Planning and Regulatory Services Committee

Tuesday, 25 February 2020

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, 25 February 2020** 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 18 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 dated 10 December 2019 **7 - 18**

5 Written Questions **

Guidance Note **19 - 20**

6 Planning Application 19/01192/APP **21 - 50**

Report by Appointed Officer

3 bedroom bungalow with attached garage and off street parking on Plot 49 Strathisla Park Keith for Morlich Homes Ltd

7 Planning Application 19/01401/APP **51 - 84**

Report by Appointed Officer

Section 42 application for vary Condition 1, 7, 8 and 11 of planning permission 15/00271/APP to allow for the permanent retention of the contractors compound associated with the building of HVDC convertor station at Little Gibston Blackhillock Keith Moray for SSE

8 Planning Application 19/01026/APP **85 - 122**

Report by Appointed Officer

Construction of circular kiln building associated service building malt storage silos and conveyor gantries at The Maltings 20 March Road East Buckie Moray for Boormalt

9 Planning Application 19/01184/APP **123 - 154**

Report by Appointed Officer

Installation of SuDS basin at R3 Ferrylea Forres Moray for Springfield Properties PLC

10 Performance Report (Economic Growth and Development) - Half Year to September 2019 **155 - 178**

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

11 The Planning Act (Scotland) 2019 **179 - 216**

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

12 National Planning Framework 4 **217 - 228**

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

13 Development Plan Scheme 2020 - Moray Local Development Plan 2020 **229 - 240**

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

14 Compensatory Planting **241 - 272**

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

15 Tree Preservation Order - Miltonhill, Kinloss **273 - 278**

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

16 Review of Planning Enforcement Charter and Update on Enforcement **279 - 300**

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

17 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

18 Former Greenbrae Landfill, Cummingston

- Information relating to the financial or business affairs of any particular person(s);
- Information on proposed terms and/or expenditure to be incurred by the Authority;

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.

Any person attending the meeting who requires access assistance should contact customer services on 01343 563217 in advance of the meeting.

GUIDANCE NOTES

* **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.

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THE MORAY COUNCIL

Planning and Regulatory Services Committee

SEDERUNT

Councillor David Bremner (Chair)
Councillor Amy Taylor (Depute Chair)
Councillor George Alexander (Member)
Councillor John Cowe (Member)
Councillor Gordon Cowie (Member)
Councillor Paula Coy (Member)
Councillor John Divers (Member)
Councillor Ryan Edwards (Member)
Councillor Claire Feaver (Member)
Councillor Louise Laing (Member)
Councillor Marc Macrae (Member)
Councillor Aaron McLean (Member)
Councillor Ray McLean (Member)

Clerk Name: Lissa Rowan
Clerk Telephone: 01343 563015
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MORAY COUNCIL

MINUTE OF MEETING OF THE PLANNING & REGULATORY SERVICES COMMITTEE

10 DECEMBER 2019

COUNCIL CHAMBERS, ELGIN

PRESENT

Councillors Bremner (Chair), Taylor (Depute), Alexander, Cowe, Cowie, Coy, Feaver, Laing, Macrae and A McLean

APOLOGIES

Apologies were intimated on behalf of Councillors Divers, Edwards and R McLean

IN ATTENDANCE

The Head of Economic Growth and Development, Development Management and Building Standards Manager, Mr N MacPherson, Principal Planning Officer, Mr R Smith, Principal Planning Officer, Strategic Planning and Development Manager, Mr Killeen, Engineer (Transport Development), Principal Building Standards Officer, Developer Obligations Officer, Legal Services Manager and Mrs L Rowan, Committee Services Officer as Clerk to the Meeting.

1. DECLARATION OF GROUP DECISIONS AND MEMBER'S INTERESTS

In terms of Standing Order 20 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 or any declarations of Member's interests in respect of any item on the agenda.

2. EXEMPT INFORMATION

The meeting resolved that in terms of Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, the public and media representatives be excluded from the meeting during consideration of the items of business appearing at the relevant paragraphs of this minute as specified below, so as to avoid disclosure of exempt information of the class described in the appropriate paragraphs of Part 1 of Schedule 7A of the Act.

Paragraph No. of Minute	Paragraph No. of Schedule 7A
12	6 & 9

3. MINUTE OF THE PLANNING AND REGULATORY SERVICES COMMITTEE DATED 8 OCTOBER 2019

Under reference to paragraph 11 of the Minute of the Planning and Regulatory Services Committee dated 8 October 2019, the Chair stated that it had been brought to his attention that, during the introduction of Planning Application 19/00811/APP, the Appointed Officer had advised that a clause would be included in the Section 75 agreement to ensure that the offsite affordable housing would be delivered timeously, therefore, with the Committee's agreement, he would ask the Clerk to amend the minute to reflect this. This was unanimously agreed.

