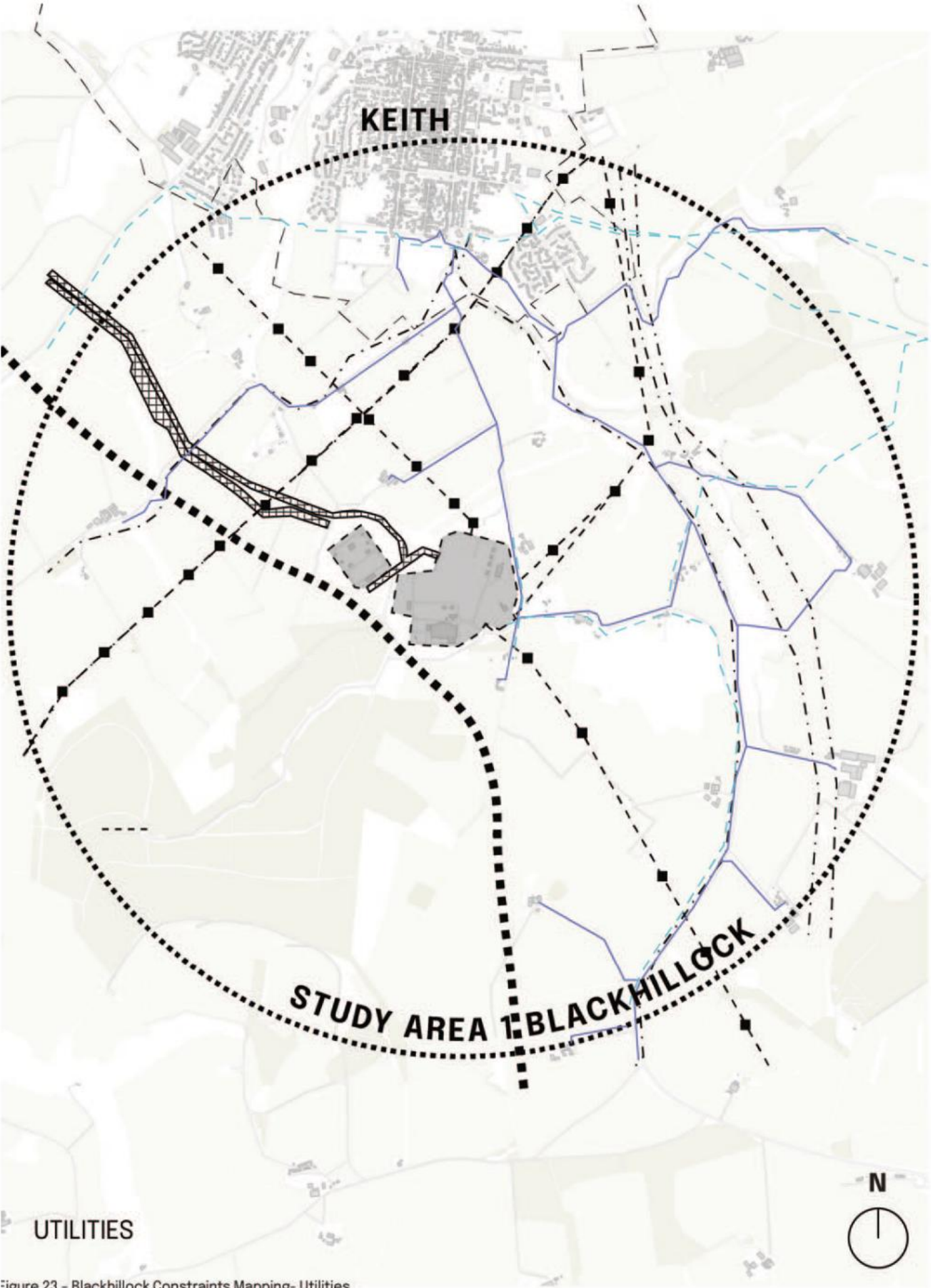


Figure 23 – Blackhillock Constraints Mapping- Utilities

Transport Implications – Blackhillock & Keith NE

- The study areas are proximate to major road, bus and rail corridors between Inverness and Aberdeen, as well as local road networks including the U33H, U43aH and U43H. Improvements to these are required to improve the quality of transport routes and will be identified through planning applications, including pre-application advice.
- There is a network of public access paths throughout both study areas which are a mix of traffic free and on-road routes. Development within the study areas will need to be cognisant of these routes and mitigate potential impacts on routes, during construction and operation.
- Bus stops along the A96 vary in quality and services are limited to the Stagecoach Bluebird Route 10, although it is noted this has reasonable services across the week and across each day.
- Development within the Blackhillock Study Area that generates high rates of employment may need to consider potential upgrades to improve quality of bus stops. There may also be a need to provide or extend service routes to within walking distances of the developments.
- Aside from along the A96, there are no bus routes running through the Blackhillock Study Area.
- The Keith and Dufftown Heritage Railway route, running through the northwest of the Blackhillock Study Area is safeguarded from development.
- In addition, where the route crosses over a rural road within the study area, there is a very low height rail bridge which would constrain vehicle movements and any potential road improvements.
- The A96 is constrained by its single carriageway design. Where the A96 routes through local settlements (including Keith), the speed limit drops to 30mph. Consequently, journey times along the A96 are particularly unreliable and platooning of vehicles is common.
- Its single carriageway design also means diversions due to incidents on the road (e.g. road accidents, poor weather, flooding, etc) are often significant and disruptive.
- Proposed development will need to demonstrate no worsening impacts on road traffic and road safety, during construction and operation.
- The condition and characteristics of rural roads within the study area (e.g. narrow single lane roads, low bridges, overhead transmission lines, existing built form, poor road conditions, no through routes, lack of pedestrian infrastructure) highlights the potential need for improvements and upgrades to deliver development associated with the Energy Framework (e.g. road widening, improved access points and junctions, road safety improvements).
- Proposed development that generates significant traffic, particularly HGVs, will need to demonstrate no worsening impact on road safety, or sufficient mitigation measures.
- As the currently alignment of the A96 routes through Keith, increased traffic on the A96 particularly HGVs, also has the potential to impact upon noise and air pollution, which would need to be addressed as part of any development proposal.
- A96 corridor improvements may include bypassing of Keith. At this stage, there is the potential to route through either of the study areas. Outcomes of the ongoing A96 Corridor Review should be monitored to understand potential bypass routes.

- Current plans for improvements to the A96 should be incorporated into the Energy Framework.
- The A96 Corridor Review is also considering the potential for the A96 to function as an 'Electric Highway', providing alternative refuelling infrastructure and facilities along the corridor. The Energy Framework has potential to integrate into Electric Highway proposals, particularly in terms of the potential hydrogen refuelling station.
- Work is ongoing to improve the Aberdeen to Inverness rail corridor, including improved freight capacity and decarbonisation of Scotland's rail network, which may be relevant to potential uses within the Energy Framework.

KEY

- ■ ■ Train line
- A96
- Rural tracks/roads
- Bus stops
- Train stop

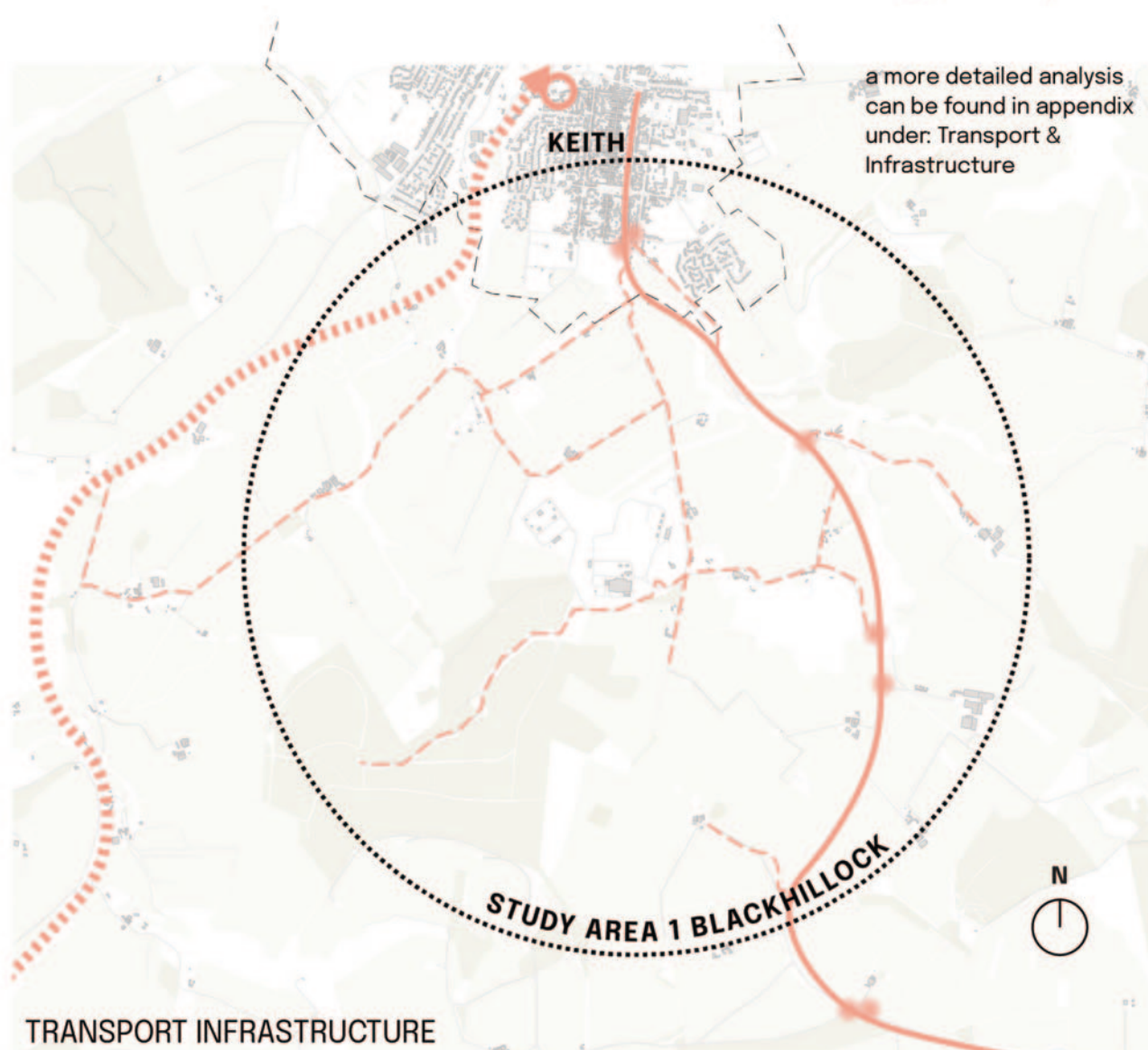


Figure 24 – Blackhillock Constraints Mapping- Transport Infrastructure

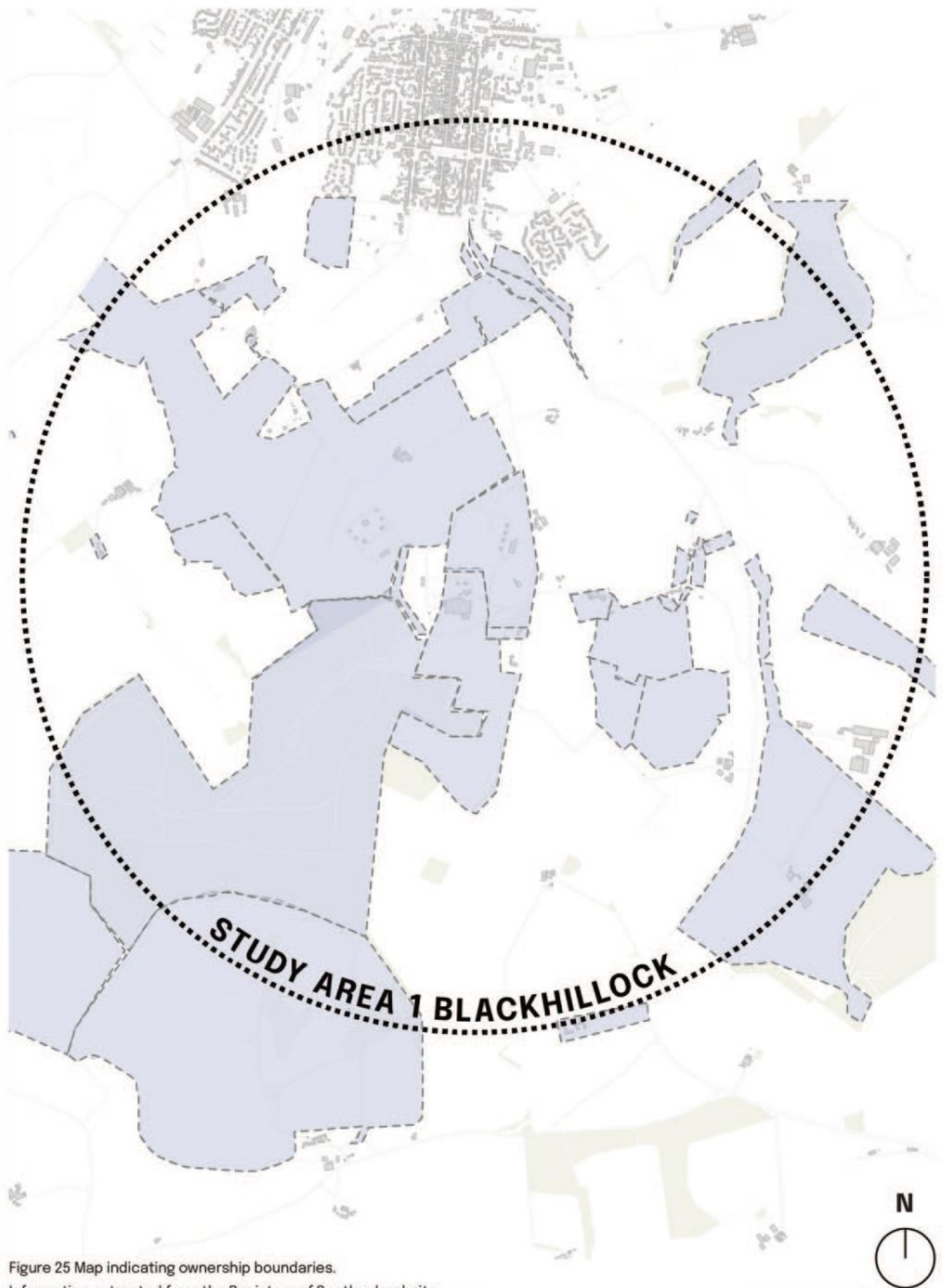


Figure 25 Map indicating ownership boundaries.
Information extracted from the Registers of Scotland website.

4.3 Ownership

A desktop analysis of the land ownership situation in Blackhillock was undertaken to identify whether there were any gaps and what sort of properties existed in the area.

There are approximately 23 different land owners in Blackhillock. Due to the amount of agricultural land present in the area, there exists a large number of gaps in registered title deeds on the Scottish land registry. These could probably be found in the sasine register or at the National Records of Scotland.

4.4 Planning Applications

The following developments are either under construction (at the time of writing this report) or are in the process of obtaining planning consent or other relevant permissions in the Blackhillock study area.

There is also potential for the windfarm to the south of the site to extend and a bypass of the A96 to be developed, however these are still in early stages.



Description: Install a battery energy storage system (BESS) with associated infrastructure at Blackhillock Electricity Substation

Planning Reference: 22/00067/S36
Date Decision: 01.06.2022
Status: Permitted
Built Status: Under Construction



Description: Installation of synchronous compensators with electrical connection to adjacent substation and associated infrastructure on Land Adjacent To Blackhillock Electricity Substation

Planning Reference: 21/01777/APP
Date Decision: 01.03.2022
Status: Permitted
Built Status: Under Construction



Description: Proposed quarry extension at Cairdshill Quarry

Planning Reference: 22/00499/APP
Date Decision: 27.10.2022
Status: Permitted - Discharging conditions

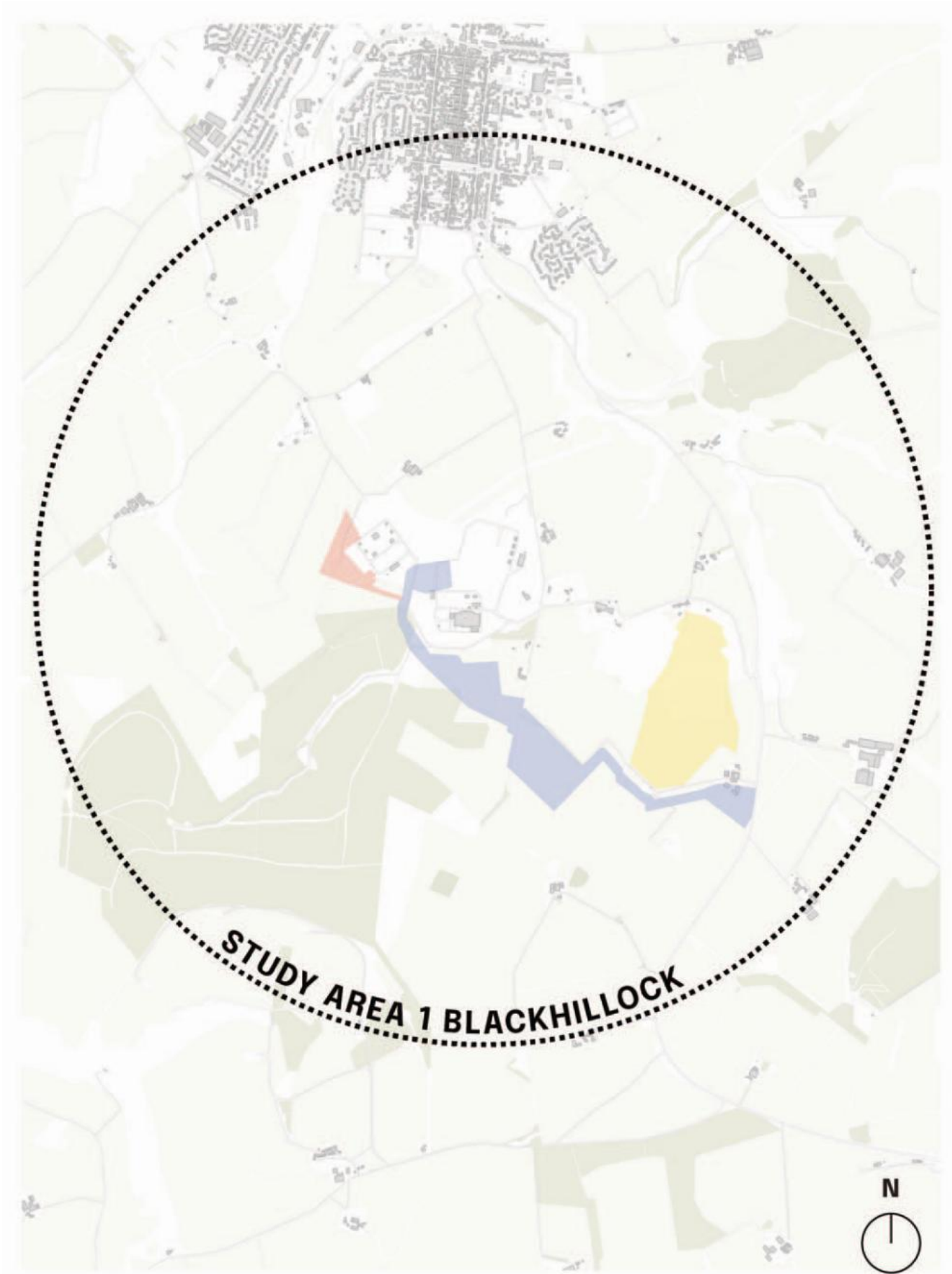


Figure 26 - Blackhillock Planning Applications

05 Study Area 2 - Keith NE Site & Context

The following section explores the study area of Keith North East, highlighting the constraints and opportunities. It begins by providing an executive summary of the comprehensive landscape sensitivity assessment which is included in more detail in Appendix (i)



5.1 Landscape Sensitivity Study

The following section is an executive summary of the landscape sensitivity study (LSS) carried out by Land Use Consultants (LUC) as part of the wider study on behalf of the Council. The full report can be found in Appendix (i).

The LSS focuses on the area immediately surrounding the existing Blackhillock Substation, within a radius of 1km. It is considered that this area captures potential development pressure and landscape sensitivities within the masterplan area and its immediate surroundings.

Development Scenarios:

NatureScot's Landscape Sensitivity Assessment Guidance (2022) recommends that sensitivity studies consider the likely levels of sensitivity to specified types of development or land use (para 21). The use of high-level scenarios for development types recognises that different types of built development have different physical and visual characteristics, different infrastructural requirements and different landscape and visual impacts.

The following scenarios have been used to reflect the different scales of development that may be proposed in the study areas:

Type 1 - Electricity sub-stations / converter stations, representing large-scale industrial-style development, in the form of large buildings, outdoor electrical infrastructure and associated road infrastructure. Development will potentially occupy a large footprint than Type 2; and

Type 2 - Battery Energy Storage Systems / solar farms, representing industrial style development of more modest scale, in the form of 'shipping container' size buildings and / or solar arrays and associated road infrastructure. Development will potentially occupy a smaller footprint than Type 1 (unless it relates to a larger scale solar farm).

Landscape Sensitivity Criteria

The landscape sensitivity assessments are based on an assessment of Local Landscape Character Areas (LLCAs) using carefully defined criteria. LLCAs are shown on Figure 1. The criteria are summarised below:

- Physical character (including topography and scale);
- Natural character;
- Historic landscape character;
- Form, density, identity and setting of existing settlement/development;
- Views and visual character including skylines;
- Access and recreation; and
- Perceptual and experiential qualities.

Making an overall judgement on levels of landscape sensitivity

An overall sensitivity judgement for each LLCA was derived based on the individual criteria ranks. This is not a linear process as it recognises that some attributes or elements of particular landscape parcels may be more important in defining character than others and may be given more 'weight' in reaching an overall judgement. Professional judgement is therefore used rather than a system of numerical scoring. Sensitivity ratings are given on a scale of low, low/moderate, moderate, moderate-high, and high.