Thereafter, the Minute of the meeting of the Planning and Regulatory Services Committee dated 8 October 2019 was approved subject to the inclusion of narrative to confirm that a clause would be included in the Section 75 agreement to ensure that the offsite affordable housing would be delivered timeously.

4. WRITTEN QUESTIONS

The Committee noted that no written questions had been submitted.

5. PLANNING APPLICATION 19/00899/APP

WARD 1: SPEYSIDE GLENLIVET

Erection of 4No new whisky storage warehouses with associated drainage and access, retrospective permission to change a previously approved warehouse to a filling store (inclusive of welfare facilities), amend the previously approved drainage scheme details for the existing warehouses (Condition 9 of 17/00339/APP) and altered parking arrangements at Tamdhu Distillery, Knockando, Aberlour, Moray for Ian MacLeod Distillers

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for an application for the erection of 4No new whisky storage warehouses with associated drainage and access, retrospective permission to change a previously approved warehouse to a filling store (inclusive of welfare facilities), amend the previously approved drainage scheme details for the existing warehouses (Condition 9 of 17/00339/APP) and altered parking arrangements at Tamdhu Distillery, Knockando, Aberlour, Moray for Ian MacLeod Distillers.

The meeting noted that the application had been referred to Committee in terms of the Scheme of Delegation where the floor space for general industry/storage exceeds 2000m^2 (in this case 3862m^2). The report also advised that Members of the Committee visited the site of the application on 6 December 2019.

During discussion, Councillor Feaver raised concern that the Applicant had cleared a woodland site that was not designated for development prior to receiving planning permission with no regard to the adopted policies within the Moray Local Development Plan (MLDP) 2015 and queried what action the Authority could take in this regard.

In response, the Head of Economic Growth and Development advised that the Planning Authority does not condone the developing of any site prior to applying for planning permission however felling of trees does not require planning permission. The completion of earthworks does require planning permission and, if this was identified, the planning authority would consider the site and the likelihood of obtaining planning permission then, in accordance with the Council's Enforcement Charter, ask the developer to apply for retrospective planning permission. If this is refused then enforcement action would be taken.

Councillor Feaver remained of the view that whether or not the Developer had a tree felling licence, they should not have cleared the site to sub-soil in preparation for development prior to receiving planning permission and that, in terms of climate change, the proposed compensatory planting is no match for well-established woodland. Councillor Feaver therefore moved that the Committee refuse planning permission in respect of Planning Application 19/00899/APP as the proposal is contrary to policies PP2 (Climate Change), E4 (Trees and Development) and ER2 (Development in Woodlands) of the Moray Local MLDP 2015. On failing to find a seconder, Councillor Feaver's motion fell.

Thereafter, the Committee agreed to grant planning permission in respect of Planning Application 19/00899/APP subject to:

(i) a payment towards the provision of compensatory woodland planting; and

(ii) the following conditions and reasons:

1. Within three months of the date of this decision notice a visibility splay of 4.5m x 90m shall be provided and maintained thereafter in both directions at the junction of the site access onto the private road, clear of any obstruction above 0.6m in height (measured from the level of the carriageway) as shown on previously submitted drawing 'Proposed Road Access Plans, Sections & Details 5929-17/ 302".

   Reason: To enable drivers of vehicles leaving the site 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.

2. Within one month of the completion of the development an 'after' road condition video survey of the delivery and construction traffic routes from the B9102 Dandaleith – Grantown Road shall be submitted to the Council, as Planning Authority in consultation with the Roads Authority. Any damage to the road network, including the roadside verge, identified as a result of construction traffic and passing vehicles shall be 'made good' within three months of the completion of the development, unless otherwise agreed in writing with the Council, as Planning Authority in consultation with the Roads Authority.

   Reason: To ensure that the condition of the road does not deteriorate as a result of construction traffic associated with the development, in the interests of road safety.

3. A minimum of four car parking spaces shall be provided within the site prior to the completion of the development. The parking spaces shall thereafter be retained 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 staff/visitors/others in the interests of an acceptable development and road safety.

4. The rating level of noise associated with the development's filling store No. 3 operations shall not exceed the background sound level by more than 5 dB(A) at the nearest noise sensitive dwelling. Measurement and assessment to demonstrate compliance with the rating level shall be undertaken in accordance with BS 4142: 2014 Methods for rating and assessing industrial and commercial sound.