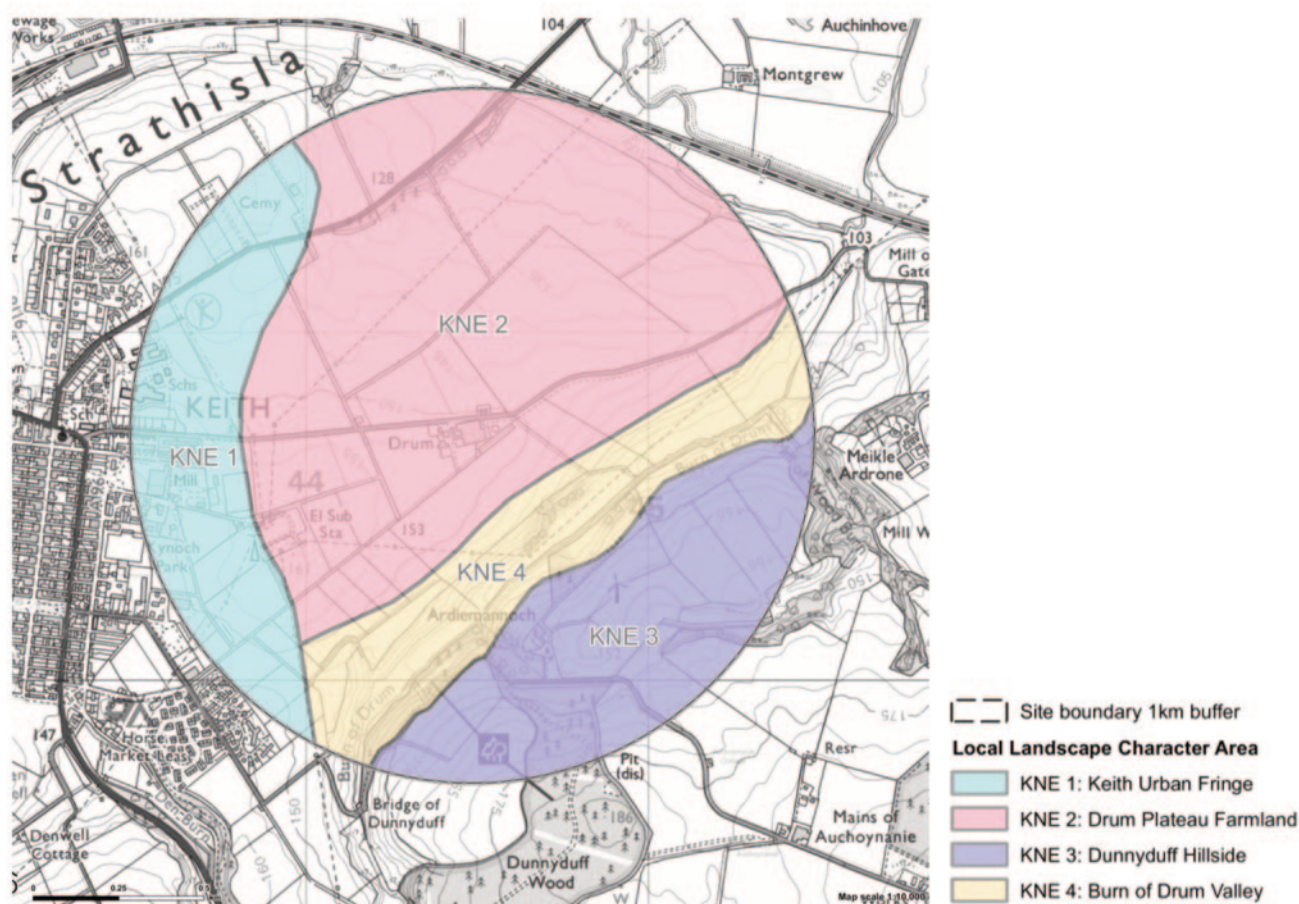


Figure 27 - Keith NE Landscape Character Areas

Keith NE – Conclusions & Recommendations

The overall findings of the sensitivity assessment for Keith NE are summarised in Table 2, see below, and on Figures 28 and 29.

Figure 28 illustrates sensitivity to Type 1 development (i.e. large scale industrial development such as sub-stations or converter stations). Areas of higher sensitivity (orange/red/dark red) are unlikely to be suitable for Type 1 development. There may be some limited scope for Type 1 development in areas of moderate sensitivity (orange), subject to appropriate siting and landscape mitigation.

Figure 29 illustrates sensitivity to Type 2 development (i.e. industrial development of a more modest scale such as battery energy storage systems or solar farms). Areas of higher sensitivity are unlikely to be suitable for Type 2 development. There may be some scope for Type 2 development in parts of areas of moderate sensitivity (orange) subject to appropriate siting and landscape mitigation.

The landscape sensitivity assessment has identified that the following areas are of high or moderate-high sensitivity to Type 1 (column 1) and Type 2 (column 2) development.

LLCA NO.	LLCA Name	Overall Sensitivity Rating: Type 1	Overall Sensitivity Rating: Type 2
1	Keith Urban Fringe	High	Moderate - High
2	Drum Plateau Farmland	Moderate - High	Moderate - High
3	Dunnyduff Hillside	High	High
4	Burn of Drum Valley	High	Moderate - High

Table 2: Overall landscape sensitivity score for the local landscape character areas(Keith NE)

The following types of landscape/visual mitigation and landscape enhancement have been identified as potentially appropriate:

- Explore opportunities to rationalise/ underground existing overhead line electricity infrastructure, on approach to the existing substation. Any steel tower pylons which are not in use should also be removed. This would help minimise the influence of larger scale vertical electricity infrastructure in views from the settlement edge (KNE LCAs 1, 2).
- Consider colour palette of buildings, using colours which help structures recede into views from the settlement edge (KNE LCAs 1, 2, 3, 4).
- New areas of woodland and hedgerows would help to break up and screen views of existing industrial development, on the eastern edge of Keith. This would help to restore a more rural fringe setting, whilst providing opportunities to screen smaller areas of new Type 2 development (KNE LCAs 1, 2, 3, 4).

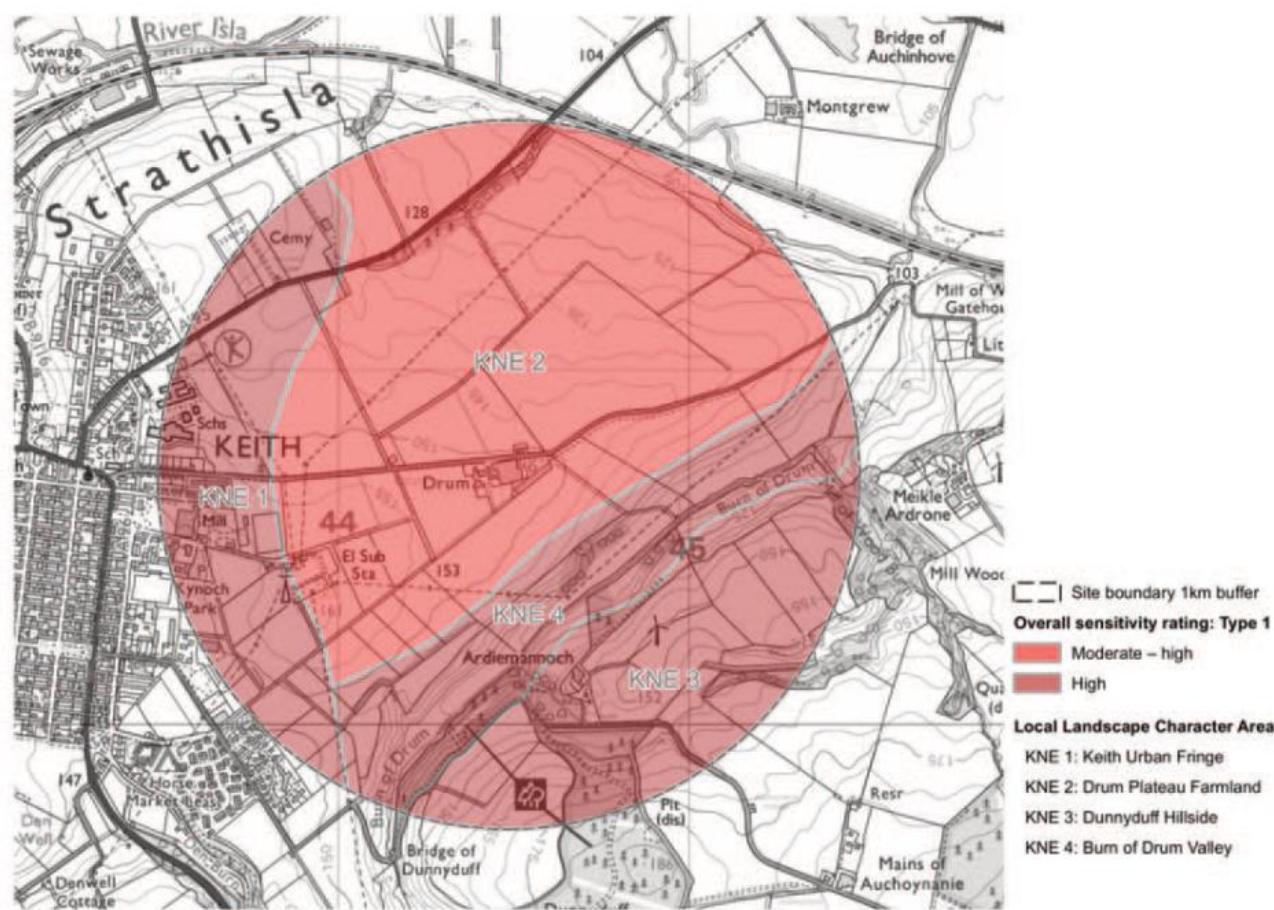


Figure 28 (Above) - Landscape Sensitivity Study for Type 1 Development
Figure 29 (Below) - Landscape Sensitivity Study for Type 2 Development

5.2 Constraints & Opportunities




The town of Keith lies to the west of the site. The vast majority of area is used for agriculture with Keith substation in the south west of the site where a number of overhead cables and pylons radiate outwards.

The road infrastructure is minimal with the A95 running across the north of the site and a narrow rural road running west to east in the centre of the site.



The diagram opposite provides an overview of the existing constraints which exist in the area, which is extensive for such a small area. More information on these infrastructure constraints are provided over the next few pages.

KEY

TRANSPORT (p.70)

-  Train line
-  A95
-  Rural tracks/roads

UTILITIES (p.68)

-  Extra High Voltage Cables
-  Overhead Electricity Cables & Pylons

-  Industrial (p.67)
-  Woodland & Landscape (p.66)
-  Consented Development (p.66)

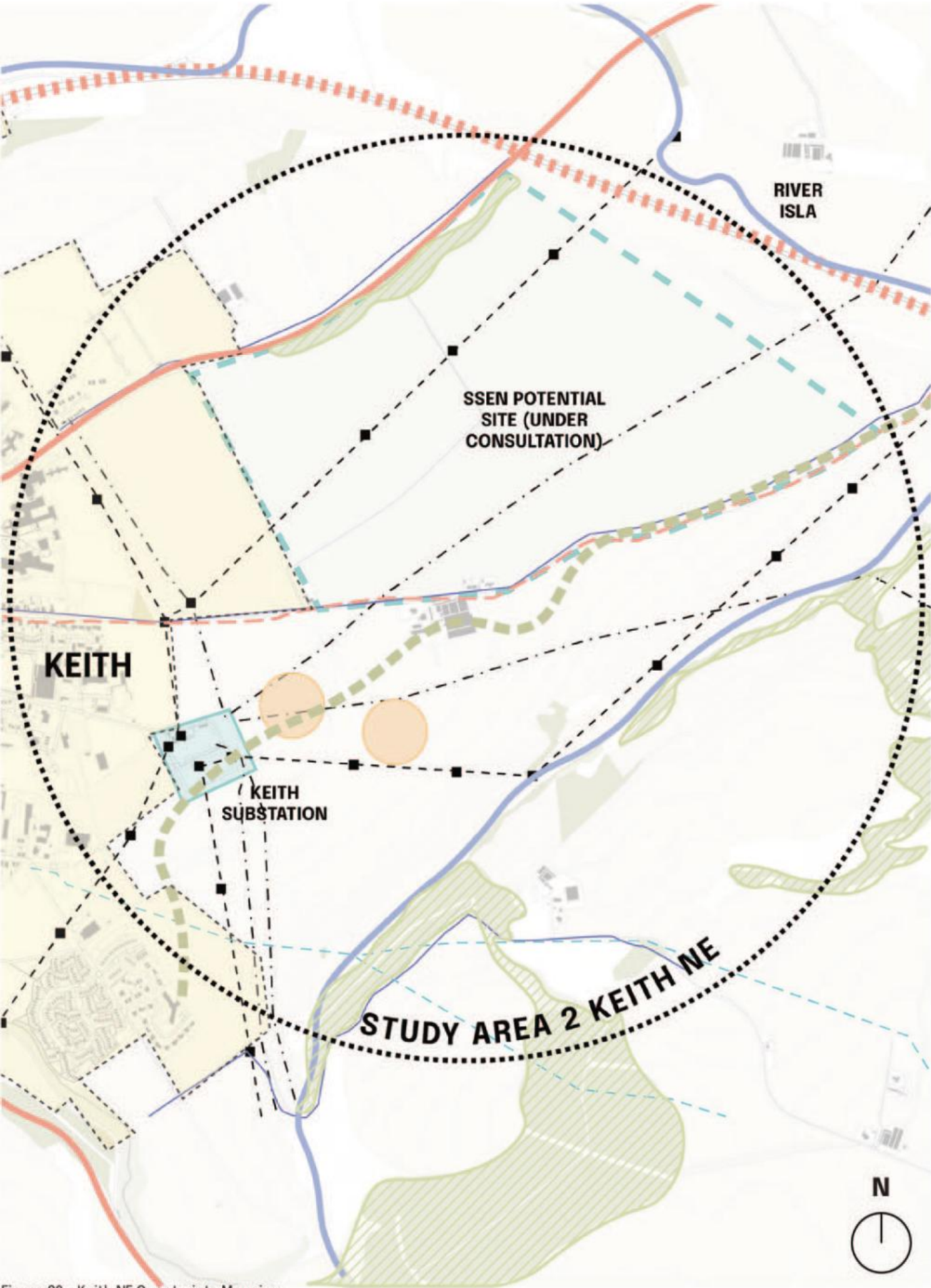


Figure 30 - Keith NE Constraints Mapping

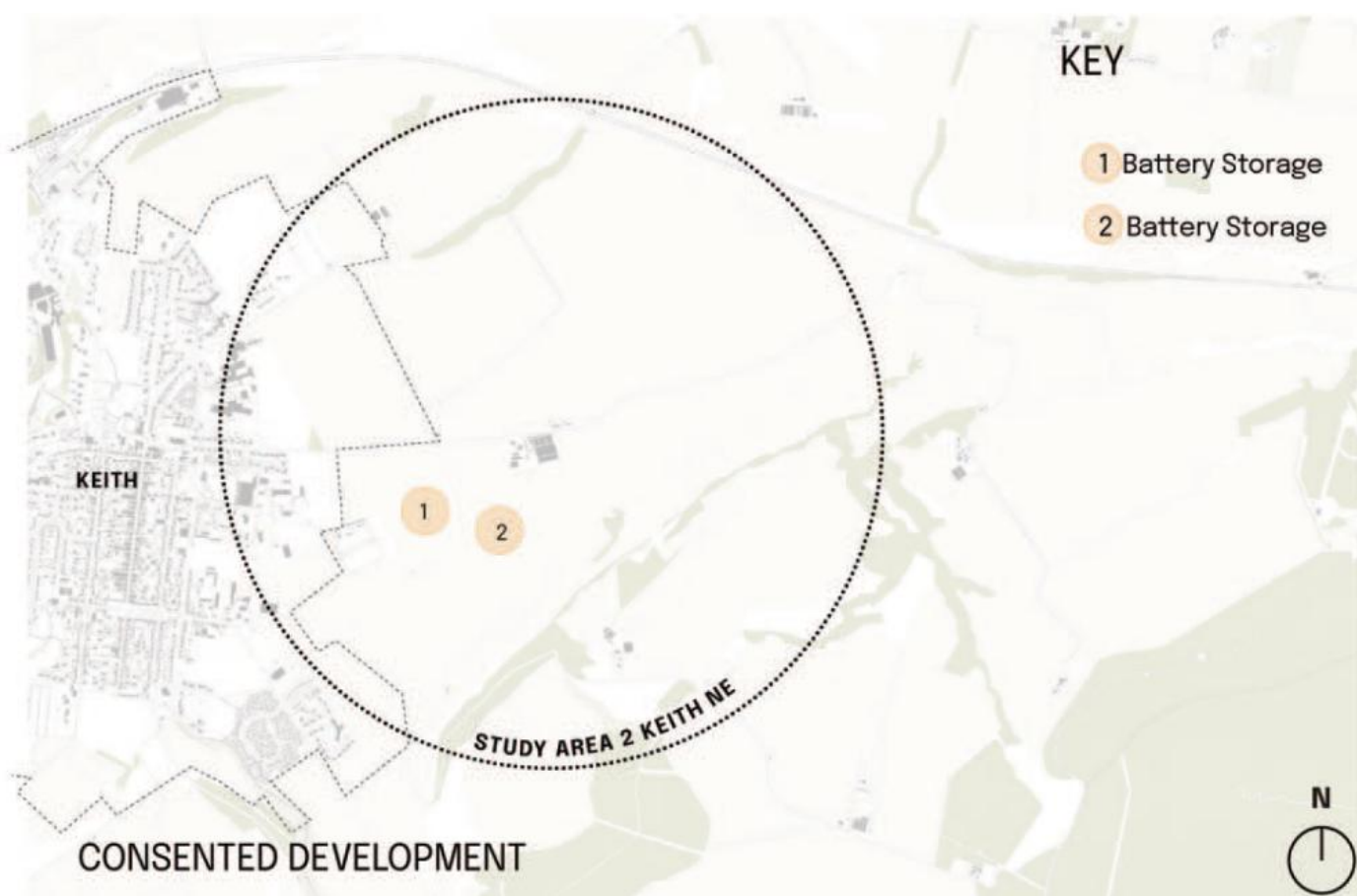
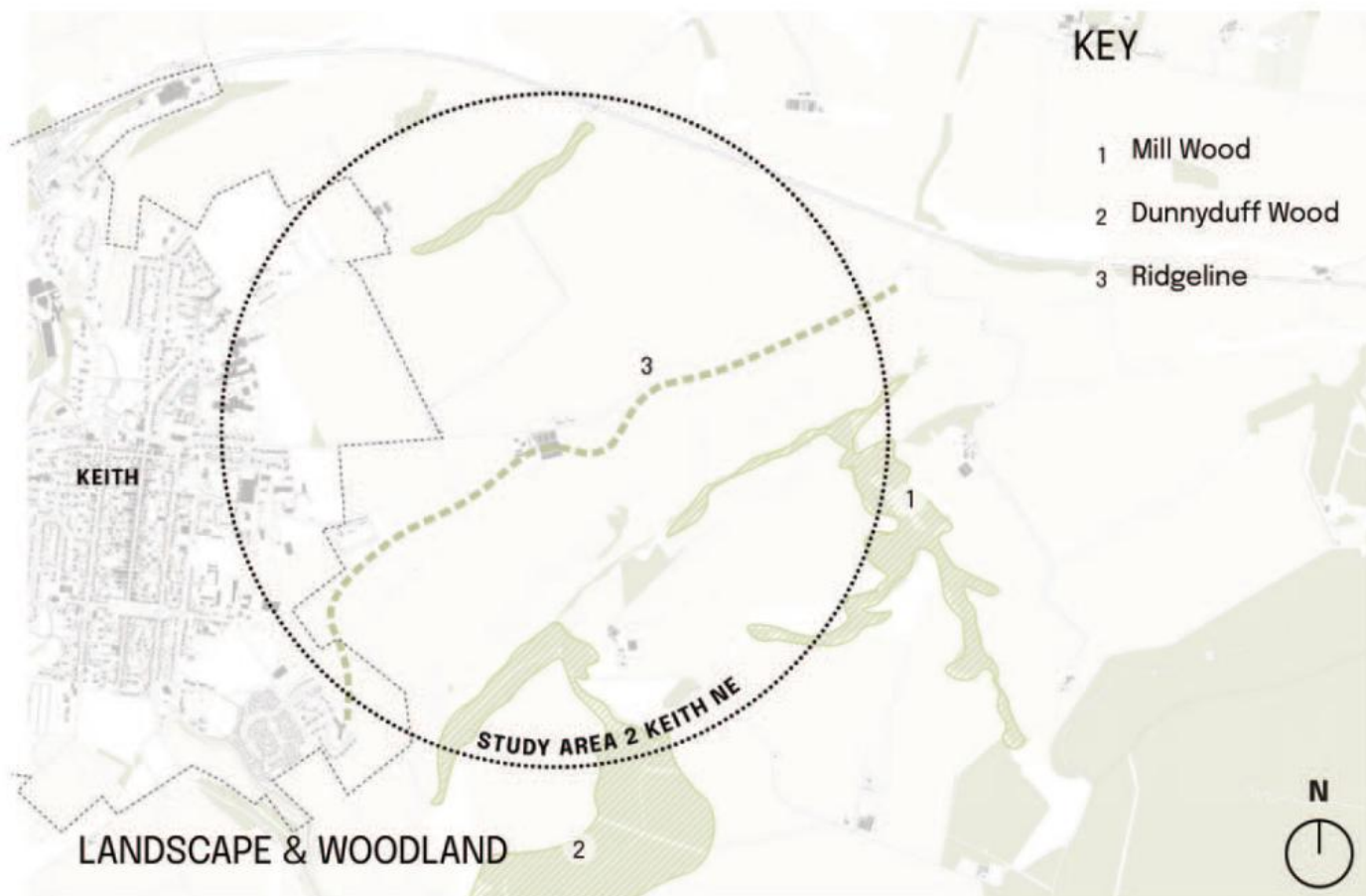