   Reason: In order to ensure the filling store operates so as not to cause an unacceptable impact upon neighbouring residential amenity

5. Unless otherwise agreed with the Planning Authority, in consultation with the Environmental Health Manager, the development's filling store No. 3 operations shall be permitted from 07:45 to 16:30 hours Monday to Thursday and 07:45 to 13:00 hours on Fridays only.

   Reason: In order to ensure the filling store operates at times compatible with neighbouring residential amenity.

6. The approval hereby granted must be developed in accordance with the revised drainage information contained within the updated "Supporting Information" document prepared by SAC Consulting for Algo Design and Build in September 2019 and submitted under cover of email dated 4th November 2019.

   Reason: In order to ensure the correct drainage information is adhered to.

6. PLANNING APPLICATION 19/01127/APP

WARD 3: BUCKIE

Residential development for 11 dwellings including affordable houses and associated infrastructure/landscaping on Whiteland Site to rear of Ewing Crescent, Buckie, Moray for Mr Fredrick Parkes.

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for an application for a residential development for 11 dwellings including affordable houses and associated infrastructure/landscaping on Whiteland Site to rear of Ewing Crescent, Buckie, Moray for Mr Fredrick Parkes.

The meeting noted that the application had been referred to Committee in terms of the Scheme of Delegation as the site extends to more than 2ha. The report also advised that Members of the Committee visited the site of the application on 6 December 2019.

Following consideration, the Committee agreed to grant planning permission in respect of Planning Application 19/01127/APP subject:

(i) The conclusion of a Section 75 legal agreement; and

(ii) the following conditions and reasons:

1. All landscaping shall be carried out as detailed on the approved plan entitled 'Compensatory Tree Planting Plan rev B'. Notwithstanding the approved landscaping details no development shall commence until details of additional planting along all boundaries that plots 9,10 & 11 share with the property known as Briarbank' have been submitted to and approved in writing by the planning authority. There after approved landscaping shall be carried out in accordance with condition 2 below.

   Reason: In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.

2. No development shall commence until details of the timescales and maintenance arrangements for all proposed landscaping (including the compensatory planting) and open space have been submitted to and approved in writing by the Planning Authority. Thereafter the development shall not proceed except in accordance with the approved details. For the avoidance of doubt all landscaping shall be carried out as detailed on the approved plan entitled 'Compensatory Tree Planting Plan rev B'.

   Reason: In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.

3. 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. A full specification for archaeological works can be provided by Aberdeenshire Archaeology Service and the work shall comprise a 5-7% archaeological trial trenching to be undertaken by a suitably qualified archaeological contractor. 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 occupied 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.

4. No development, site excavation or groundwork (including archaeological trial trenching) shall commence until the tree protection measures detailed in the Aboricultural Impact Assessment/Method Statement, Proposed Housing Development, Site to Rear of Ewing Crescent, Buckie, dated 2 September 2019 and on the approved plan entitled Tree Protection Plan Revision C have been implemented in full. These measures shall remain in place throughout the construction period and must not be moved or removed during the construction period without the prior written approval of the Planning Authority.

Reason: In order to ensure the protection of retained trees, which are important amenity assets, during construction.

5. No trees within the application site, other than those which are specifically identified for removal on the approved plans, shall be cut down, uprooted, topped, lopped (including roots) or wilfully damaged in any way, without the prior written permission of the Planning Authority

   Reason: In order to ensure the protection of retained trees, which are important amenity assets.

6. No works shall commence on site until a construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Council as Planning Authority in consultation with the Roads Authority. The CTMP shall include as a minimum the following information:
   a. Duration of works;
   b. Construction programme;
   c. Number of vehicle movements (i.e. materials, plant, staff, compounds)
   d. Schedule of delivery of materials and plant;
   e. Full details of construction traffic routes to the site including any temporary construction accesses;
   f. measures to be put in place to prevent material being deposited on the public road;
   g. Traffic management measures to be put in place during works including any specific instructions to drivers;
   h. Parking provision for site staff;
   i. Drop-off and turning provision for delivery vehicles to ensure entry and exit in a forward gear;
   j. Hours of operation and restrictions during school arrival and departure times from the existing housing;
   k. Arrangements for providing residents with information on works, points of contact for liaison and emergencies.