Figure 31 (Above) - Keith NE Constraints - Landscape & Woodland

Figure 32 (Below) - Keith NE Constraints - Consented Development

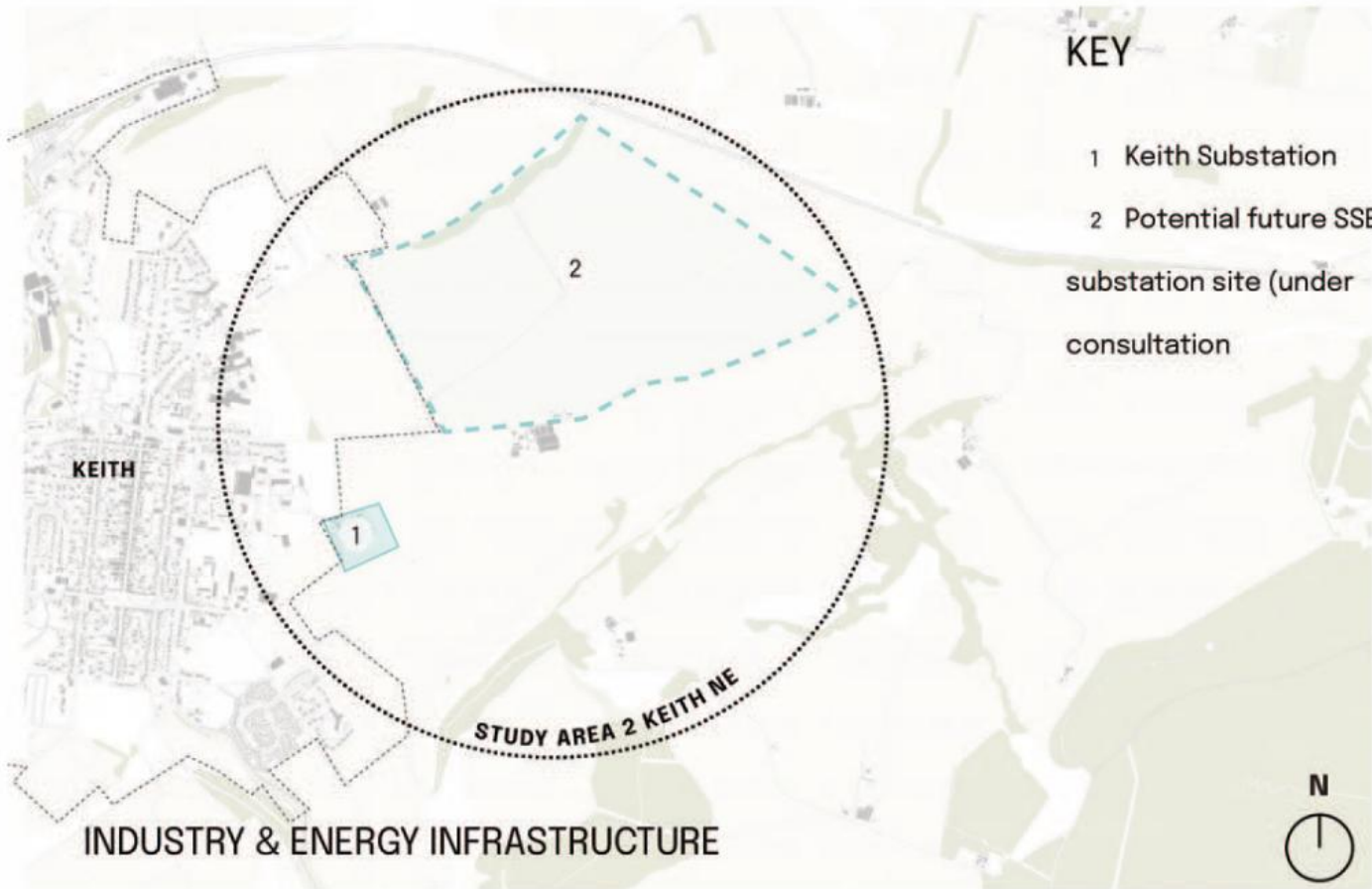
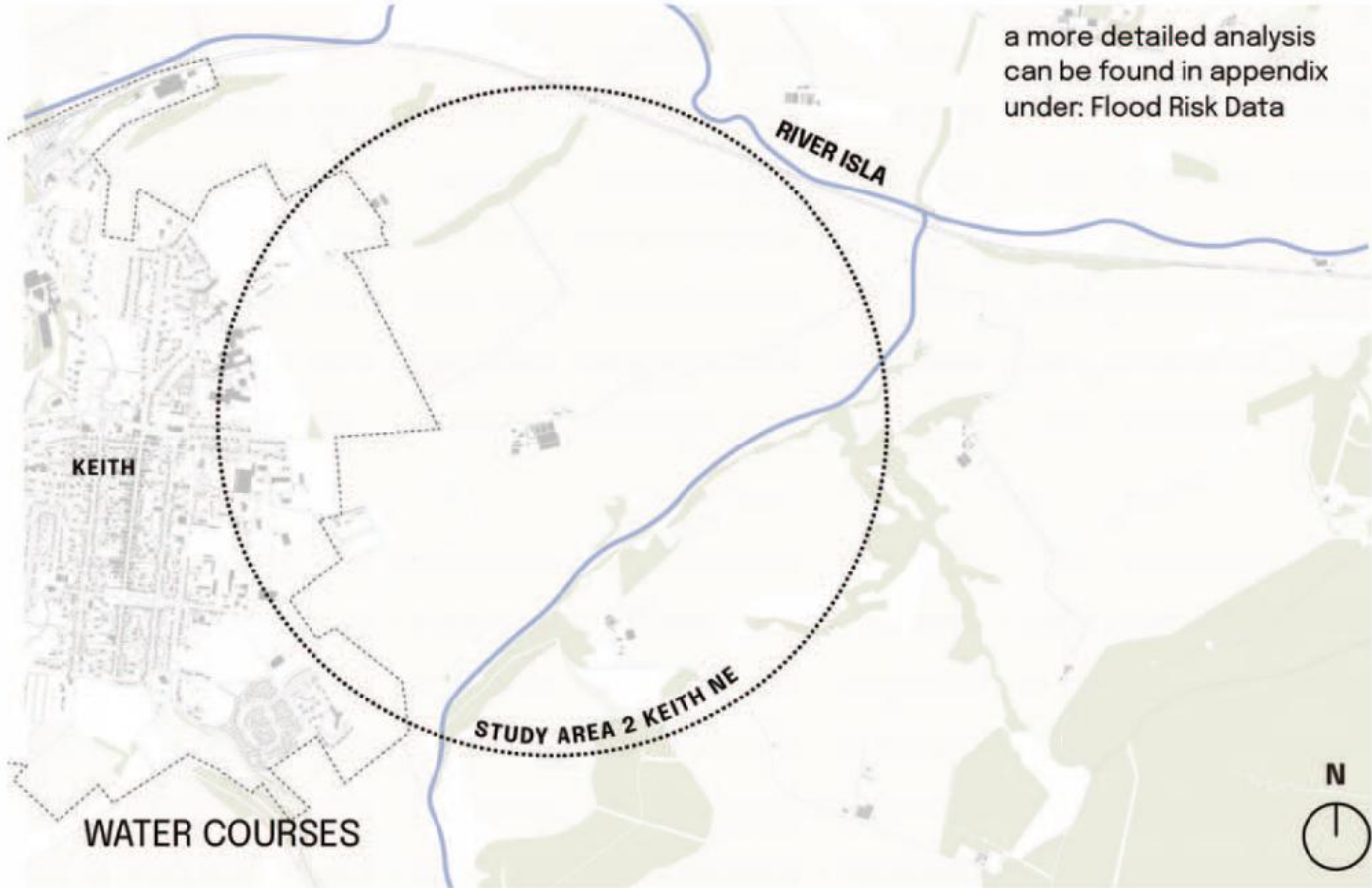


Figure 33 (Above) - Keith NE Constraints - Water Courses
Figure 34 (Below) - Keith NE Constraints - Industry & Energy Infrastructure

Utilities Implications

The following desktop utilities study of the Keith NE area outlines the existing underground and overground utilities present. Most of the existing utilities indicated within the study area are a significant constraint to any prospective development as most of those identified on the record plans are part of main distribution networks that are likely serving a much larger area.






- Existing electrical distribution substation complex to the south west of study area with overhead electricity cables and pylons radiating out from this heading in all directions.
- Extra high voltage cables running to the east of the study area
- Trunk water mains running across the southern part of the study area
- Telecoms cables, typically along the existing road infrastructure

Minimum clearance distances to existing utilities vary and will be dictated by each of the individual utility providers. It could typically be somewhere between 6 and 12m, dependant on the specific details of the infrastructure and the provider.

Note: This list of utilities is not extensive and further investigation for constraints (including underground cables/pipes) should be undertaken as part of any planning application.

A detailed map with additional utilities can be found in the Appendix under: Existing Utilities

KEY

	Electricity Substation
	Extra High Voltage Cables (SSEN)
	Overhead Electricity Cables & Pylons (SSEN)
	Telecom Cables (BT Openreach)
	Water Supply Network (Scottish Water)

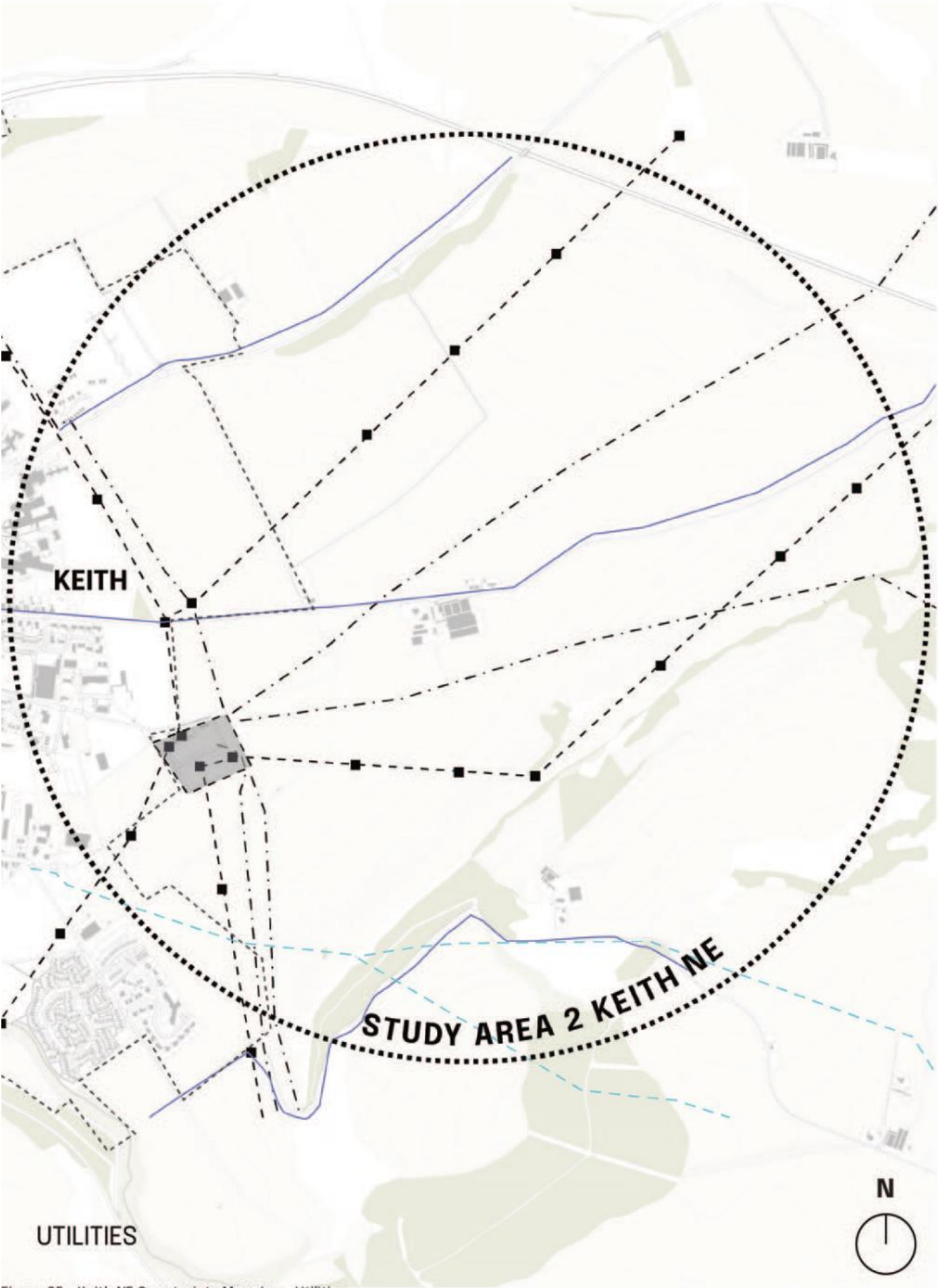


Figure 35 - Keith NE Constraints Mapping - Utilities

Transport Implications – Keith NE & Blackhillock

- The study areas are proximate to major road, bus and rail corridors between Inverness and Aberdeen, as well as local road networks including the U33H, U43aH and U43H. Improvements to these are required to improve the quality of transport routes and will be identified through planning applications, including pre-application advice.
- There is a network of public access paths throughout both study areas which are a mix of traffic free and on-road routes. Development within the study areas will need to be cognisant of these routes and mitigate potential impacts on routes, during construction and operation.
- Bus stops along the A96 vary in quality and services are limited to the Stagecoach Bluebird Route 10, although it is noted this has reasonable services across the week and across each day.
- Aside from along the A95, there are no bus routes running through the Keith NE Study Area.
- The A96 is constrained by its single carriageway design. Where the A96 routes through local settlements (including Keith), the speed limit drops to 30mph. Consequently, journey times along the A96 are particularly unreliable and platooning of vehicles is common.
- Its single carriageway design also means diversions due to incidents on the road (e.g. road accidents, poor weather, flooding, etc.) are often significant and disruptive.
- Proposed development will need to demonstrate no worsening impacts on road traffic and road safety, during construction and operation.
- The condition and characteristics of rural roads within the study area (e.g. narrow single lane roads, low bridges, overhead transmission lines, existing built form, poor road conditions, no through routes, lack of pedestrian infrastructure) highlights the potential need for improvements and upgrades to deliver development associated with the Energy Framework (e.g. road widening, improved access points and junctions, road safety improvements).
- Proposed development that generates significant traffic, particularly HGVs, will need to demonstrate no worsening impact on road safety, or sufficient mitigation measures.
- As the currently alignment of the A96 routes through Keith, increased traffic on the A96 particularly HGVs, also has the potential to impact upon noise and air pollution, which would need to be addressed as part of any development proposal.
- A96 corridor improvements may include bypassing of Keith. At this stage, there is the potential to route through either of the study areas. Outcomes of the ongoing A96 Corridor Review should be monitored to understand potential bypass routes.
- Current plans for improvements to the A96 should be incorporated into the Energy Framework.
- The A96 Corridor Review is also considering the potential for the A96 to function as an 'Electric Highway', providing alternative refuelling infrastructure and facilities along the corridor. The Energy Framework has potential to integrate into Electric Highway proposals, particularly in terms of the potential hydrogen refuelling station.
- Work is ongoing to improve the Aberdeen to Inverness rail corridor, including improved freight capacity and decarbonisation of Scotland's rail network, which may be relevant to potential uses within the Energy Framework.

KEY

- Train line
- A95
- Rural tracks/roads
- Bus stops
- Train stop

a more detailed analysis
can be found in appendix
under: Transport &
Infrastructure



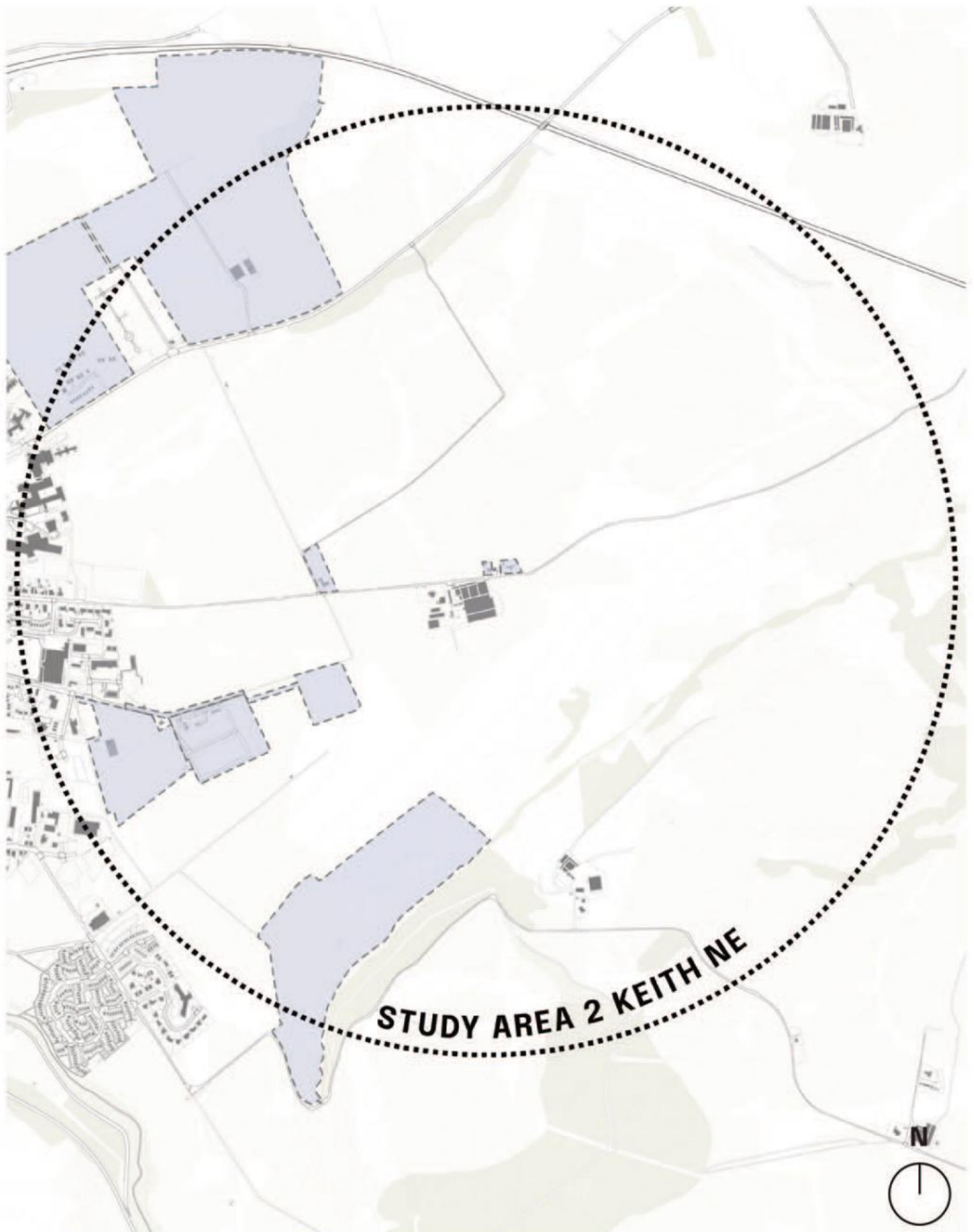


Figure 37 Map indicating ownership boundaries.
Information extracted from the Registers of Scotland website.

5.3 Ownership

A desktop analysis of the land ownership situation in the Keith NE study area was undertaken to identify whether there were any gaps and what sort of properties existed in the area.

There are approximately 9 land owners in Keith NE. Due to the amount of agricultural land present in the area, there exists a large number of gaps in registered title deeds on the Scottish land registry. These could probably be found in the sasine register or at the National Records of Scotland.

5.4 Planning Applications

The following developments are either under construction (at the time of writing this report) or are in the process of obtaining planning consent or other relevant permissions in the Keith NE study area.

The large area to the east of the study area is one of the sites being considered by SSEN to develop a new substation as part of their 'Route to 2030' network.



Description: Installation of an energy storage facility including battery enclosures power conversion units transformer substations grid connection infrastructure vehicular access and associated works.

Planning Reference: 22/00715/APP
Date Decision: 27.10.2022
Status: Permitted
Built Status: Not built



Description: Proposed battery energy storage system and associated Infrastructure.

Planning Reference: 22/01488/APP
Date Decision: 15.03.2023
Status: Permitted
Built Status: Not built



Description: Erect cooperage including office staff facilities storage yard and associated works.

Planning Reference: 23/00314/APP
Status: Awaiting Decision



Potential site being looked at by SSEN for a new substation.