   Thereafter, the development shall only 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 an acceptable form of development in terms of the arrangements to manage traffic during construction works at the site, road safety and the amenity of the area/adjacent properties

7. Notwithstanding the details submitted for the proposed 2.5m path connection to Barr Close, and the non–adopted private access road serving plots 5-8 (which are not accepted). No development shall commence until the following details have been submitted to and approved in writing by the Council, as Planning Authority in consultation with Roads Authority. Thereafter, the development shall only progress in accordance with the approved details and the approved arrangements shall be completed and open for use prior to the occupation of any house within the development:

   a. Plan(s) (1:200min) showing a kerbed, continuous 2.5m cyclepath along the frontage of plots 5 to 8 between the plots and the private drive. The path shall be tapered at 1:10 (minimum) into the 2m footpath at plot 4. From the end of the shared driveway serving plot 8 to the turning head at Barr Close,

the cycle path shall be widened to 3.0m (taper details to be agreed but not less than 1:10) and set back 0.5m from the plot boundary.

Reason: In the interests of pedestrian and cycle connectivity to the proposed

8. The road width shall be 5.5 metres wide with a continuous 2 metre wide footway on the south side from Greenlaw Lane and with a road narrowing/traffic calming feature opposite plot 2 as shown on Drawing No. BW01 900.

   Reason: To ensure acceptable infrastructure at the development access.

9. The width of each individual vehicular access shall be a minimum of 3.0m and have a maximum gradient of 1:20 measured for the first 5.0m from the edge of the prospective public carriageway. The part of the access over the prospective public footway/verge shall be to The Moray Council specification and surfaced with bituminous macadam. Drop kerbs shall be provided across the access to The Moray Council specification.

   Reason: To ensure acceptable infrastructure at individual development accesses.

10. 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/accesses.

11. Parking provision shall be as follows:

    - Minimum of 2 spaces for a dwelling with three bedrooms or less; or
    - Minimum of 3 spaces for a dwelling with four bedrooms or more.

    The car parking spaces shall be provided within the site prior to the occupation or completion of each dwellinghouse, whichever is the sooner. The parking spaces shall thereafter be retained 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.

12. No boundary fences, hedges, walls or any other obstruction fronting onto the prospective public road shall be within 2.4 of the edge of the carriageway and shall not exceed 1.0m in height.

    Reason: To ensure acceptable infrastructure at the development access

13. Trees shall be set back at a minimum of 5.0m from the edge of the prospective public road carriageway, unless suitable root protection is utilised. The details of any proposed root protection shall be submitted to and approved in writing by the Council, as planning authority in consultation with the roads authority. Thereafter the root protection measures shall be installed in accordance with the

agreed details.

Reason: to prevent root interference that could compromise the public road carriageway (and the utilities contained therein) thereby ensuring acceptable infrastructure at the development access, in the interests of road safety.

14. All foul and surface water drainage proposals shall be in accordance with the submitted report Drainage Assessment Proposed Development Buckie, August 2019. Thereafter the approved details shall be implemented in full prior to the first occupation of any part of the development.

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

15. The house hereby approved on plot 6 shall be accessible in accordance with the applicant's Accessible Housing Statement of Compliance (as contained within the applicants Design and Access Statement dated August 2018) and drawings Ash House type drawing no 6. Thereafter, the accommodation shall, at all times, remain capable for adaptation to accessible housing needs unless otherwise agreed with the Council, as Planning Authority.

    Reason: To ensure an acceptable form of development in terms of the required provision and delivery of accessible housing within the site as required and defined in terms of current planning policy and associated supplementary planning guidance.

16. The 2m high privacy fence identified on the approved site plan (1A) shall be provided prior to the first occupation of any of the houses approved on plots 9-11 and maintained in perpetuity.

    Reason: In order to safeguard the amenity of neighbouring properties.

17. The houses hereby approved on plots 9-11 shall only be used for affordable housing purposes in accordance with the agreement(s) reached between the applicant/developer and Moray Council and/or any registered social landlord (e.g. housing association or similar) to enable the long term delivery of affordable housing on this site; and no development shall commence until details of the agreement(s) to confirm the arrangements for the delivery of the proposed affordable accommodation hereby approved shall be submitted to and approved in writing by the Council, as Planning Authority.

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

    Reason: To ensure an acceptable form of development in terms of the required provision and delivery of the affordable housing accommodation proposed for this site wherein the benefits of such provision are passed on to serve the community in future years.

18. For the avoidance of doubt there shall be no change in levels within a 6m buffer zone from the top of the Burn of Buckie.

    Reason: To ensure that the development does not increase the risk of flooding on site or elsewhere.

19. Notwithstanding the provisions of Article 3 and Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended, revoked or re-enacted; with or without modification), no additional upper floor windows or other openings shall be installed in the south east facing elevations of the houses hereby approved on plots 9 or 10, without planning permission being granted on application to the Planning Authority.

    Reason: In order to safeguard the privacy and amenity of occupants of the adjacent property.