Status: Under Consultation

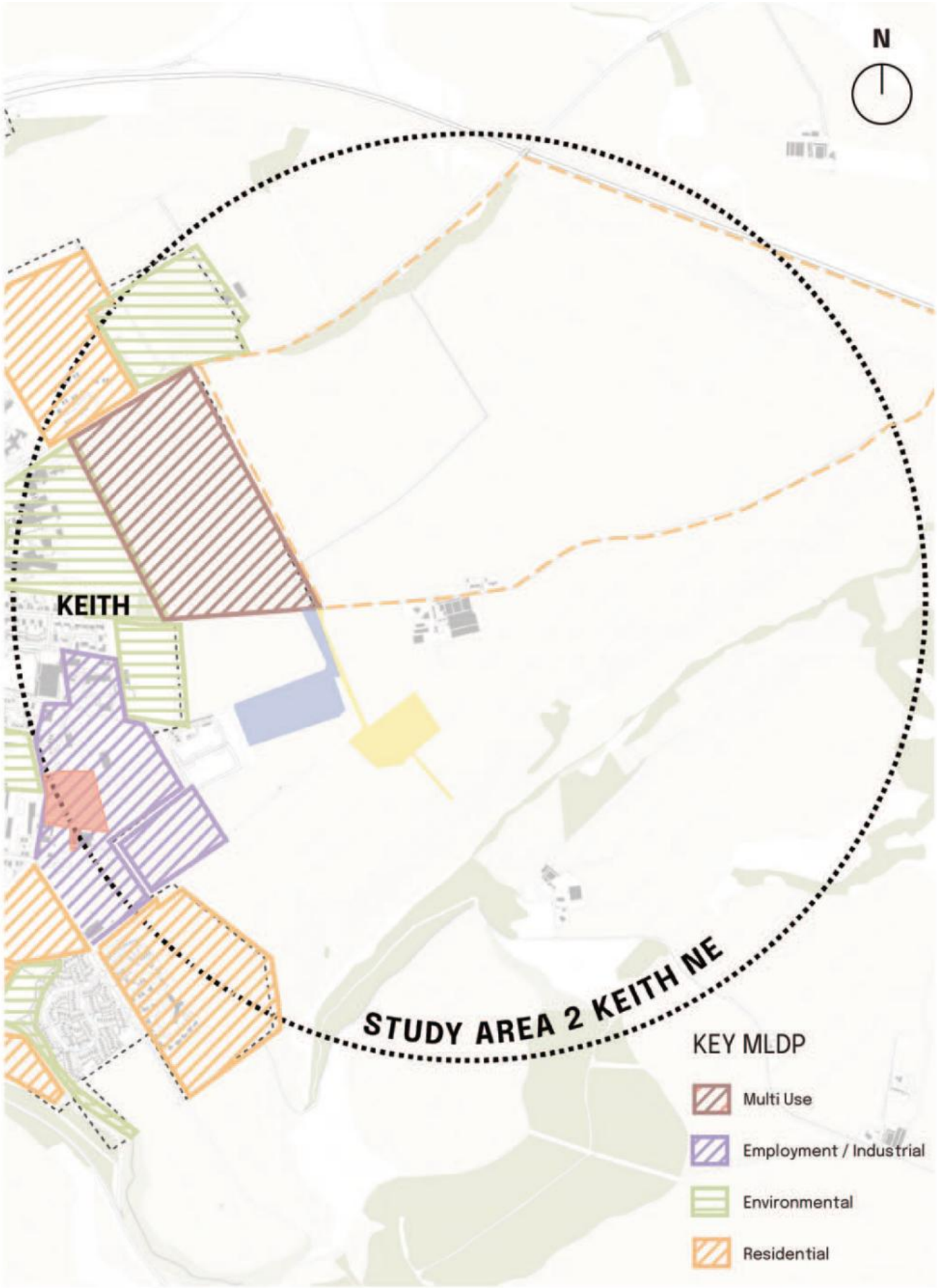


Figure 38 - Keith NE Planning Applications with Land Use Designations from MLDP

06 Keith – A Green Industry Hub?

The following section describes the existing, proposed and potential industrial and energy uses in both areas and explores the potential of the synergies between these uses to create a sustainable energy framework.



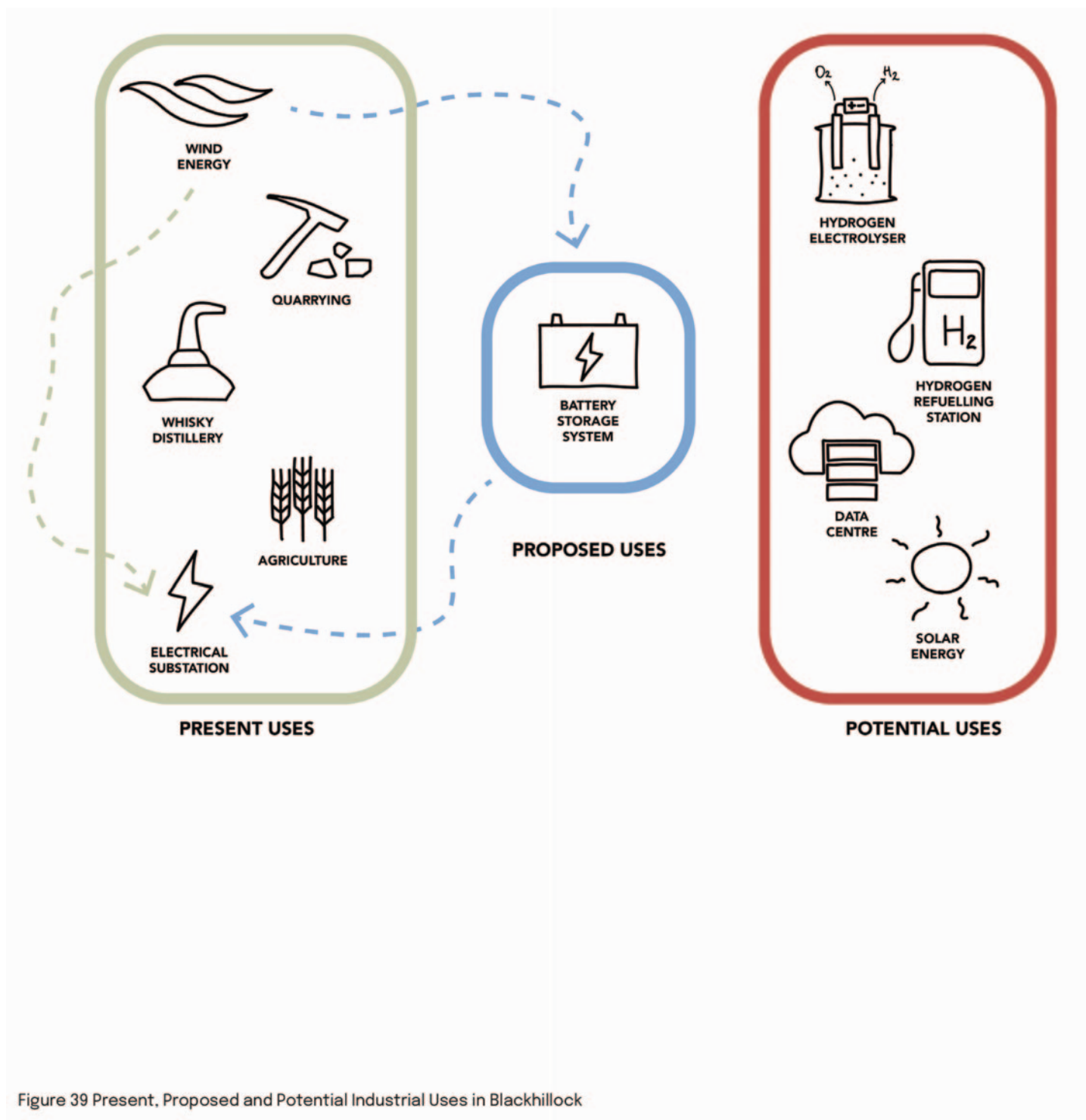


Figure 39 Present, Proposed and Potential Industrial Uses in Blackhillock

6.1 Industry In Keith

The areas of Blackhillock and Keith NE, as outlined previously, are industrial areas focusing mainly on energy, electricity distribution and agriculture.

The multiple distilleries located in and around Keith are also taken in to account in this study along with the quarrying site adjacent to Blackhillock.

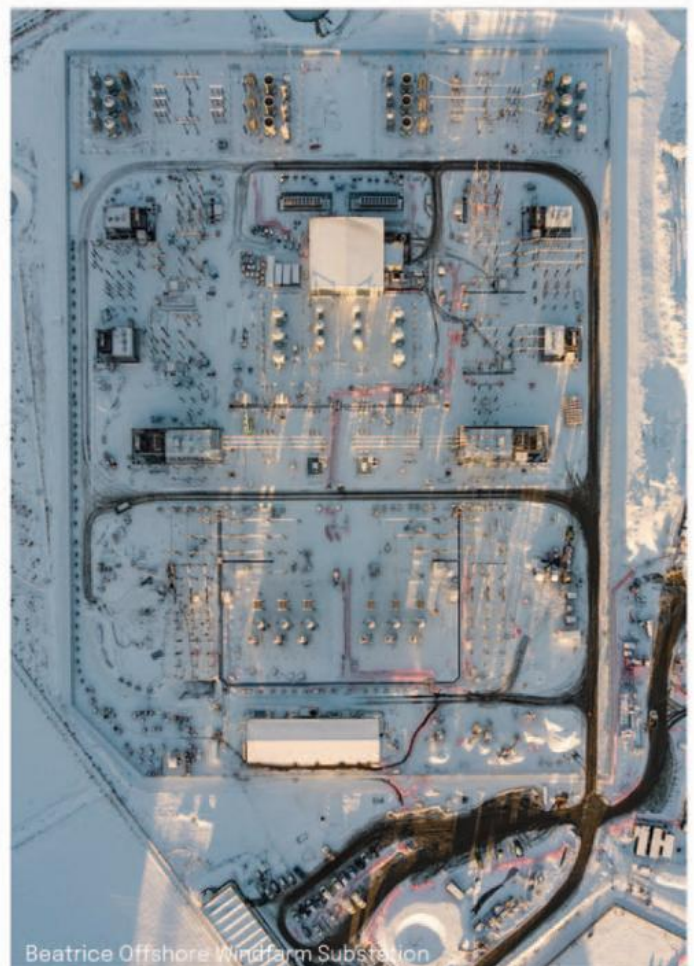
Battery storage systems are required to store excess green energy produced before it is transmitted to the national grid. In fact there are currently plans for a battery storage system to be developed to the south of the Blackhillock substation and to the East of Keith substation as discussed in previous sections of this framework.

With the view of developing Keith into a hub for green energy production a number of additional uses have been identified, which in contrast to battery storage facilities could create more jobs in the area.

- Hydrogen Electrolyser and Refuelling Stations
- Data Centres
- Solar Energy

The following pages describe these uses in more detail and discuss the suitability and requirements for successful implementation. Proposals will require to comply with the Development Plan and associated guidance, which includes consideration of landscape and visual impacts and cumulative build-up.

6.1 Present Uses



Images of Present Uses near Keith - Distilleries, Windfarms, Quarries, Substations and Agriculture

6.1.1 Battery Storage

The land around the Blackhillock and Keith sub station is currently being purchased or permission sought with the view of developing battery storage sites. Although ideally placed next to a sub station it is important to have a holistic plan to where these are located in order to provide the necessary screening and allow for additional connection corridors to the sub stations.

Battery storage systems are devices that enable energy from renewables, like solar and wind to be stored and then released when required. Storage helps balance electricity generation and demand and helps relieve some of the demand on the national electricity grid.

There is currently one application being processed for the development of a battery storage unit farm to the south of Blackhillock sub station. (Refer to Section 4.4).

KEY REQUIREMENTS:

- Screening
- Security fencing
- Land erosion control
- Permanent stormwater measure
- Integration with electrical infrastructure.

APPROXIMATE SIZE: 2-3 acres.

STRENGTHS & OPPORTUNITIES: Potential for other uses around the development. Blackhillock would be an appropriate location for this type of development given the levels of green energy produced here.

CONSTRAINTS & THREATS: Does not provide employment opportunity. Can be a blight on the landscape if not located in appropriate locations. The increasing number of planning applications for battery storage requires a planned approach to be taken to avoid further piecemeal development that can detrimentally impact on the landscape and character of Keith and its surrounding area.



6.1.2 Data Centres

A data centre is a physical facility which houses computer systems and associated components such as telecommunications and storage systems. This is used by organizations and company to store their critical applications and data. They are Important to meet ever increasing demand for internet access.

KEY NEEDS: Require significant infrastructure to support the centre's hardware and software. These included power subsystems, uninterruptable power supplies, ventilation, cooling systems, fire suppression, backup generators and connections to external networks.

Proximity to power distribution centre. Blackhillock deals with much higher voltage. More appropriate to be close to Keith power station.

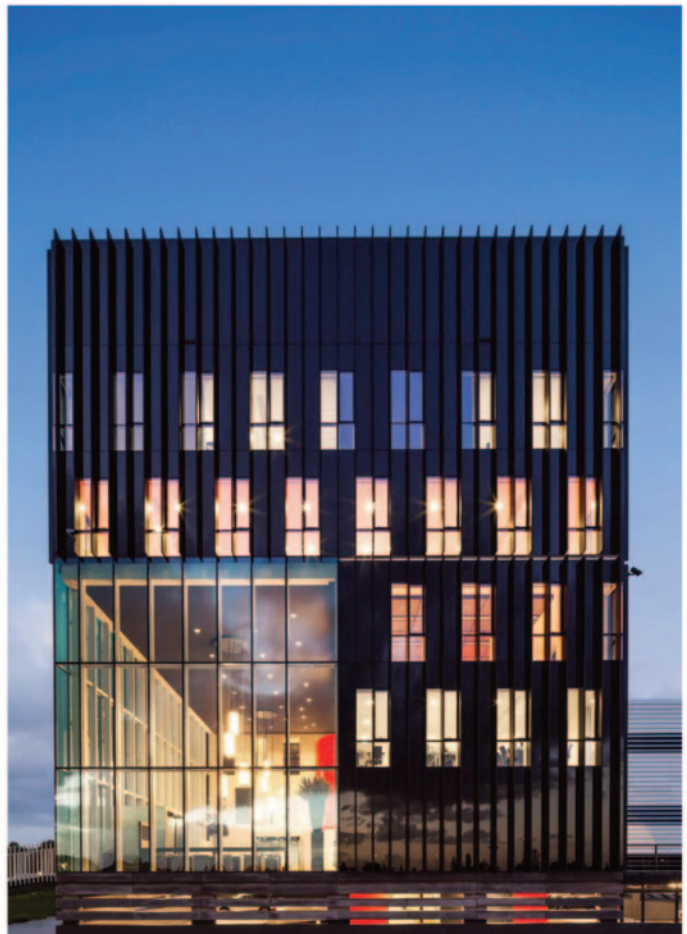
APPROXIMATE SIZE: can vary from a very small area to around 16 acres.

STRENGTHS & OPPORTUNITIES: The heat generated by running a data centre could be fed back into the heat network - can be used to heat Keith. Ideally located next to power distribution centres.

CONSTRAINTS & THREATS: Require a significant amount of power to operate and keep cool. Expensive to operate due to cooling costs.

NOTES: Scottish Futures Trust have identified 12 possible sites in Scotland for possible data centres. This study has been developed to help "establish Scotland as an attractive location for green datacentres and to accelerate inward investment from the datacentre sector"

Data Center Equinix Am3/Am4, Amsterdam
Bentham Crouwel Architects
Photo by Jannes Linders



6.1.3 Hydrogen Electrolyser

“Our vision is for Scotland to become a leading Hydrogen Nation in the production of reliable, competitive, sustainable hydrogen and secure Scotland’s future as a centre for international excellence as we establish the innovation skills and supply chain that will underpin our energy transition Scotland’s unique selling points, are its natural resources, infrastructure and skilled energy workforce which enable us to become the producer of lowest cost hydrogen in Europe by 2045”

- Scottish Government, Hydrogen Policy Statement.

Green hydrogen is being considered as the primary industrial energy use and could be used to decarbonise heavy goods vehicles, trains and industrial uses.

KEY REQUIREMENTS:

- 170,000L/day of water.
- Proximity to sub station

APPROXIMATE SIZE: 10,000sqm.

STRENGTHS & OPPORTUNITIES: Proximity to large sub station make location ideal for this kind of facility and would generate employment in the area.

CONSTRAINTS & THREATS: Large area required which may need to be heavily screened and located strategically. Requires a large amount of water to function.

NOTES: Mott Macdonald together with UHI and HIE are currently conducting a Hydrogen Strategy and have identified Blackhillock as a potential site for an electrolyser and refuelling station.

Examples of Hydrogen Electrolysers



6.1.4 Hydrogen Refuelling Station

Currently in Scotland there are two publicly accessible refuelling sites in Aberdeen, Kittybrewster and Tullos, serving cars, buses and vans. There is one more larger refuelling station in Orkney for buses and a small refuelling station is planned in Glasgow.

A simple hydrogen refuelling station consists of hydrogen storage tanks, hydrogen gas compressors, a pre-cooling system, and a hydrogen dispenser, which dispenses hydrogen to pressures of 350 or 700 bars depending on the type of vehicle. A typical hydrogen car will be refuelled in three minutes and a bus in seven minutes.

KEY REQUIREMENTS:

- Proximity to road
- Proximity to hydrogen electrolyser ideal but not necessary (will reduce transportation costs.)
- Will require a larger area adjacent to the fuelling station for the storage of hydrogen.

APPROXIMATE SIZE: 20sqm

STRENGTHS & OPPORTUNITIES: Could be used to refuel vehicles used in the Blackhillock area (industry related, including farming vehicles and equipment). Can be used to power distilleries in the vicinity of Keith.

CONSTRAINTS & THREATS: A refuelling station on the A96 in close proximity to Keith may increase the level of traffic passing through the town.

Examples of hydrogen refuelling stations.
Sourced from WikiCommons



6.1.5 Solar Energy

As part of the Draft Energy and Just Transition the Scottish Government has also provided a solar vision whereby the importance of using solar energy combined with other renewables as a source to decarbonise the energy system in Scotland is recognised and will be supported.

A solar farm is a large scale ground mounted solar installation, using photovoltaic panels to harvest energy from the sun.

KEY REQUIREMENTS:

- on a commercial scale large amounts of land.
- Sunny conditions , suitable for the East coast of Scotland.
- Battery storage to store energy generated.

APPROXIMATE SIZE: around 32,000sqm for 1MW

STRENGTHS & OPPORTUNITIES: Solar farms could serve as a dual function and may be installed on roof tops as well as on land.

CONSTRAINTS & THREATS: Large area required for solar farms. Grid constraints means priority for energy being used close to production would be beneficial instead of being fed into the national grid. Potential to have significant landscape and visual impacts.



Examples of Solar Farms
Sourced from Unsplash

6.2 Development & Energy Framework

In order to build a sustainable energy framework for the area of Keith, there are potential overlaps between these uses. The following will describe these synergies and outline how these uses can benefit each other and also the existing community of Keith.

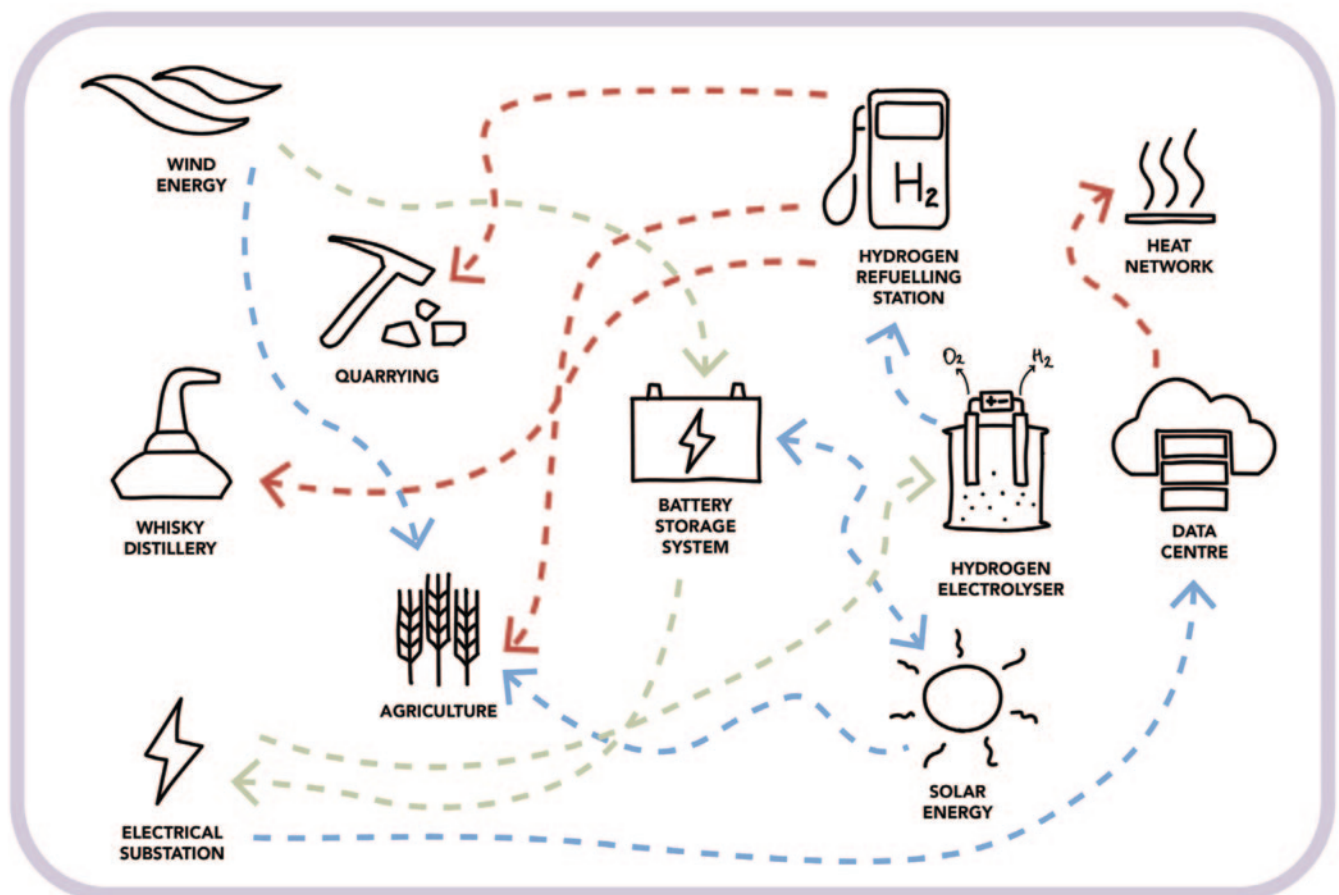
As discussed in Chapter 5.1 there are a range of present, proposed and potential uses that could be guided to appropriate locations within the study areas.

PRESENT Wind energy Quarries Whisky Distilleries Agriculture Electrical Substation	PROPOSED Battery Storage	POTENTIAL Hydrogen Electrolyser Hydrogen Refuelling Station Data Centre Solar Energy
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These uses have been categorised into developments considered as Type 1 (large scale industrial development) and Type 2 (industrial development at a more modest scale). Location of any development of Type 1 and Type 2 are provided in the next chapter on page 103.