7. 19/01433/PAN – PROPOSAL OF APPLICATION NOTICE CONSTRUCTION OF TEMPORARY CONTRACTORS COMPOUND TO FACILITATE WORKS AS PART OF THE RAF LOSSIEMOUTH DEVELOPMENT PLAN AT LAND SOUTH OF RAF LOSSIEMOUTH

A report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee that a Proposal of Application Notice (PAN) for the construction of a temporary contractors compound to facilitate works as part of the RAF Lossiemouth development plan at Land South of RAF Lossiemouth, had been submitted on 5 November 2019 on behalf of the Defence Infrastructure Organisation (DIO).

During discussion, it was queried whether the developer intended to restore the site after the works are completed.

In response, Mr Smith, Principal Planning Officer advised that the Applicant intended to clear the site in 2 years and restore it as it was previously.

During further discussion it was queried whether an Environmental Impact Assessment (EIA) would be carried out on the land.

In response, Mr Smith advised that ecological information would be submitted in support of the application however a formal EIA is not required as it is a temporary proposal.

Thereafter, the Committee agreed:

(i) to note the terms of the report and ask that the following provisional views/relevant issues about the proposed development be fed back to the prospective applicant in order to inform the development of their proposed formal application for planning permission:

    a) the restoration of the site after 2 years; and
    b) the impact this development may have on the environment and ecology; 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.

8. BUILDING STANDARDS ANNUAL PERFORMANCE REPORT 2019-20

A report by the Depute Chief Executive (Economy, Environment and Finance) presented the Building Standards Annual Performance Report for 2019/20.

During his introduction, Mr Clark, Principal Building Standards Officer advised that, currently the Building Standards Team are appointed as Verifiers in Moray with the appointment due to expire in March 2020 however it had recently been confirmed that the Building Standards Team have been reappointed by the Scottish Government as Verifiers for a further 6 year period.

The Committee joined the Chair in commending the Building Standards Team for their achievement in being reappointed as Verifiers for the Moray area by the Scottish Government for a further 6 year period and thereafter agreed to note:

(i) the Building Standards Annual Report as set out in Appendix 1 of the report;

(ii) that the Building Standards Annual Report had been used by the service in terms of seeking re-appointment as a Verifier for the geographical area of Moray in April 2020; and

(iii) that the Building Standards Annual Report 2019/20 will be made available to all designers, developers, stakeholders, and internal services seeking comment/feedback to assist with continuous improvement to be fed back into the annual report for 2020/21.

9. ECONOMIC GROWTH AND DEVELOPMENT - SERVICE PLAN 2019-2021 INCLUDING SERVICE IMPROVEMENTS

A report by the Depute Chief Executive (Economy, Environment and Finance) asked the Committee to consider the Economic Growth and Development Services Service Plan Actions for Improvement for 2019-2021. The report stated that, through the Service Plan Improvements, the service can explore different ways of delivering services more efficiently and effectively whilst facing tough challenges of declining budgets and demands for service.

Following consideration, the Committee agreed to approve the Economic Growth and Development Services Service Plan – Actions for Improvement 2019-2021 as set out in Appendix 1 of the report.

10. TREE PRESERVATION ORDER - WOODLAND AT KNOCKOMIE, FORRES

Under reference to paragraph 25 of the Minute of this Committee dated 8 October 2019, a report by the Depute Chief Executive (Economy, Environment and Finance) asked the Committee to confirm the Tree Preservation Order (TPO) approved by the Committee on 8 October 2019 at Woodland at Knockomie, Forres, without modification.

Following consideration, the Committee agreed to confirm ‘The Moray Council (Woodland at Knockomie, Forres) Tree Preservation Order (No 1) 2019’ without modification.

11. QUESTION TIME

Councillor Feaver made reference to the recently declared climate change emergency and how important it is to keep mature woodlands however raised concern that this Committee appeared to have little regard to biodiversity and climate change given some recent Committee decisions.

In response, the Principal Planning Officer (Strategic Planning and Development) advised that the proposed Moray Local Development Plan 2020 has several policies to address the concerns of climate change. He further advised of a new national policy regarding the Control of Woodland Removal and that work was underway to prepare a guidance note derived from this new policy to assist members and officers as to how this should be applied in Moray.

Councillor Alexander noted the effort made to protect woodland however queried whether there were any policies to protect agricultural land.

In response, the Principal Planning Officer (Strategic Planning and Development) advised that the National Planning Framework would be out for consultation early next year and that the Committee would have an opportunity to comment on this Framework with regard to protecting agricultural land.

In relation to the climate change emergency, Councillor Laing acknowledged the concerns of Councillor Feaver however stated that the Council should be sensible in its approach to climate change whilst balancing this against economic growth.