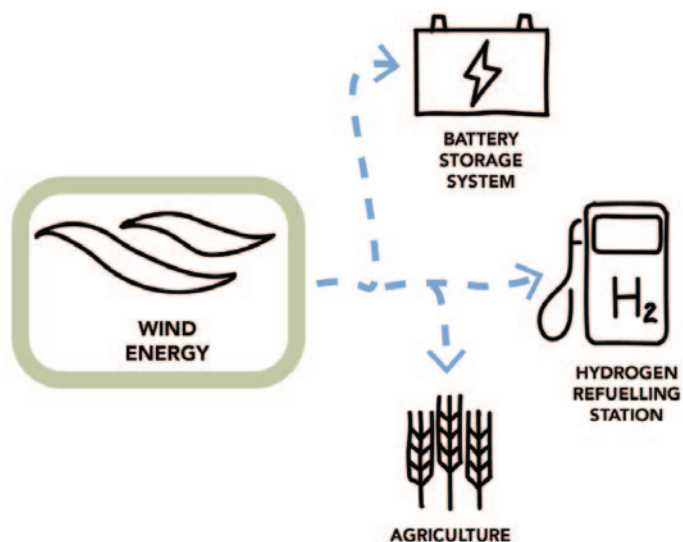
TYPE 1 Wind energy Quarries Electrical Substation Hydrogen Electrolyser Hydrogen Refuelling Station Data Centre	TYPE 2 Whisky Distilleries Agriculture Battery Storage Data Centre Solar Energy
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The diagram below seeks to indicate how the present, proposed and potential energy and infrastructure might support and synergise each other and provide opportunities locally.



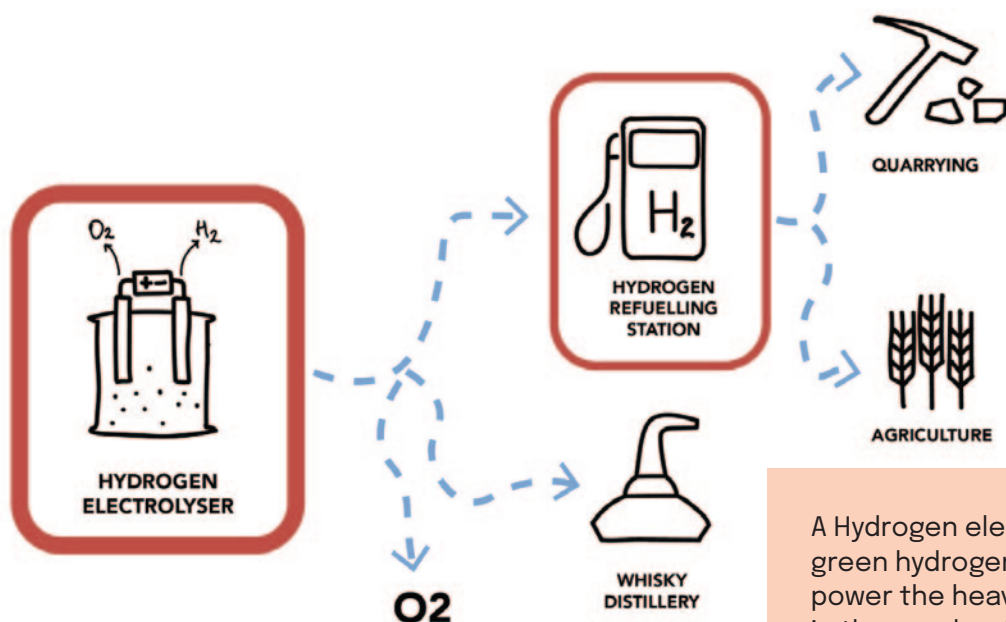
The following pages outlines a number of scenarios how these uses may support each other.

The following are a number of possible scenarios how the aforementioned uses could benefit each other and the community of Keith. These are not exhaustive and additional research will have to be done on conducted on their viability in the area.

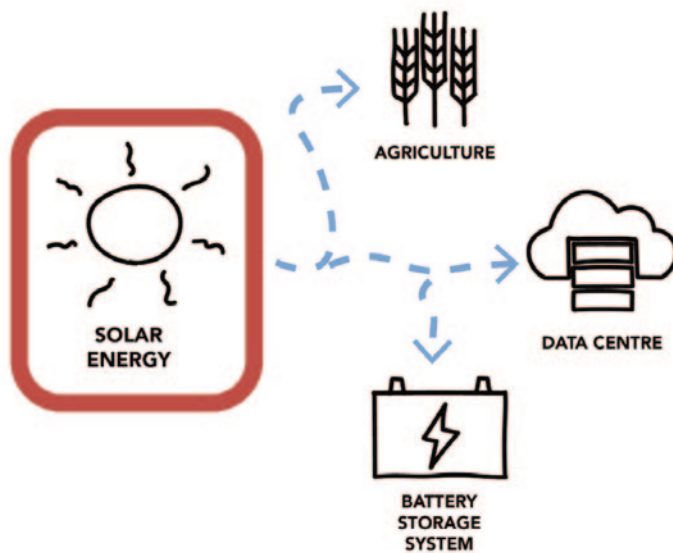


Wind Energy is a prevailant use in both study areas. The Edintore windfarm to the south of Blackhillock may have the potential to expand, whilst the Beatrice station harnesses the energy produced offshore. There are multiple ways that this energy produced locally could be harnessed by the community, reducing the need for excessive battery storage facilities.

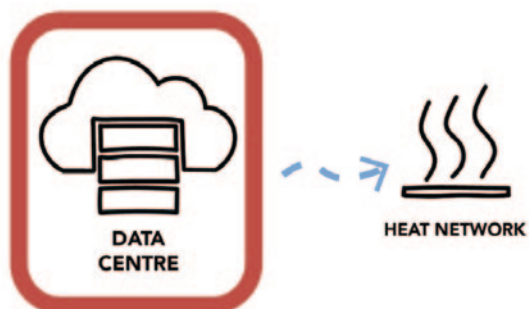
For example: feeding the energy to the nearby agriculture fields or using the energy to directly power a hydrogen refuelling station.



A Hydrogen electrolyser that produces green hydrogen has the potential to power the heavy goods vehicles used in the nearby sites, such as the quarrying sites or agricultural vehicles. There is also the potential for hydrogen to become the main power source for the distilleries in the nearby areas.



Similarly to wind, solar energy could be harnessed directly by nearby uses or used in combination with other uses. For example: raised solar panels may be used as shading for grazing animals.



There have been several studies which have shown the heat output from Data Centres could be harnessed and fed directly into the heating systems of nearby facilities.

07 A DEVELOPMENT STRATEGY FOR GREEN INFRASTRUCTURE IN THE KEITH AREA

This chapter brings together the various aspects for the Strategic development of Blackhillock and Keith NE. These are outlined in 5 key themes as follows:

- Landscape & Habitat,
- Access & Movement,
- Utilities & Information & Development,
- Use & Socio-Economic Impact and
- Boundary Conditions



Introduction

Given the national context to transition to net zero and produce more energy from renewable sources and the important role Keith will play, we need to manage the development of green energy and infrastructure in a planned fashion to avoid it detrimentally impacting on the landscape and character of the town and amenity of residents. There is a potential for Keith to become a green energy hub and bring in a number of benefits to the residents such as employment opportunities etc.

The following pages lay out a strategic framework in the form of 5 diagrams, for the two study areas discussed in the study, Blackhillock and Keith NE. The diagrams outline the various constraints and opportunities related to:

- **Landscape & Habitat,**
- **Access & Movement,**
- **Utilities & Information & Development,**
- **Use & Socio-Economic Impact and**
- **Boundary Conditions**

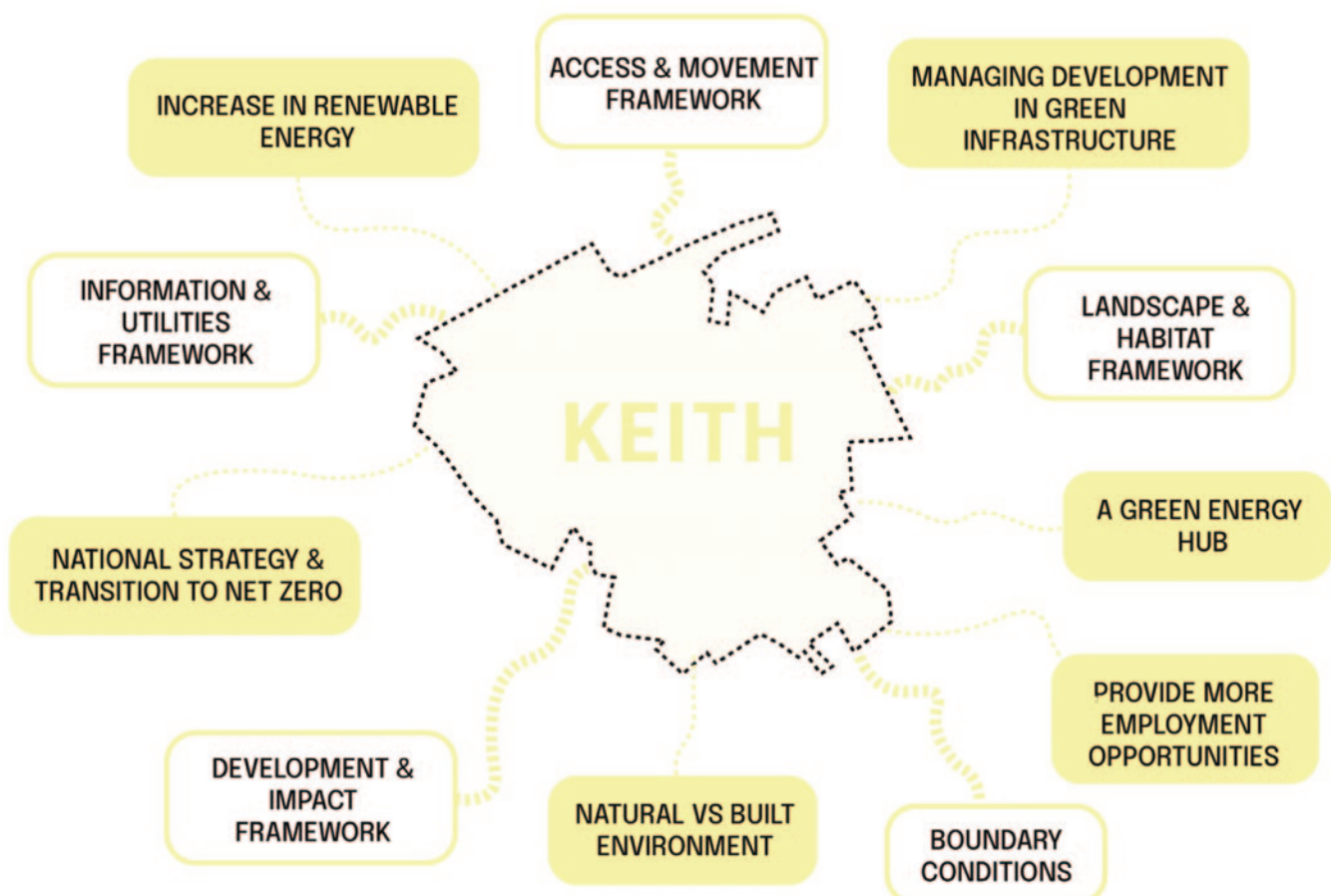


Figure 41 - Keith in the National Context and Outline Strategic Frameworks

7.1 Landscape & Habitat

- The landscape character of both study areas is primarily rolling farmland and woodland, punctuated at intervals by road and energy infrastructure.
- Any proposed development must take cognisance of the landscape character and be sensitively sited and designed to minimise its visual impact. Any proposed landscape mitigation must enhance the local biodiversity.
- Any new development at Blackhillock must be located to the south of the ridgeline identified. At Keith Northeast any new development should generally keep to the north of the ridge line or avoid new infrastructure seen on the horizon in views from the settlement.
- Any new planting & woodland must connect with existing habitat networks & using native planting local to the area. (Refer to Appendix, Landscape Sensitivity Study).
- There are 2 key water courses in the locale with no identified flood risk.

KEY

-  Key Ridgeline
-  Existing Watercourses
-  Existing Woodland
-  Proposed Woodland
-  Proposed Hedgerows

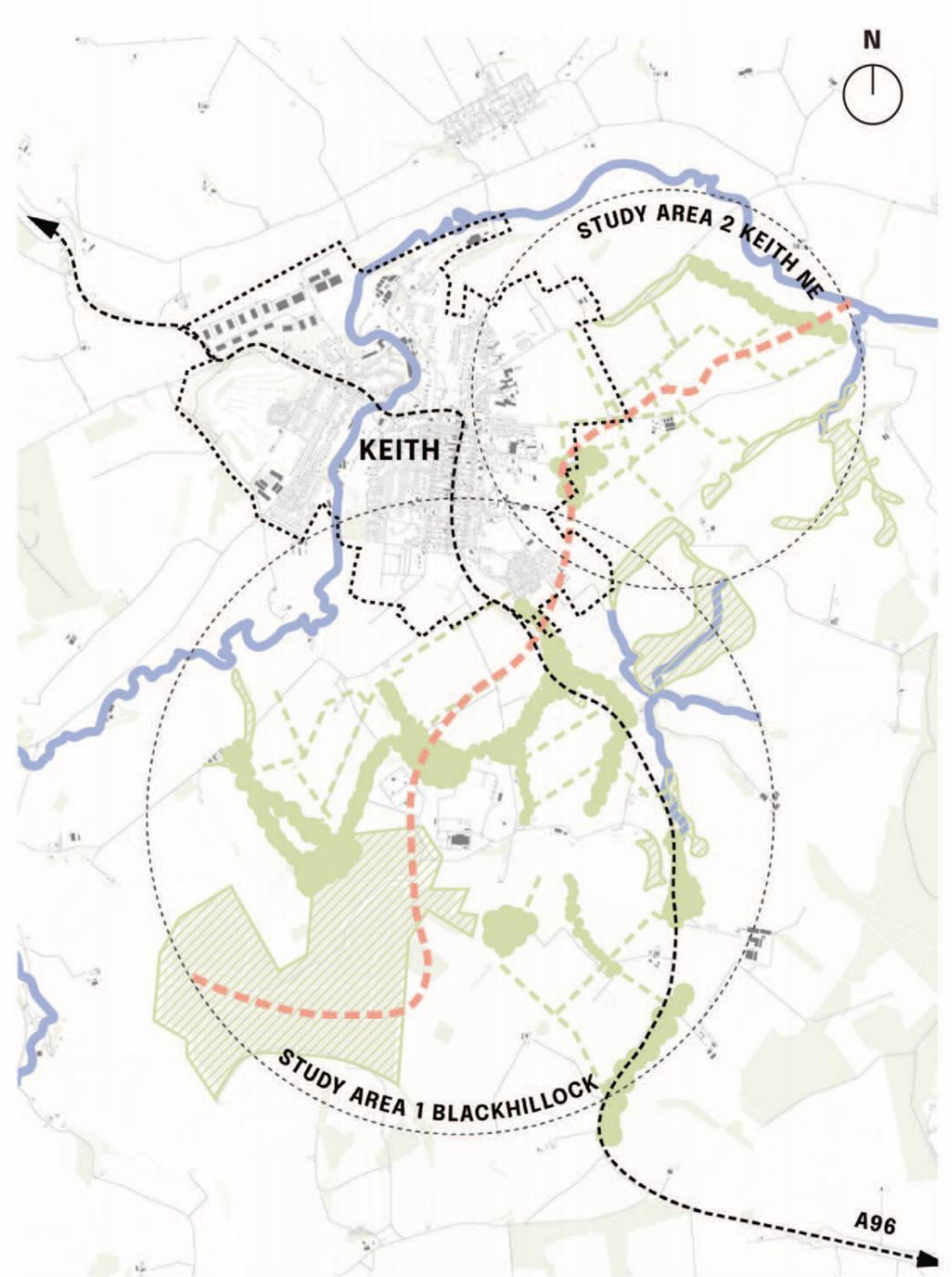


Figure 42 - Landscape & Habitat

7.2 Access & Movement

- Major regional road network in and around Keith and the study areas, providing access to development sites and opportunities.
- Train station in Keith to the north - not readily accessible on foot to the south and south east of the study area. Heritage rail route and station from town centre to Dufftown.
- Network of core paths in and around the town, serving the immediate periphery and providing access between the settlement and the surrounding countryside.
- Outside of the main road network, the nature and character of roads in the study areas are tracks and rural access points.
- There are a number of services and access points in and out of study areas from A96 and A95. Any new development would need to assess impact and upgrading of existing roads and access points. (Refer to appendix Transport & Infrastructure).
- Given the rural nature of the area it should be recognised that vehicle access whether that be cars or larger vehicles, they will have a role to play thus mitigating measures will be necessary to maximise sustainable integration with the existing transport network while managing vehicle impacts.
- A96 corridor and local road network improvements will need to be considered in any potential development. (Refer to appendix, Transport & Infrastructure).

KEY



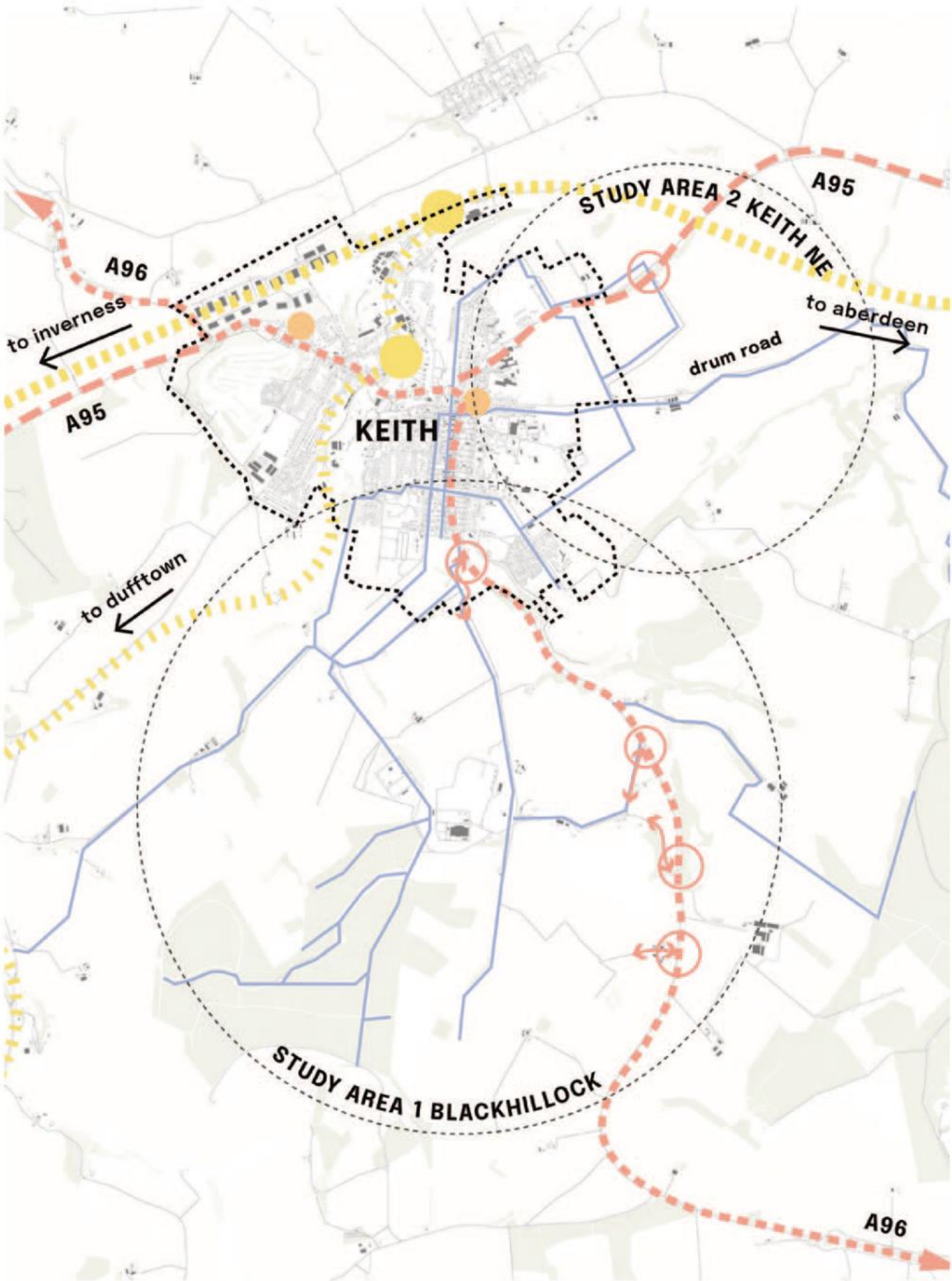













Figure 43 - Access & Movement

7.3 Information & Utilities

- The study areas have a number of significant utility and energy infrastructure that includes energy production and overground and underground utilities.
- These remain fixed in position for short and medium term. (SSEN have indicated that protected corridors have been identified - awaiting information,)
- SSEN are looking at site (E) as one of their future expansion sites for their 'Route to 2030' improvements.
- Windfarm to south of Keith (C) with recently proposed new mast and plans for future expansion which is still subject to a s36 application.
- Any new development for energy infrastructure (as identified in Chapter 6) should take consideration of the findings of the Landscape Sensitivity Studies for Blackhillock and Keith North-East (Refer to Appendix, Landscape Sensitivity Assessment).

KEY

	High pressure gas main		Blackhillock Substation
	Overhead Electricity Cables & Pylons		Keith Substation
	Extra high voltage cables		Edintore Windfarm
	Beatrice offshore windfarm		Potential new mast for windfarm
	infrastructure		Potential Future SSEN Substation
	Telecom Cables		
	Water Supply Network		

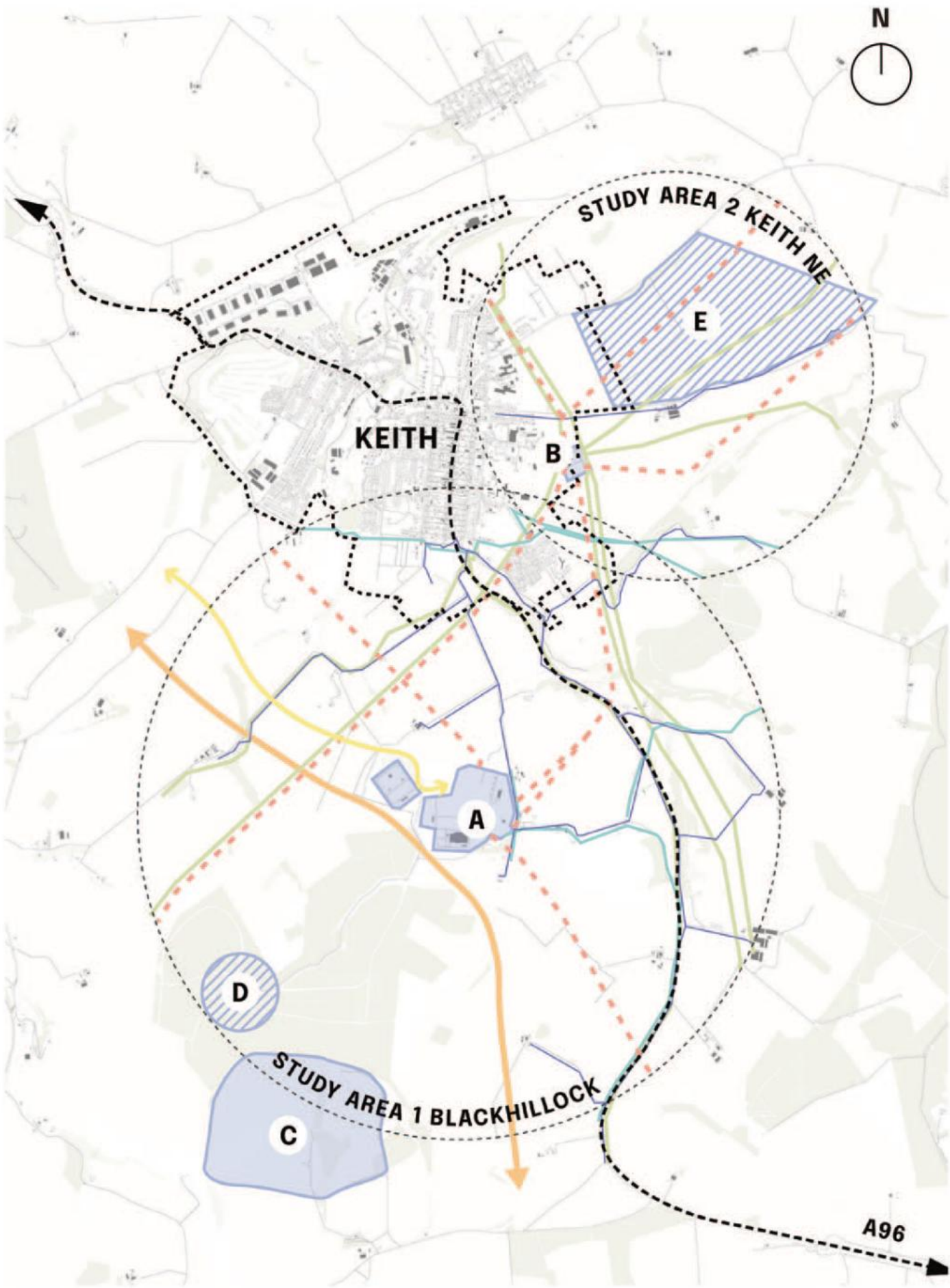
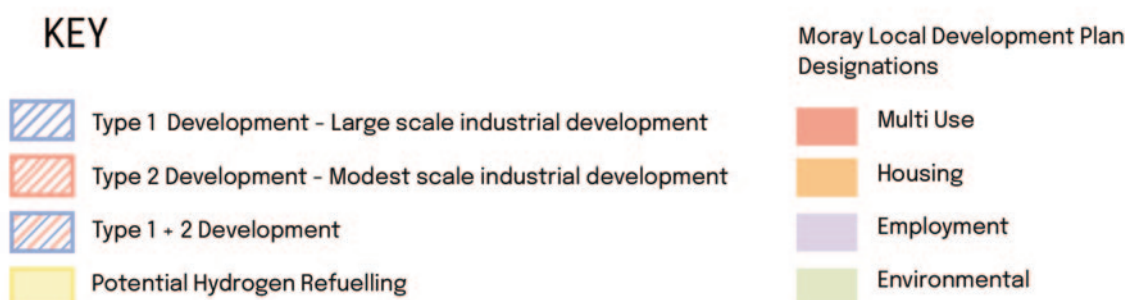


Figure 44 - Information & Utilities

7.4 Development Framework

- Land within the town's settlement boundary is to be safeguarded for employment uses as per the allocations within the LDP. Development outwith the settlement boundary (i.e. within the countryside) to be guided to the appropriate locations within this Framework to ensure that the need for renewable energy is balanced with safeguarding the landscape, natural environment and the setting of the town.
- Any new development must support Keith and its residents and the local economy, existing businesses & employment/skills development as outlined in the Community Wealth Building Strategy and Guidance by Moray Council. This guidance supports the delivery of NPF4 Policy 25 which relates to Productive Places (Community Wealth Building) policy 11 Energy which seeks to maximise net economic benefits and LDP policy DP9 Renewable Energy. Any proposed development is to identify how it supports the local economy including socio-economic benefits.
- Any new development is to be limited to the identified sites shown in the diagram opposite and within the study area as derived from the sensitivity study (Refer to Appendix, Landscape Sensitivity Assessment). Only Type 1 and Type 2 development will be considered. (Refer to 4.1 for more information)
- Any new uses & development areas must identify local opportunities for supporting the landscape and enhancing biodiversity (Refer to 7.1 Landscape & Habitat for identified opportunities and priorities.)



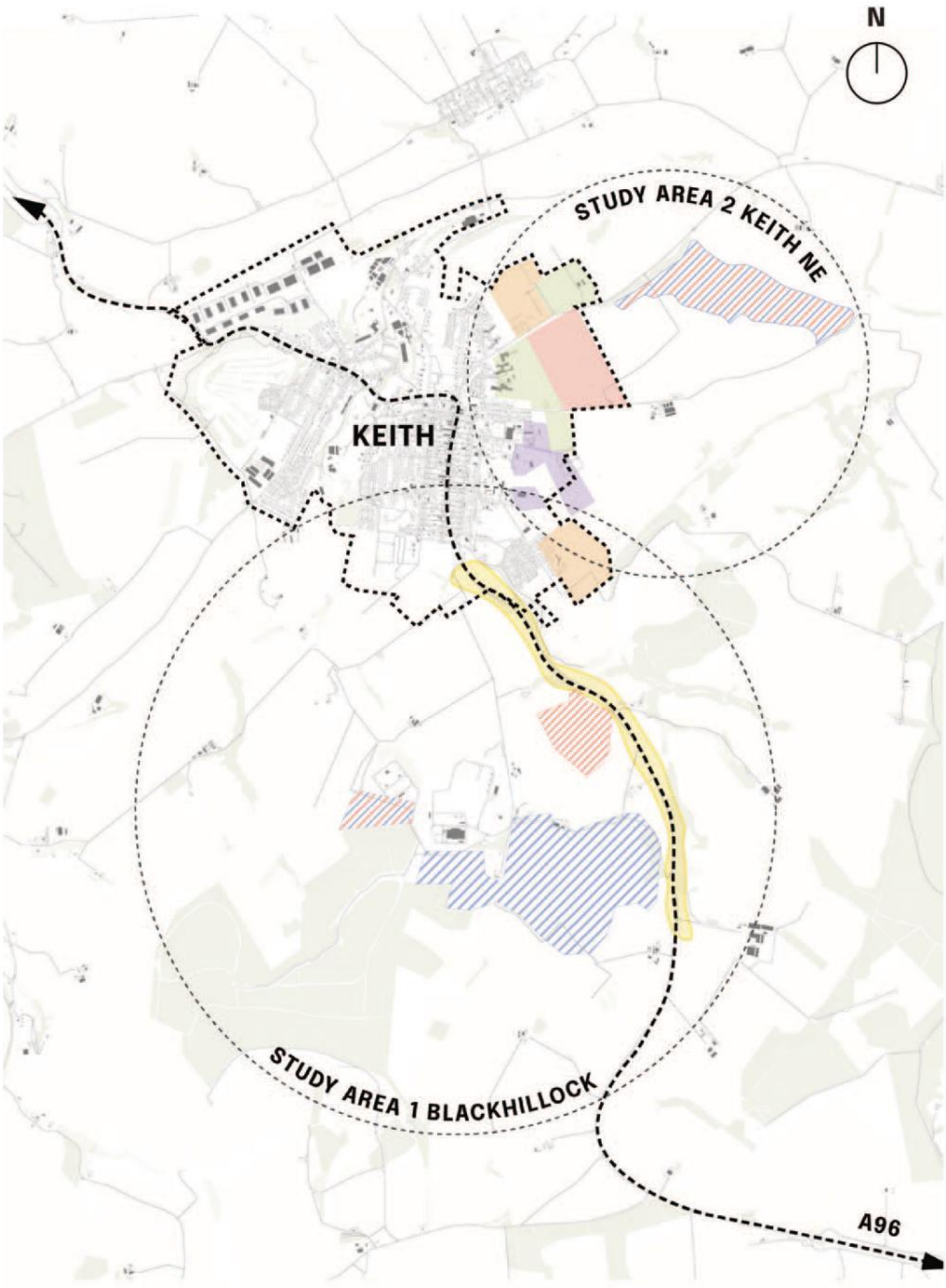


Figure 45 - Development Framework

7.5 Boundary Conditions

The intention of the areas identified in Figure 45 previously, is to guide any development to less sensitive areas.

All development proposals will require to be assessed based on site-specific analysis. A number of boundary conditions have been identified which correlate to the landscape or existing conditions present in the surrounding area.

- 1 South of quarry- Potential development area to the south of Blackhillock Substation and Quarry where the landform provides some screening from areas to the south and east including the A96. Existing woodland and field boundary vegetation could be enhanced to screen existing and proposed development.
- 2 South of Beatrice HVDC – Potential development area to the south of Beatrice HVDC Converter Station / west of Blackhillock Substation. Proposed development would be associated with existing industrial development and existing woodland across Cairds Hill could be extended to screen existing and proposed development.
- 3 South of A96 – Potential development area on lower slopes between Blackhillock Substation and the A96 to reduce the potential for development to be seen on the skyline in views from the A96, and to provide separation with nearby residential properties. Existing woodland and field boundary vegetation could be enhanced to screen existing and proposed development.
- 4 Boundary to the north is defined by a watercourse/ area of lower lying marshy ground, which wouldn't be suitable for development.
- 5 Southern boundary following a contour. This should help keep any development tucked in behind woodland to the west and keep things on lower ground and out of any views from Keith.

KEY






-  Edge of contour line where land is falling away
-  Edge of existing woodland
-  Edge of existing commitment
-  Edge of primary road infrastructure
-  Low level marshland close to watercourse




Figure 46 - Boundary Conditions

7.6 Strategy for Green Infrastructure

The diagram overleaf brings together the various key aspects for the strategic development of Blackhillock and Keith NE identified in the previous framework diagrams, mainly landscape proposals (Section 7.1) and guideline for development areas for Type 1 and Type 2 (Section 7.4)

KEY

-  Type 1 Development - Large scale industrial development
-  Type 2 Development - Modest scale industrial development
-  Type 1 + 2 Development
-  Potential Hydrogen Refuelling
-  Key Ridgeline
-  Proposed Woodland

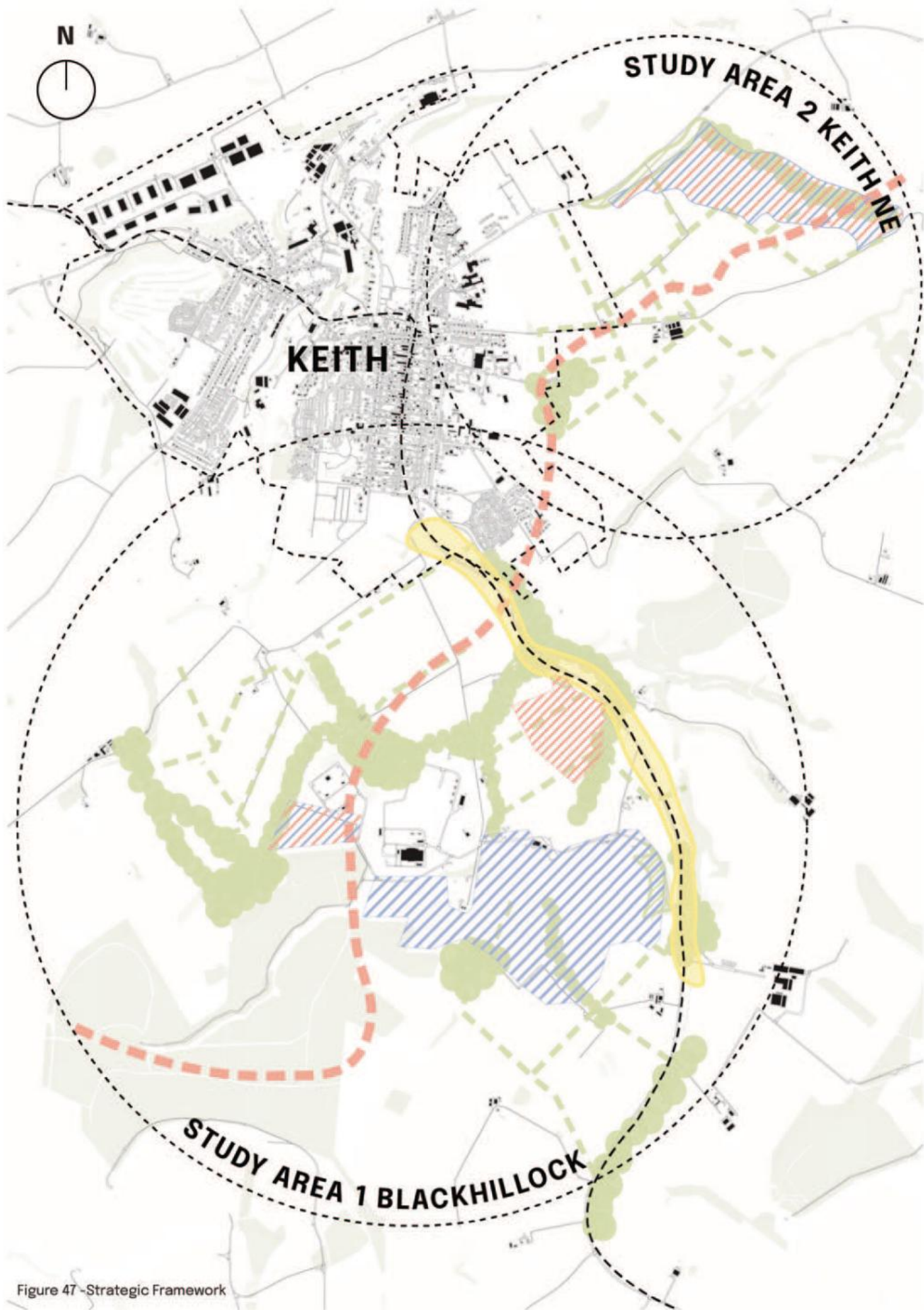


Figure 47 - Strategic Framework

08 **Contacts**

For any queries or further information
please contact the Moray Council on:
localdevelopmentplan@moray.gov.uk

Further information on planning applications,
including pre-application advice, can be found at:
www.moray.gov.uk/moray_standard/page_41669.html



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**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON
19 DECEMBER 2023**

SUBJECT: TREE PRESERVATION ORDERS

**BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND
FINANCE)**

1. REASON FOR REPORT

- 1.1 This report asks Committee to confirm the revocation of Tree Preservation Orders (TPOs) at Cowie Avenue/Fife Street (Dufftown) and Deskford, without modification.
- 1.2 This report is submitted to Committee in terms of Section III (E) (7) of the Council's Scheme of Administration to make, vary and revoke orders for the preservation of trees.

2. RECOMMENDATION

2.1 It is recommended that the Committee agree to:

- (i) consider and note the representation received in response to the Moray Council (Cowie Avenue/Fife Street, Dufftown) Revocation of Tree Preservation Order 2023, as summarised in Para 4.1 of the report;**
- (ii) confirm, without modification, Moray Council (Cowie Avenue/Fife Street, Dufftown) Revocation of Tree Preservation Order 2023; and**
- (iii) confirm, without modification, Moray Council (Groups of Trees at Deskford, Buckie) Revocation of Tree Preservation Order 2023.**

3. BACKGROUND

- 3.1 Policy EP7 Forestry, Woodlands and Trees of the Moray Local Development Plan (MLDP) 2020 supports the serving of a TPO on potentially vulnerable trees which are of significant amenity value to the community as a whole, trees that contribute to the distinctiveness of a place or trees of significant biodiversity value. Trees contribute significantly to the characteristics of Moray

and its conservation areas and the aim of Policy EP7 is to retain healthy trees and prevent the unnecessary felling of such.

- 3.2 Following an increase in tree works applications and complexity of cases, Officers carried out a holistic review of existing TPOs to ensure that they retained their amenity value and remained appropriate and relevant. The outcome of the review was reported to this Committee on 20 December 2022 and it was agreed to vary Rothiemay TPO, serve a new TPO at Dunkinty and revoke TPOs at The College, King Street (Elgin), Fogwatt, Dunkinty House (Elgin), Croft Road (Forres), Tomnabat Lane (Tomintoul), Woodland at Damhead Cottage (Kinloss), Woodland at Seapark House (Kinloss), Groups of Trees at Deskford and Cowie Avenue/Fife Street (Dufftown) (para 13 of the minute refers).
- 3.3 TPOs are subject to a minimum 28 days public consultation during the period between Committee giving approval to serve the Order and the Committee confirming the Order. The Order must be confirmed by Committee no more than 6 months after the Order has been served or revoked. During the consultation period, the public can make representation either in support of, or objecting to the Order. In terms of Regulation 5 of the Town and Country Planning (Tree Preservation Orders and Trees in Conservation Areas) (Scotland) Regulations 2010, the Council must consider all representations before confirming the TPO with or without modifications.

4. **PROPOSALS**

Confirm Moray Council (Cowie Avenue/Fife Street, Dufftown) Revocation of Tree Preservation Order 2023, without modification

- 4.1 The revocation TPO was served on land owners and advertised publically between 15 September and 20 October 2023 for representations to be received. One representation was received and is summarised below:

Comments	Response
Object to the revocation of the TPO.	Objection is noted.
Reason to revoke TPO is invalid as to suggest that the trees no longer have significant amenity value is to suggest they no longer photosynthesise, absorb CO ₂ , provide shade, have a cooling effect on the immediate environment, provide food or shelter for wildlife, provide value to residents' mental health, absorb water nor possess a natural beauty.	Following the review of TPOs carried out in autumn 2022, officers recommended that the TPO be retained as the trees provided significant amenity value to the area. A petition was submitted which sought the revocation of the TPO due to maintenance concerns and the impact of crows on amenity. Following consideration of the review and petition, the Planning & Regulatory Services Committee agreed to revoke the TPO.

	The revocation does not mean an assumption that there is no value for the features mentioned, such as photosynthesis, or that the trees will be immediately felled.
Seek confirmation that bat and red squirrel surveys have been carried out.	The revocation of a TPO does not mean that the trees will be immediately felled and therefore poses no risk to any wildlife that may be nesting/roosting in the trees at this time. Should the landowner, or another party with the landowner's consent, wish to remove any trees or carry out tree works, they would be obliged to undertake appropriate ecological surveys prior to any tree works being carried out.

- 4.2 Despite the objection, and in line with the previous decision of this Committee, it is recommended that the Committee confirm the revocation TPO without modification.

**Confirm Moray Council (Groups of Trees at Deskford, Buckie)
Revocation of Tree Preservation Order 2023, without modification**

- 4.3 The revocation TPO was served on land owners and advertised publically between 11 September and 20 October 2023 for representations to be received. No representations were received and it is recommended that the Committee confirm the revocation TPO without modification.

5. NEXT STEPS

- 5.1 If the Committee agree to confirm the revocation TPOs as set out in Section 2 of this report, the Council are required to register the revocation TPOs in the Land Register of Scotland.
- 5.2 In addition, notice will be given to Scottish Forestry, interested persons and any person who made a representation. Copies of the revocation TPOs will also be made available for public inspection.

6. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

The Corporate Plan prioritises the need to maintain and promote Moray's landscape and biodiversity. The 10 Year Plan (LOIP) identifies the need to build a better future for children and young people in Moray by providing the healthiest start in life. TPOs protect significant trees and

woodlands and conserves the local natural environment and biodiversity whilst also helping to promote healthier lives.

(b) Policy and Legal

The Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010 provides for the serving, varying and revoking of TPOs.

Policy EP7 of the MLDP 2020 supports the serving of a TPO on potentially vulnerable trees which are of significant amenity value to the community as a whole, trees that contribute to the distinctiveness of a place or trees of significant biodiversity value.

(c) Financial implications

Land registry and advert costs will be met from existing Strategic Planning and Development section budgets.

(d) Risk Implications

None.

(e) Staffing Implications

The serving, varying or revocation of TPOs has staffing implications for Strategic Planning & Development and Legal Services. Legal Services are currently significantly under resourced and work has been phased with the highest priority work completed first.

(f) Property

None.

(g) Equalities/Socio Economic Impact

No Equality Impact Assessment is required for this report.

(h) Climate Change and Biodiversity Impacts

The report confirms the removal of legal protection for trees, however this does not automatically mean that these will be felled. As such, there are no climate change or biodiversity implications arising from this report.

(i) Consultations

Consultation has taken place with the Depute Chief Executive (Economy, Environment and Finance), the Head of Economic Growth and Development, the Chief Financial Officer, the Legal Services Manager, the Equal Opportunities Officer and Lissa Rowan, Committee Services Officer have been consulted and comments received have been incorporated into the report.