12. REVIEW OF DEVELOPER OBLIGATIONS [PARA 6 & 9]

A report by the Depute Chief Executive (Economy, Environment and Finance) asked the Committee to approve the revised Developer Obligations Supplementary Guidance for public consultation and to review the cap of £6500 per residential unit.

Following lengthy discussion, particularly in relation to the removal of the cap of £6,500 per residential unit, Councillor Alexander moved that the Committee agree the recommendations as printed within the report.

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

(i) remove the cap of £6,500 per residential unit;

(ii) approve the revised Developer Obligations Supplementary Guidance for public consultation for a 6 week period as set out in Appendix 2 of the report; and

(iii) grant delegated authority to the Head of Economic Growth and Development in conjunction with the Chief Financial Officer up to the negotiated value of £50,000 for negotiating developer obligations if the cap is removed.

GUIDANCE NOTE PRODUCED FOR PLANNING & REGULATORY SERVICES COMMITTEE MEETING OF 29 JANUARY 2019

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 Director of Environmental Services 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 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 Local or Structure Plan.

Where a Councillor is convinced that there is reason to depart from Local 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 Director of Environmental Services 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 authorities 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 Local Development Plan.

WARD 02_17

19/01192/APP
26th September 2019

3 bedroom bungalow with attached garage and off street parking on Plot 49 Strathisla Park Keith for Morlich Homes Ltd

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Comments:

- A SITE VISIT has been carried out.
- The application is reported to Committee because the application is on a housing site designated for 50 or more dwellings within the Development Plan, regardless of whether the application is for all or part of the site.
- The proposal has been advertised for neighbour notification purposes.
- No representations have been received.

Procedure:

- Payment of Developer Obligation towards healthcare provision required prior to issue of any consent

Recommendation Grant Planning Permission - Subject To The Following:-

Conditions/Reasons

1. The width of the vehicular access shall be minimum 3.0m and have a maximum gradient of 1:20 measured for the first 5.0m from the edge of the public carriageway. The part of the access over the prospective public cycleway shall be to Moray Council specification and surfaced with bituminous macadam. Drop kerbs shall be provided across the access to the Moray Council specification.

   Reason: To ensure acceptable infrastructure at the development access

2. Two car parking spaces shall be provided within the site prior to the occupation or completion of the dwellinghouse, whichever is the sooner. The parking spaces shall thereafter be retained 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. New boundary walls/fences shall be set back to the rear of the existing (prospective) public cycleway.

Reason: To ensure acceptable development in the interests of road safety.

4. No boundary fences, hedges, walls or any other obstruction whatsoever over 0.6m in height (measured from the level of the road) and fronting onto the public road shall be within 3.4m from the edge of public carriageway.

   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.

5. Prior to development commencing, details of measures to re-use water on site, which is stored within the rainwater harvesting tank and details of agreement with Scottish Water to accept surface water flows from the site into their infrastructure in Edindiach Road, shall be submitted to and agreed in writing with the Planning Authority. Thereafter the development shall be carried out in accordance with the agreed details.

   Reason: To ensure surface water from the site is disposed of in a sustainable manner, which does not increase flood risk.

Reason(s) for Decision

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

The proposal accords with the provisions of the Moray Local Development Plan 2015 and the Keith R5 Edindiach Road (West) Housing designation of the Proposed 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:-

> It is noted that an Application for a Building Warrant has been received in respect of these proposals.

THE TRANSPORTATION MANAGER, has commented that:-

> Planning consent does not carry with it the right to carry out works within the public road boundary.
>
> The developer should note that the cycleway located along the frontage of the site has not yet been adopted by the Roads Authority.
>
> Before starting any work on the existing public road the applicant is obliged to apply for a road opening permit in accordance with Section 56 of the Roads (Scotland) Act 1984. This includes any temporary access joining with the public road. Advice on these matters can be obtained by emailing

roadspermits@moray.gov.uk,

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.

If required, street furniture will need to be repositioned at the expense of the developer. Advice on this matter can be obtained by emailing road.maint@moray.gov.uk

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.

A Road Opening Permit shall be required for this element.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	**Title/Description**
19-37/PL/49/01	Location plan
19-37/PL/49/03	Elevations and floor plan
901	Drainage layout
900	Drainage layout
19-37/PL/49/02	Site plan

PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:
19/01192/APP

Site Address:
Plot 49 Strathisla Park
Keith

Applicant Name:
Morlich Homes Ltd

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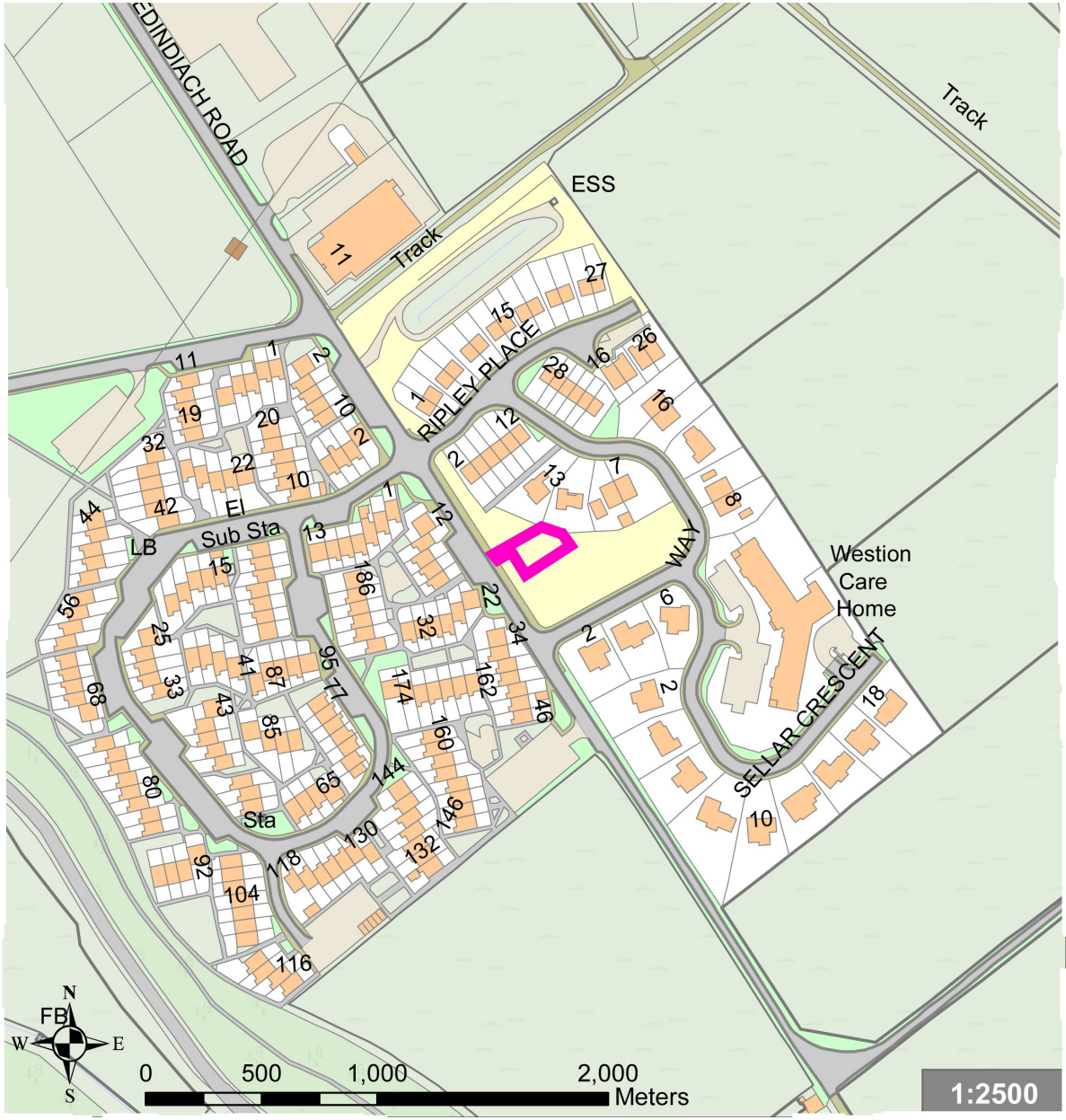
Location Plan



Site Location

Site plan

Play Area
Pavement
49
FFL = 154.76
47
FFL = 155.24
48
46
450mm TIMBER TRIP FENCE.
1.8m TIMBER SCREEN FENCE.
ROTARY DRYER.
BIN STANCE.
Waste Collection Point
900mm TIMBER FENCE.
Waste collection point
13705
3450
7190
11890
1500
8680
8685
14130
10440
12160
12175
10225
3900
2500
10000
5000
5500
3600