7. CONCLUSION

7.1 TPOs are formal orders attached to important, feature and character-creating trees and woodland to protect the amenity value they contribute to the local community. Following a holistic review of existing TPOs,

various proposals were made to ensure that TPOs retained their amenity value and remained appropriate and relevant.

7.2 Following consultation, the Committee is asked to confirm, without modification, the revocation TPOs at Cowie Avenue/Fife Street (Dufftown) and Deskford.

Author of Report: Darren Westmacott, Planning Officer (Strategic Planning & Development)

Background Papers:

Ref:



**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON
19 DECEMBER 2023**

**SUBJECT: FOOD LAW ENFORCEMENT SERVICE DELIVERY PLAN
2023/2024**

**BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND
FINANCE)**

1. REASON FOR REPORT

- 1.1 To request the Committee to approve the Food Law Enforcement Service Delivery Plan 2023/2024
- 1.2 This report is submitted to Committee in terms of Section III (E) (16) of the Council's Scheme of Administration relating to exercising the statutory functions of the Council as The Environmental Health Authority.

2. RECOMMENDATION

- 2.1 **It is recommended that the Committee approves the Food Law Enforcement Service Delivery Plan 2023/2024**

3. BACKGROUND

- 3.1 Food Standards Scotland (FSS) was established by the Food (Scotland) Act 2015 and one of its key roles is to act as the central competent authority in overseeing official feed and food controls undertaken by local authorities. Powers enabling FSS to monitor and audit Local Authorities are contained in the Food Standards Act 1999 and the Official Feed and Food Controls Regulations 2009.
- 3.2 The Framework agreement on Official Feed and Food controls by local authorities issued by FSS recognises that service plans are an important part of the inspection/intervention process to ensure that national priorities and standards are addressed and delivered locally.
- 3.3 Moray Council's Food Law Enforcement Service Delivery Plan is developed annually to ensure compliance with the framework agreement. Due to the coronavirus outbreak however, food hygiene visits were suspended by the

Scottish Government to enable staff to be diverted to covid enforcement and no Service Plan was developed in years 2020/21, 2021/22 and 2022/23. This plan replaces previously approved plans. The plan for 2023/2024 is attached as **Appendix 1**

- 3.4 Service plans usually include a review of performance from the previous year however, as indicated previously, visits were suspended due to Covid.

4. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

Assists the Council to meet its priorities.

(b) Policy and Legal

This authority has a statutory duty to comply with the framework Agreement in accordance with the Food Standards Act 1999. These include requirements for the planning, management and delivery of the local Food Law Enforcement Service.

(c) Financial implications

The Plan was developed with due consideration to available resources and will be delivered within existing budgets. It should be noted that any future budget cuts will adversely affect the performance achievable.

(d) Risk Implications

Failure to provide and implement the Service Plan could expose the Council to criticism and challenge from FSS for failing in its statutory duties. FSS can exercise its default powers to take over the running of the food service at full cost to the Council.

Failure to implement the Service Plan may result in increased food borne illness and complaints with a consequential cost to food businesses and the community. There may also be a negative impact on Moray's excellent reputation for food production.

(e) Staffing Implications

The Plan will be delivered within existing staff resources. There remain challenges in recruiting qualified staff.

(f) Property

None

(g) Equalities/Socio Economic Impact

None

(h) Climate Change and Biodiversity Impacts

Nil

(i) Consultations

Consultation has taken place with the Head of Economic Growth and Development, the Legal Services Manager, the Equal Opportunities Officer and Lissa Rowan (Committee Services Officer) and their comments incorporated into the report.

5. CONCLUSION

5.1 Moray Council is required to provide a Food Law Enforcement Service Delivery Plan 2023/2024.

5.2 Failure to approve and implement the plan could result in adverse action by the Food Standards Scotland.

Author of Report: Russell Anderson, Principal Environmental Health Officer

Background Papers:

Ref:



DEVELOPMENT SERVICES

ENVIRONMENTAL HEALTH

FOOD LAW ENFORCEMENT

SERVICE DELIVERY PLAN

2023 - 2024

MORAY COUNCIL

FOOD LAW ENFORCEMENT SERVICE DELIVERY PLAN

1. SERVICE, AIMS AND OBJECTIVES

1.1 The Service

Environmental Health exists to maintain and improve standards relating to; food safety, health and safety at work, environmental protection, including contaminated land, public health, private water supplies, housing and animal health and welfare, so that the quality of life of those living, working and visiting Moray is enhanced.

Environmental Health will provide effective, efficient advice and services to the public, commercial sector and other internal and external agencies on all matters for which it has a statutory responsibility.

Environmental Health will eliminate unnecessary enforcement activity that impacts on responsible business and will implement the Government's Regulatory Reforms.

Environmental Health will promote sustained compliance with the Law, ensure that duty holders take action to deal immediately with serious breaches of the Law and hold to account those who breach Legal requirements which may include recommending prosecution or serving statutory notices.

Environmental Health will, through advice given to legitimate businesses particularly during start up, promote good business without stifling entrepreneurial activities. To enable this, businesses must behave ethically, engage early and openly with Regulators and strive to comply.

Environmental Health will endeavour to comply with the requirements of the Regulators code in all enforcement matters as it exemplifies best practice and identifies the need for Regulatory Services to adopt a positive and proactive approach towards ensuring compliance. This will be undertaken by:

- Adopting a positive enabling approach by helping and encouraging businesses and individuals to understand and comply with the Law
- Ensuring proportionality when dealing with breaches of the Law
- Use risk assessments, intelligence and evidence to target resources to the areas that require them most
- Ensure effective two-way communication with those that are Regulated
- Adopt an education based approach with a robust and effective enforcement when required
- Ensure the policies are transparent, accountable, consistent, proportionate and targeted
- Pursuing continuous improvement in Regulatory practice based on the principles of better Regulation

We will provide information and advice in plain language. We will be open about how we do our work, including any charges made. We will take account of businesses, consumers, workforce representatives' and other stakeholders' views.

We believe that prevention is better than cure and that our role therefore involves actively working with businesses, especially small and medium sized businesses, to advise on and assist with compliance. We will provide a courteous and efficient service and our staff will identify themselves by name. We will provide a contact point and telephone number for further dealings with us and we will encourage businesses to seek advice/information from us. Applications for approval of establishments, licences, registrations etc., will be dealt with efficiently and promptly. We will ensure that, wherever practicable, our enforcement services are effectively co-ordinated to minimise overlaps and time delays.

We have an effective and timely complaints procedure. In cases where disputes cannot be resolved, any right of complaint or appeal will be explained, with details of the process and the likely time-scales involved.

We will minimise the costs of compliance for businesses by ensuring that any action we require is proportionate for the risks. As far as the Law allows, we will take account of the circumstances of the case and the attitude of the operator when considering action. We will take particular care to work with small businesses and voluntary and community organisations so that they can meet their Legal obligations without unnecessary expense, where practicable.

We carry out our duties in a fair, equitable and consistent manner. While officers are expected to exercise judgement in individual cases, we have arrangements in place to promote consistency, including effective arrangements for liaison with other Authorities and Enforcement bodies.

Food Safety

Food law enforcement is carried out by authorised Environmental Health Officers and Food Safety Officers within Moray Council's Environmental Health team.

The Service has two main aims:

- a. To maintain and improve public health within Moray by carrying out the Council's food law enforcement responsibilities in a consistent, planned and accountable manner to ensure that:
 - Food (which includes drink) is safe to eat.
 - Food is handled and produced hygienically.
 - Foreseeable incidents of food poisoning or injury as a consequence of the consumption of food are identified and prevented.
 - The quality, composition, labelling, presentation and advertising of food and materials in contact with food are satisfactory.
- b. To provide an effective, efficient, support and advice service to the public, the commercial sector and other agencies on food safety matters. Thereby

securing the objective that all food purchased or traded in Moray is manufactured, described and handled safely and to consistent standards, which is essential for the well-being of consumers, food businesses and the wider economy.

The Service works collaboratively with Food Standards Scotland (FSS) which was established by the Food (Scotland) Act 2015 to deliver independent consistent, evidence based and consumer focused information to protect public health, help improve the Scottish diet and protect the interests of the consumer in relation to food.

The FSS Strategy for 2021-2026 incorporated a 3-year Corporate Plan, April 2021-March 2024, which had been developed by FSS and set the direction to help deliver the FSS vision. The Corporate Plan outcomes are that:

- Food is safe and authentic.
- Consumers have healthy diets.
- Responsible food businesses are enabled to thrive.
- Consumers are empowered to make choices about food.
- FSS is trusted and effective.

The Environmental Health Service works in partnership with the public and businesses in the Moray Council area.

Due regard is given to guidance issued by FSS, Scottish Government, Royal Environmental Health Institute of Scotland (REHIS), Health Protection Scotland (HPS), Scottish Food Enforcement Liaison Committee (SFELC) and Society of Chief Officers of Environmental Health in Scotland (SOCOEHS).

1.2 Links to Corporate Plans

The Food Law Enforcement Service Delivery Plan is delivered by the Environmental Health Team which forms part of Development Services.

Development Services has many roles including developing partnerships with business and local and national agencies to promote economic development, attracting external funding, assisting vulnerable groups with financial and welfare benefit issues and ensuring public health and community safety. It seeks to protect and enhance our environment, heritage and culture and enable opportunities for development and growth.

Development Services seek to ensure development in Moray is sustainable, providing a safe and valued environment both now and in the future.

The Food Law Enforcement Service Delivery Plan is linked to the Development Services Service Plan 2023-2024 currently being developed which in turn is linked to 'The Moray Local Outcome Improvement Plan' which identifies the following priorities of the 'Community Planning Board':-

- Growing, diverse and sustainable economy
- Building a better future for our children and young people in Moray
- Empowering and connecting communities
- Changing our relationship with alcohol

1.3 Workload Priorities

The Service recognises that there has been a reduction in staff resources, and the service is currently operating with one staff post vacant. The full range of functions required by the FSS Food Law Code of Practice (Scotland) which was published 2019 will be undertaken and for the forthcoming year tasks will be prioritised in the following order:

a. Emergencies and threats to public health:

- Food alerts, outbreaks/incidents, infectious diseases notifications
- Food fraud
- Formal action to protect public health, including revisits, Hygiene Emergency Prohibition Notices, Remedial Action Notices
- Food and Water complaints where there is a potential risk to public health.

b. Planned highest risk inspections:

- Food premises – Group 1,2 and 3 Band D and E
- Approved establishments
- New or unrated premises where there are cross contamination risks

c. Planned higher risk inspections.

- Food premises – Band C premises in groups 1,2 and 3 where there are potential risks of cross contamination; those that are not “broadly compliant” with Food Law and those that are overdue for inspection.
- Advice to high-risk establishments
- Licensing of high-risk establishments

d. Planned lower risk inspections.

- Food premises– B and C premises (not included in c above)
- Band D rated catering premises

e. All other work and lowest rated establishments inspected as resources permit

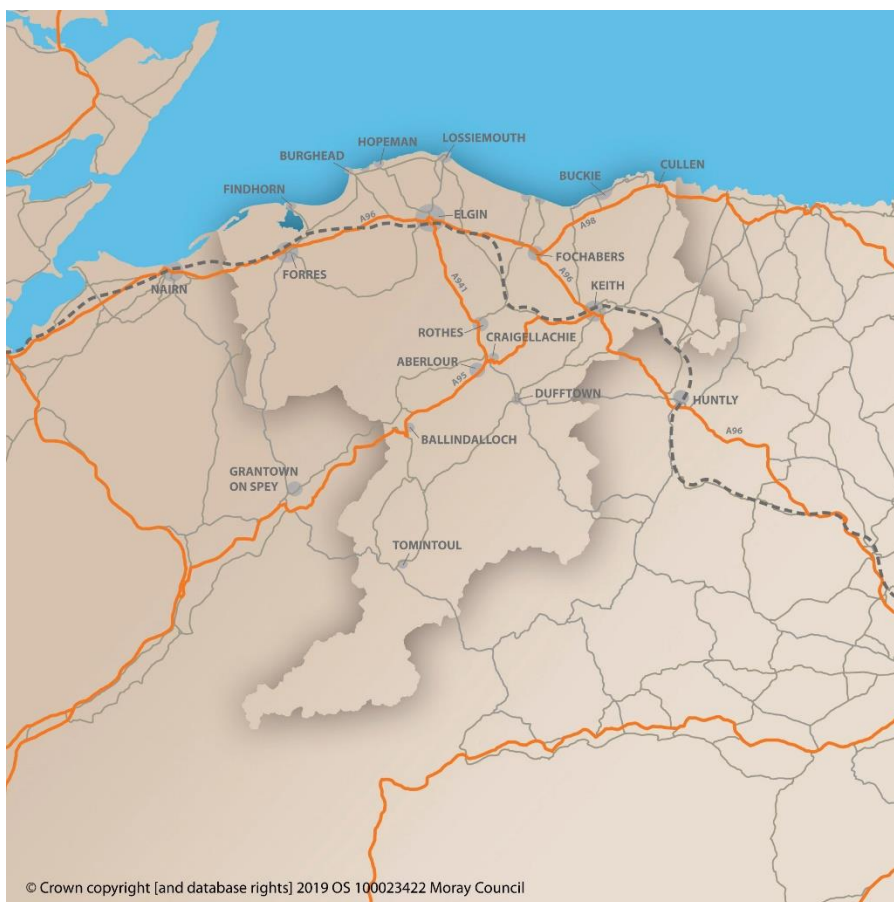
These priorities have been established to ensure the best practical service in addressing the food safety and public health needs of Moray within existing resources. The priorities are also based on the principles contained in the Scottish Regulators Strategic Code of Practice.

2. BACKGROUND

2.1 Profile of the Local Authority

Moray Council covers an area of 2,238 square kilometres from the Cairngorm Mountains in the south to the coast of the Moray Firth in the north. The population is 95,520 which is 1.8% of the total for Scotland and just over half of the population live in the 5 main towns of Elgin, Forres, Buckie, Lossiemouth and Keith.

Within Moray, the main industries are agriculture, whisky distilling, fish processing, food processing and tourism. There are also 2 Ministry of Defence Establishments namely RAF Lossiemouth and Kinloss Barracks that contribute to the local economy.



2.2 Organisational Structure

The Service Structure is attached at **Appendix I**.

The Head of Economic Growth And Development has overall managerial responsibilities for all Development Services functions. The Environmental Health & Trading Standards Manager has responsibility for management of the Food Law Enforcement Service assisted by a Principal Environmental Health Officer

2.3 Scope of the Food Service

The Food Law Enforcement Service is provided through multi-disciplinary Environmental Health Officers (EHO) and a Food Safety Officer. This means in addition to food law, EHOs have responsibilities for other aspects of Environmental Health including health and safety at work, public health, environmental protection, and housing. The full scope of the Environmental Health Service is set out in **Appendix II**.

The Food Law Enforcement Service involves:

- Implementing and maintaining a documented programme of food hygiene/food standards interventions. The interventions are designed to ensure the safety of food by means of a programme of inspections designed to check compliance with current Laws and Codes of Practice and to educate, train and work in partnership with all parts of the food industry. This Authority will ensure, as far as practicable, that interventions are carried out in accordance with that programme. Interventions are applied in a risk-based manner so that more intensive intervention is directed at those businesses that present the greatest risk to public health.
- Carrying out visits/re-visits between programmed interventions where significant contraventions are found or following intelligence or complaints.
- Implementing a documented Food Safety Enforcement Decision Procedure, based on the Environmental Health Enforcement Policy, which is published and available to businesses and consumers.
- Preparing and publishing a Microbiological and Chemical Food Sampling Policy and making it available to businesses and consumers.
- Identifying sampling priorities and preparing a microbiological and chemical sampling programme in consultation with the Aberdeen Scientific Services Laboratory (ASSL), Aberdeen City Council and Aberdeenshire Council.
- Implementing a documented policy in relation to food complaints ensuring timeous and proportionate action.
- Implementing the Infectious Disease Incident Plan, in respect of cases of food borne diseases. This Plan contains clear links of communication and responsibility and is produced in conjunction with NHS Grampian, Aberdeen City Council and Aberdeenshire Council.
- Implementing and documenting the procedures for responding to 'food alerts' received from FSS and reacting to emergencies and

immediate threats to public health. Food alerts secure the withdrawal of any suspect foods from premises in Moray.

- Providing advice to businesses and the public and providing advice during inspections.
- Liaising with colleagues in Moray Council, other Local Authorities, professional bodies and central government to ensure a co-ordinated approach to food related matters including representation on the following groups:
 - North of Scotland Food Liaison Group
 - The Society of Chief Officers of Environmental Health in Scotland
- Participating in food safety initiatives such as; the Food Hygiene Information Scheme (FHIS), Food Safety Week, Eat Safe and the Healthy Living Award where resources permit
- Promoting the implementation of Cook**Safe**, a written food safety management system designed to assist caterers comply with Food Safety Law.
- Providing guidance and raising awareness of food safety to the public and businesses to ensure compliance with Food Law. This is achieved through leaflets, seminars, display stands and training as resources permit.

2.4 Demands on the Food-Service

There are 1343 food businesses in Moray, all of which are included in the Intervention Programme and are subject to the Enforcement Policy.

The Moray area has a relatively large number of food manufacturing companies within its boundaries. Approximately 8% of premises are manufacturers and Moray is the base for major food manufacturers including Baxter's of Speyside and Walkers of Aberlour.

In addition there are 11 premises Approved in terms of EC Regulation 853/2004 for producing, manufacturing, or storing products of animal origin. These premises include several meat and fish processors, a fishing vessel and a cold store. There are also 5 registered egg packers and due to the packing activity involved, these businesses require to be approved in accordance with EC Hygiene Regulation 853/2004. In total there are 20 premises requiring approval within Moray.

Following Brexit, two of the Approved fish processors export to the EU using the export hubs

Premises Profile

The food premises in Moray can be categorised as follows: -

As of 01/04/23

Type	Number
Primary Producers	102
Manufacturers/Packers	103
Importers/Exporters	1
Distributors/Transporters	15
Retailers	292
Restaurants/Caterers	830
Total	1343

Primary Product Enforcement

Retained EC Regulation 852/2004 Annex 1 provides food safety requirements for primary producers such as livestock, crop and horticulture farm premises. Enforcement in these businesses is the responsibility of FSS.

Official Controls of Wild Pectinidae (Scallops)

The official sampling controls for harvested wild scallops have been transferred from offshore to the first point of arrival at the processor and are now the responsibility of the Local Authority Environmental Health Service. There are no processors currently approved for processing Scallops in Moray.

Shellfish Sampling

In accordance with EC Regulations 854/2004 shellfish harvesting sites may require to be sampled to ensure compliance with official controls. There are 2 sites within Moray, namely Culbin Sands and Findhorn Bay. No sampling at present is being carried out because harvesting from these sites is subject to restriction by Scottish Natural Heritage.

Imported Food

There are currently no requirements for most non-animal product imports to be inspected at the point of entry into the country. It is important therefore, that checks are carried out by Authorities such as Moray to maintain public health safeguards. This is achieved by ensuring imported food is inspected for fitness and legitimate import, during routine inspections and by ensuring that Imported Food Control Legislation is enforced in accordance with the Enforcement Policy and FSS guidance on the inland enforcement of imported feed and food controls. The FSS Early Warning System provides monthly information on hazards associated with imported foods and this intelligence is considered in relation to Moray Council's food sampling programme.

External Factors

A number of events such as agricultural shows, music festivals, charity events, continental markets, farmer's markets and highland games are held throughout Moray on an annual basis, particularly during the summer months. Intervention (advice, guidance or enforcement) is required in response to 'one off' businesses, food retailers and caterers from out with Moray attending these events. These interventions are in addition to the planned programme and place an increased demand on resources.

Service Delivery Points

All authorised Food Enforcement Officers are based at Council offices, High Street, Elgin. The Annexe also has a reception where documents can be dropped off and information hubs are available in all libraries where persons can access online services and free phone the contact centre. The Environmental Health team provides a service from 7am until 7pm. Officers can be available out with these hours should the situation demand. The Council's emergency telephone number is available 7 days a week.

2.5 Enforcement Policy

The Environmental Health Enforcement Policy provides detailed enforcement procedures with action taken being proportionate to the scale of the identified problem.

The enforcement policy incorporates the principles of the Scottish Regulators Strategic Code of Practice.

A detailed Food Safety Enforcement Decision Procedure has been implemented to ensure compliance with Food Legislation, the FSS Framework Agreement on Local Authority Food Law Enforcement, the Food Law Code of Practice (Scotland) and associated Guidance.

The Enforcement Policy and the Enforcement Decision Procedure apply to establishments owned and operated by Moray Council. All serious breaches of food law in these establishments will be brought to the attention of the Chief Executive without delay.

3. SERVICE DELIVERY

3.1 Food Premises Interventions

General

Food hygiene interventions are designed to ensure that food meets the requirements of Food Law, including microbiological quality, absence of pathogenic micro-organisms and safety for consumption.

Food standards interventions are designed to ensure that food meets the requirements of Food Standards Law, including proper presentation, labelling, and advertising so as not to confuse or mislead; compliance with compositional standards; and the absence of non-permitted or excessive levels of additives, contaminants and residues. Additional requirements for nutritional and allergen labelling were introduced during 2014 and 2021.

Since the 2019 Code of Practice, Food Standards and Food Hygiene disciplines have been combined and each premises now has a Food Law Rating System grouping and band.

It should be noted that, during the period of the covid 19 pandemic the Scottish Government suspended food visits to release staff to address the public health issues. The opportunity was taken to carry out a desktop exercise to convert from the previous rating system and allocate a FLRS grouping and banding to all food premises. In addition, it was noted in late 2022 that a number of premises had not been converted to FLRS and this situation has now been resolved.

Intervention Programme

The Food Law Rating Intervention Programme is produced annually on 1 April.

The annual programme includes the name and address of the premises, the group and band, and the due date.

Performance Monitoring

All premises are held on the IDOX UNI-form database and all Officers have individual measurable intervention targets based on risk. UNI-form generates reports on interventions due and completed on a monthly, quarterly and annual basis. A monthly Manager's monitoring report will also be generated. In addition to monitoring a number of inspections quality checks will be conducted.

Food Law Code of Practice (Scotland)

The Food Law Code of Practice 2019 contains details of an enforcement regime based on 'official control interventions'. These include:

- Inspections
- Monitoring
- Surveillance
- Verification
- Auditing
- Sampling

This Code of Practice allows enforcement authorities to select the most appropriate choice of intervention, dependent on the level of compliance of specific premises, which is not mandatorily based on inspection.

The interventions must provide sufficient information to establish that food related activities carried out at food establishments comply with Food Law.

The official control intervention choice for Moray during 2023-2024 has been agreed as inspection only.

Food Hygiene

The minimum frequency for Food Law Interventions is determined by the rating scheme in accordance with the Interventions Food Law Code of Practice (Scotland), see below

Group 1 Business	Performance Levels	Band	Intervention Frequency
<ul style="list-style-type: none"> Manufacturer of High Risk Foods. Manufacturer, Caterer, Processor or Retailer that undertakes a specific method of processing that has the potential to increase the risk to public health beyond that of normal preparation, storage or cooking. Manufacturers of Foods for Specific Groups. All Exporters. Manufacturers, Processors, Importers, Wholesaler, Distributor, Food Broker, Packers of Food at enhanced risk of food fraud, substitution, adulteration or contamination. 	Sustained Compliance	1A	18 Months
	Compliant and confident in compliance going forward	1B	12 Months
	Minor Non-compliance and/or gaps in confidence in compliance going forward	1C	6 Months
	Significant Non-Compliance and/or no confidence in compliance going forward	1D	3 Months
	Sustained non-compliance and/or Issues of Public Health Significance or Fraudulent Activity	1E	Intensive Intervention. 1 Month.
Group 2 Business	Performance Levels	Band	Intervention Frequency
<ul style="list-style-type: none"> All other Manufacturers, Processors, and Caterers. Importers, packers, wholesalers and distributors of high-risk foods not in Group 1. Head Office Business that undertakes a regional/national decision making function. Retailers handling open high-risk foods. 	Sustained Compliance	2A	24 Months
	Compliant and confident in compliance going forward	2B	18 Months
	Minor Non-compliance and/or gaps in confidence in compliance going forward	2C	12 Months
	Significant Non-Compliance and/or no confidence in compliance going forward	2D	3 Months
	Sustained non-compliance and/or Issues of Public Health Significance or Fraudulent Activity	2E	Intensive Intervention. 1 Month.
Group 3 Business	Performance Levels	Band	Intervention Frequency
<ul style="list-style-type: none"> All other retailers, Food Brokers, Importers, packers, wholesalers and distributors. Public Houses and similar Licensed Business not providing catering. Business providing limited refreshments (e.g. tea, coffee, soft drinks) as an adjunct to main activity. Child minders. Supported Living Business. Business producing low risk food based from a domestic dwelling. Bed & Breakfasts. 	Sustained Compliance or Businesses where information available at point of registration, indicates there is minimal inherent risk	3A	No proactive Intervention or 60 months.
	Compliant and confident in compliance going forward	3B	36 Months
	Minor Non-Compliance and/or gaps in confidence in compliance going forward	3C	24 Months
	Significant Non-Compliance and/or no confidence in compliance going forward	3D	3 Months.
	Sustained Non-Compliance and/or Issues of Public Health Significance or Fraudulent Activity	3E	Intensive Intervention. 1 month.

Food Hygiene Inspections Due 1/04/2023– 31/03/2024

Category	Number of Inspections
Group 1A	0
Group 1B	5
Group 1C	3
Group 1D	0
Group 2A	11
Group 2B	208
Group 2C	138
Group 2D	4
Group 3A	5
Group 3B	157
Group 3C	7
Group 3D	2
Unrated	21
Total	561

Revisits

Revisits are carried out in accordance with the FLRS scheme.

Approved Premises

There are presently 11 premises subject to EC Approval for the production/manufacture/storage of products of animal origin and 5 egg packing stations.

Approved Premises at 01/04/2023

Premises	Number
Fish Products	5
Meat Products	3
Fishing Vessel	1
Egg Products	1
Dairy Products	0
Standalone cold store	1
Egg Packing Stations	5
Total	16

In order to improve the resilience of the service approved premises across Moray are inspected by a minimum of 2 officers who have experience in inspection of these premises. In addition, all inspecting officers have the Level 4 HACCP qualification and the OCV qualification issued by FSS. These visits are carried out using the Official Control Verification process.

Food Hygiene Information Scheme (FHIS)

This Authority launched the national Food Hygiene Information Scheme (FHIS) project on 26 April 2011. All 32 Scottish Local Authorities participate in the scheme.

The Scheme provides basic information to the public regarding the level of compliance of a business with the Food Hygiene (Scotland) Regulations 2006.

FHIS is easy for consumers to understand and simple for Local Authorities to apply. The 'Pass' standard represents a single level of compliance that is satisfactory in terms of consumer expectations and as an enforcement outcome. Establishments are assessed during programmed inspections; there is no need for separate inspection scheduling. It is designed to simply reflect the Local Authority's most up to date information and to fit existing enforcement procedures.

The two outcomes of compliance assessment under the Scheme are 'Pass' or 'Improvement Required' (failure to achieve a Pass). The designation 'Pass' provides reassurance that the establishment has been inspected and meets Food Hygiene Legal requirements. The 'Pass' standard essentially represents a situation where the Officer does not consider it necessary to revisit the establishment for enforcement purposes until the next programmed intervention. 'Pass' is incompatible with the existence of even minor recurring contraventions notified at successive visits. Any establishment that falls below the required standard for a 'Pass' is classified as 'Improvement Required'.

Establishments that have registered under Hygiene Legislation but have not yet been inspected are classed as 'Awaiting Inspection'.

The Scheme applies to all catering and retail operations but allows for exemptions in prescribed circumstances where both the Local Authority and the food business operator agree.

The Scheme includes the following measures to ensure that it is fair to businesses:

- Procedures for appeal against an Officer's judgement
- Procedures for requesting reassessment where compliance has been achieved.

Experience has shown that reassessments do not result in a significant additional burden for enforcement staff and there have been no appeals since the Scheme was introduced.

3.2 Food Complaints

All complaints regarding food stuffs or the hygiene of premises are investigated in accordance with the Council's Food Complaint Policy.

Investigating food complaints can be quite involved and often requires working with colleagues from other Authorities. This, along with the time taken to receive reports from the analyst etc., can increase the time taken to resolve the complaint. Complaints about food very rarely result in formal action, mainly due to the lack of evidence which could be relied on in court.

Complainant's details are confidential unless otherwise agreed. Where the complainant has agreed to have their name and address divulged, this will only occur once the investigation has been concluded.

It is recognised that food complaints help identify failings in food processing and handling which require to be rectified to prevent future problems. The outcome of investigations can lead to improvements to food produced in Moray.

3.3 Home Authority Principle

A Home Authority is the Local Authority where the relevant decision-making base of a business is located. Moray Council supports the Home Authority Principle as specified in the Food Law Code of Practice (Scotland). This Principle has been developed by Food and Trading Standards Authorities to provide contact points for advice and guidance to encourage good enforcement practice. The aims are to protect the consumer, encourage fair-trading, consistency, and common sense by:

- Encouraging Authorities to place special emphasis on goods and services originating within their area.
- Providing businesses with a Home Authority source of guidance and advice
- Supporting efficient liaison between Local Authorities
- Providing a system for the resolution of problems and disputes

The principle is supported by Local Authorities, central government, trade and industry associations, consumer and professional Regulatory bodies.

3.4 Advice to Businesses

The Environmental Health Service is keen to provide support and advice to businesses. This includes:

- Advice during programmed interventions
- 'Drop in' advice to businesses.
- Distributing advisory booklets/leaflets and business information sheets
- Responding promptly to queries

- Provision of training/seminars as resources permit
- Promote the FSS Cook **Safe** Food Safety Assurance System during inspections.

3.5 Food Sampling

Food sampling is carried out to a set annual programme for microbiological, compositional, and labelling parameters agreed between ASSL, Aberdeenshire Council, Aberdeen City Council and Moray Council.

The purpose of sampling is to ensure that food manufactured, distributed, prepared, and retailed within Moray is fit for human consumption and complies with the relevant Food Hygiene and Food Standards Legislation and/or guidelines for the type of food.

The type of food sampled varies but sampling is targeted towards food produced locally for local consumption or for distribution out-with Moray. Whenever possible, sampling is carried out in accordance with local, regional, and national surveys, projects and/or investigations initiated by local or national intelligence or by regional and national bodies such as the North of Scotland Food Liaison Group, the Scottish Food Enforcement Liaison Committee, the Health Protection Agency or The Society of Chief Officers of Environmental Health in Scotland.

Aberdeen Scientific Services is included on the list of Official Food Control Laboratories in the United Kingdom as notified to the European Commission for both chemical analysis and microbiological examination. The target for microbiological samples is 1.5 per 1000 of population and the chemical sample target is 2 per 1000.

Food Samples Due 1/04/2023– 31/03/2024

Category	Number of Samples
Microbiological	214
Chemical	140

3.6 Control and Investigation of Food Related Outbreaks and Infectious Disease

The NHS Grampian Infectious Disease Incident Plan has been developed to control major outbreaks of food poisoning and communicable disease. The document which is reviewed every 2 years describes the actions to be taken to manage an incident or outbreak that presents an actual or potential risk to the public health in any setting in Grampian. The document is prepared by the NHS Grampian Clinical Lead of the Health Protection Team; reviewed by NHS Grampian Director of Public Health and approved by NHS Grampian Board, and the Environmental Health Sections of Aberdeen City, Aberdeenshire, and Moray Council.

All cases of food related infectious disease notified “for action” by Grampian Health Board are contacted within 24 hours. Outbreaks are investigated to ensure adequate controls are in place to prevent further spread. There are regular meetings between NHS Grampian, Aberdeen City, Aberdeenshire and Moray Council.

A documented procedure is available for the investigation of notifications of food related infectious disease.

A Memorandum of Understanding between NHS Grampian Health Protection Team and Moray Council Environmental Health Service is in place.

Food poisoning and other communicable disease outbreaks can place a major demand on resources, but it is anticipated that such incidents can be dealt with utilising existing staff. Informal arrangements exist with neighbouring authorities to share resources if required.

3.7 Food Safety Incidents

Food safety emergencies and incidents which pose a serious risk to public safety are a priority issue for the Service.

FSS issues food incident alerts through the issuing of Product Recall Information Notices, Allergy Alerts and Food Alerts for Action.

These alerts contain information product withdrawals and recalls informing consumers and local authorities about problems associated with food.

Food alerts marked “for action” by Local Authorities are issued by FSS where specific action requires to be taken by Local Authorities to remove a public health risk. These alerts are dealt with by Enforcement Officers in accordance with the Food Law Code of Practice (Scotland). Action taken following food alerts ensures that any suspect food supplied to premises in Moray is withdrawn from sale.

Documented procedures are in place to ensure that food alerts issued by the FSS and local incidents which need to be reported to the FSS, are dealt with promptly.

Out of hours contact arrangements for authorised officers are arranged through the Environmental Health Directory issued by the FSS, the emergency planning provisions and Moray Council’s emergency out of hours contact telephone service.

3.8 Food Crime

Food crime is a risk to public health and to the global reputation and economy of the Scottish food and drink industry. Examples of this type of criminality could be any of the following:

- Fraud - food or drink that has been adulterated or substituted using poorer quality, mislabeled or dangerous ingredients, deliberate mislabelling the product's country of origin, for example claiming the product is Scottish when it is produced elsewhere.
- Illicit goods – selling a product as something it isn't, such as counterfeit alcohol e.g., fake vodka or wine.
- Identity theft - fraudulently using the identity of a legitimate food business and the movement of livestock and food using falsified documents.
- Illegal slaughter – the slaughter of farmed and wild animals in conditions which do not meet animal welfare or hygiene standards.
- Unfit food - everything from putting animal by-products back into the food chain, to beef and poultry of unknown origin, or selling goods after their 'use by' date.

The Scottish Food Crime and Incidents Unit (SFCIU) is the investigations and intelligence gathering arm of Food Standards Scotland (FSS) who focus on tackling food crime and maintaining consumer protection.

Moray Council works in partnership with the SFCIU and utilises CLUE which is an FSS intelligence database shared with Food Standards Scotland and Local Authority Environmental Health services.

3.9 Liaison with other Organisations

Arrangements are in place to ensure that enforcement action taken is consistent with those of neighbouring Local Authorities. This includes representation on the following committees:

- The North of Scotland Food Liaison Group
- The NHS Grampian Health Protection Group

In addition, there is regular liaison with other services within Moray Council to review Building Warrant applications, Planning Applications, and Licensing Applications. The Service also works with Legal, Education and Social Care, Environmental Protection and Corporate Communications to ensure a corporate approach.

3.10 Food Safety and Standards Promotion

The Environmental Health Section has a limited involvement in food safety promotional work in view of the resource implications.

This Authority also supports the Eat Safe Award Scheme launched in 2005. The Scheme provides an incentive for caterers to strive for standards beyond those required by Law and also assists consumers to make informed choices about where to eat by providing a recognisable sign of excellence in food hygiene.

4. RESOURCES

4.1 Financial Allocation

The current budget for 2023/2024 for food safety enforcement is contained in an overall budget for Environmental Health which is £1120871 net.

4.2 Staff Allocation

A total of 8 Environmental Health Officers, inclusive of the Environmental Health & Trading Standards Manager, are involved in food safety enforcement and 1 part-time Food Safety Officer.

All Environmental Health Officers are multi-disciplinary, undertaking a wide range of Environmental Health duties. To determine full time, equivalent the work streams and workloads of the EHOs are scrutinised and a determination made from this. The FTE of officers' time spent on food is currently 3.7.

The number of FTE Officers available to carry out Food Law enforcement has been reduced due to the deletion of posts through previous budget savings and the inability to fill vacant posts because of the national shortage of qualified Environmental Health Officers and Food Safety Officers. Increasing responsibilities due to new legislation has also reduced the time available.

The difficulty in recruiting suitable staff has been acknowledged by CoSLA and is predicted to continue and to attempt to address this situation. A vacant EHO post, which we were not successful in filling, has been replaced with a graduate trainee post. This officer has recently commenced the university course however will not be available for food law enforcement for another 4 years.

As is the case with all Scottish Local Authorities Moray Council is currently going through a deficit reduction process. In the case of Environmental Health there is currently a proposal to remove an Animal Health Officer post. Should this be implemented, many of the statutory duties carried out by this officer e.g., dangerous dog enforcement will require to be carried by Environmental Health Officers and will therefore reduce the time available for food law enforcement and adversely affect our ability to achieve the tasks set out in this plan. The deficit reduction process is ongoing and any future reduction in staff will have a similar detrimental effect as workforce planning will result reallocation of duties away from food law.

It is also recognised that at least 2 officers currently in supervisory positions and involved in food law enforcement are due to retire in the next 2/3 years. While there is some succession planning in respect of the supervisory functions, it will result in less availability for food law enforcement. Given the difficulty we have and continue to have in recruiting officers and that it takes 4 years to train suitable staff the number of staff available will reduce to 6. This in turn will reduce the number of visits that are possible and increase reaction

times. At the present time there are no resources available for additional training.

Prioritisation of the highest and higher risk premises continues but failure to carry out interventions in lower risk premises can result in more premises becoming higher risk over time.

Resilience of this service to deal with any significant outbreak or national crisis is currently low.

Significant streamlining of work processes has provided some efficiencies, and the service continues to monitor workload and direct resources as necessary to provide a quality service within the budget restrictions in place.

4.3 Staff Development Plan

The Food Law Code of Practice (Scotland) requires that every Officer achieves a minimum of ten hours food safety training annually. Officers who are members of the Royal Environmental Health Institute of Scotland are also required to complete twenty hours training and development every year as part of the Continuous Professional Development Scheme. Where this is achieved Officers can be awarded Chartered status.

1 Environmental Health Officer in Moray has Chartered status.

Where budget permits the Environmental Health Section is committed to the ongoing training of all Officers involved in food safety enforcement through attendance at update courses and conferences organised by FSS, the Royal Environmental Health Institute for Scotland, and Health Protection Scotland. All Environmental Health Officers and the Food Safety Officer participate in the Continuing Professional Development (CPD) Programme as required by the COP. Cascade training is provided and there are regular staff meetings. Food Focus meetings are used to discuss caseloads, improve consistency, and ensure compliance with current Legislation and guidance. All Officers participate in the Employee Review and Development (ERDP) process, which identifies and addresses staff development needs. A record of staff training is maintained. This programme has been disrupted in the last 2 years due to Covid and the resulting lack of available courses.

Authorised Officers dealing with the specialist food processes such as canning, thermal processing, vacuum packing etc. are supported and have access to expertise to enable competent inspections. This includes releasing Officers to relevant courses and providing relevant guidance and documentation and providing suitable resources to support CPD. All officers enforcing Food Law have the level 4 HACCP qualification and OCV training provided by FSS.

4.4 Service Review

The Service is continually under review in order to achieve budget savings

5. QUALITY ASSESSMENT

5.1 The measures taken to assess the quality of the food safety service include:

- Ad hoc monitoring of inspection reports and letters.
- Accompanied visits.
- Peer accompanied visits and assessments.
- Food Focus meetings
- Quarterly monitoring of risk ratings.
- Regular database monitoring to ensure accuracy and consistency in database management; interventions and inspections; follow-up actions and enforcement.
- Annual Employee Review and Development Programme (ERDP);
- External audit by the FSS which is carried out approximately every three years.

6. REVIEW

6.1 Review against the Service Plan

The Development Services Service Plan which incorporates Environmental Health performance is reviewed on a quarterly basis. Due attention is paid to specific performance targets, performance standards, targeted outcomes. Stakeholders' comments and complaints against the Service are monitored regularly.

As no Service Plan was completed for 2022/23, due to the pandemic, the annual review on the previous year's performance against the Food Law Enforcement Service Delivery Plan has not been carried out.

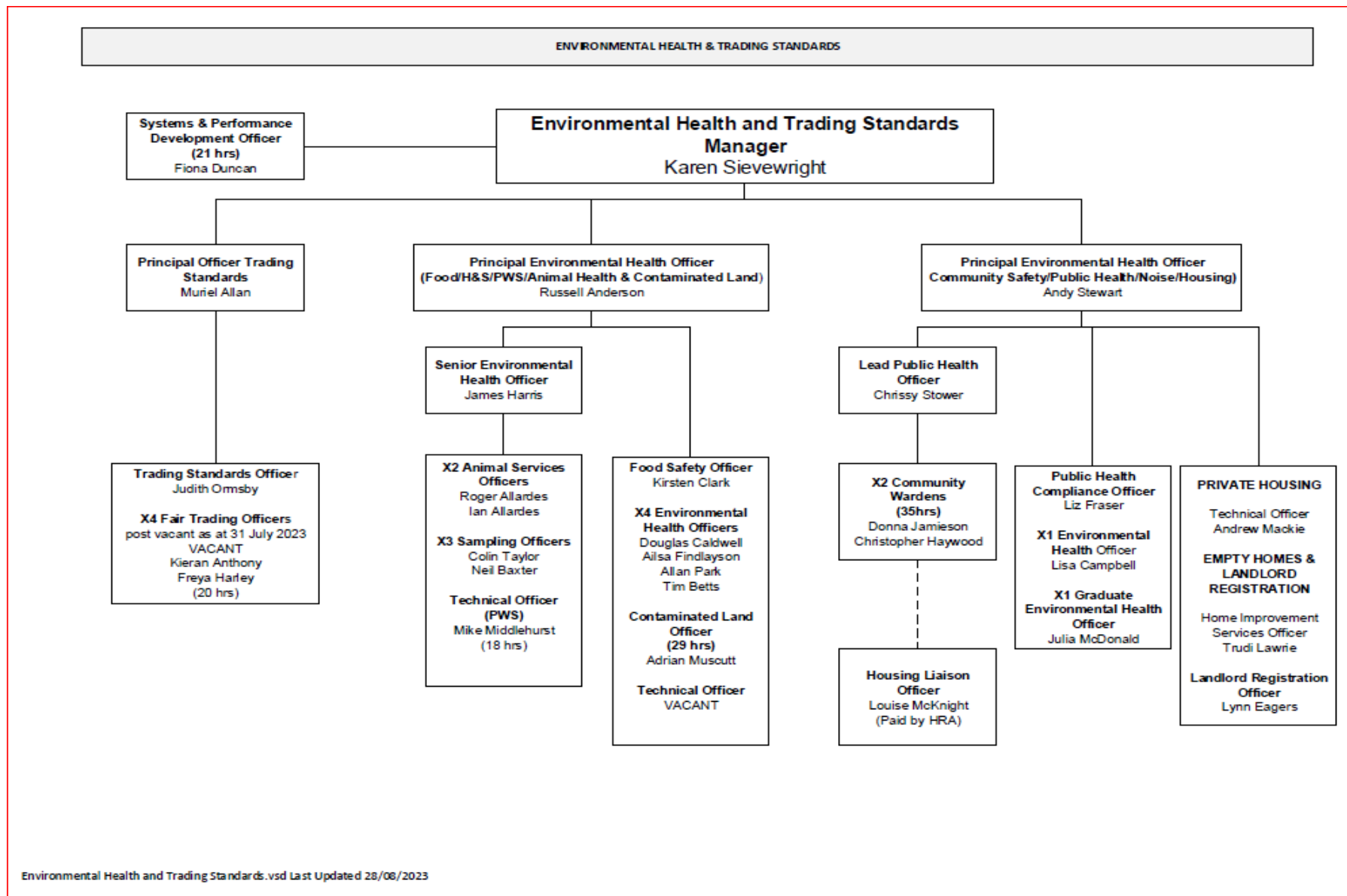
The status and adequacy of the Food Law Enforcement Service Delivery Plan in relation to new objectives resulting from changing circumstances will be revised annually.

6.2 Identification of any variation from the Service Plan/Areas for Improvement

Variations and areas for improvement are incorporated into the Food Law Enforcement Service Delivery Plan Review.

STAFF STRUCTURE (@ March 2023)

APPENDIX I



FOOD SERVICE SCOPE

APPENDIX II