Strathisla
A RANGE OF
3 BEDROOM
HOMES
T 01542 836510

PLANNING APPLICATION: 19/01192/APP

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

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THE PROPOSAL

- This application seeks planning permission for the erection of a 3-bed, single storey dwellinghouse with integral garage fronting onto Edindiach Road, Keith.
- The house has a hipped roof design finished in a combination of synthetic stonework and white harling for the walls and grey concrete roof tiles with white UPVC windows and doors.
- The plot layout arrangements include garden area, driveway and parking provision and, boundary (timber) fencing with 1.8m fencing around the back garden areas and low level trip fencing to define the front curtilage of the house from the landscaped area between the house and Edindiach Road.
- The house will connect to the public water supply and public foul drainage system.
- Surface water from the site will be disposed of via an attenuated discharge to the existing surface water sewer within Edindiach Road.
- The site is part of a residential development which was approved for residential use under application 07/01419/FUL and renewed under 13/01735/APP. The development has been the subject of change under subsequent applications, the consent issued under 13/01735/APP has been implemented and development is nearing completion across the wider site.
- Planning permission was granted via application 19/00513/APP for the erection of 4 semi-detached houses to the south of the site, which left this remaining area of ground covered by this application between the 4 approved houses and the previously approved play area to the north of this site.
- The application has been supported by a Drainage Statement which confirms that surface water from the site will be attenuated prior to discharge into the public surface water drain in Edindiach Road.

THE SITE

- The site is part of a residential designation, R8: Edindiach Road (East) in the Moray Local Development Plan 2015, which has an indicative housing allocation for 85 houses, of which there are 60 residential units approved, the majority of which are built.
- The site also forms part of the residential designation R5 Edindiach Road (West) in the Proposed Moray Local Development Plan 2020, which highlights that planning permission has been granted and development has commenced across the site.
- The proposed house site fronts onto Edindiach Road between the 4 houses approved via application 19/00513/APP to the south of the site and the play area approved as part of the original consent covering the site 07/01419/FUL. To the rear (east) of the proposed house are existing houses.

HISTORY

For the site:

07/01419/FUL - Erection of 55 no. dwellinghouses on Site Adjacent To Lorry Park Edindiach Road Keith Moray. Approved on 13 March 2009.

13/01735/APP - Extend planning consent 07/01419/FUL for erection of 55 houses on Site Adjacent to Lorry Park Edindiach Road Keith. Approved on 13 December 2013. This has been implemented and works are ongoing.

The layout of the wider R8 designation has been the subject of a number separate application to amend the layout and house types across the designation.

POLICY - SEE APPENDIX

ADVERTISEMENTS

Proposal advertised for neighbour notification purposes.

CONSULTATIONS

Contaminated Land – No objection.

Developer Obligation – Developer Obligation sought towards the provision of Healthcare within the catchment area. The applicants have confirmed that they are happy to pay this prior to the decision being issued, should members be minded to approve the application.

Environmental Health – No objection.

Moray Flood Risk Management – No objection subject to a condition to show that the water stored in the proposed rainwater harvesting tank can be re-used within the site.

Scottish Water – No objection, however, highlight that permission will be required for surface water disposal into their surface water infrastructure.

Transportation – No objection, subject to conditions and informatives.

OBJECTIONS-REPRESENTATIONS

- None

OBSERVATIONS

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the Development Plan i.e. the adopted Moray Local Development Plan 2015 (MLDP) unless material considerations indicate otherwise. On 18 December 2018,

at a special meeting of the Planning and Regulatory Services Committee, the Proposed Moray Local Development Plan 2020 was approved as the “settled view” of the Council and minimal weight will be given to it, with the 2015 MLDP being the primary consideration.

Further consideration of the weight to be attached to the Proposed Plan was considered and agreed at the Planning and Regulatory Services Committee on 29th January 2019, with the Committee agreeing that between June/ August 2019 and adoption of the new LDP in mid-2020, the weight to be given to matters set out in the Proposed Plan will vary;
- Where matters set out in the Proposed Plan are subject to unresolved objections which will be considered through Examination, then those matters will continue to be given minimal weight as a material consideration in the development management process.

Where matters set out in the Proposed Plan are not subject to unresolved objections, they will be given greater weight as a material consideration in the development management process.

The weight to be given will be considered on a case by case basis and will be agreed by the Development Management Manager and Development Plans Principal Planning Officer.

On 25 June 2019 the Planning & Regulatory Services Committee agreed to give greater weight to sites within the proposed Plan which are not subject to the Examination process from 1 August 2019. In this case the proposal is subject to a designated site which will not be subject to the Examination process and therefore will be given greater weight.

The main issues are considered below.

Keith: R8 Edindiach Road (East) Designation (MLDP 2015 R8 and policy H1) and R5 Edindiach Road (West) Proposed MLDP 2020

The Keith R8 Edindiach Road East Designation has an indicative capacity of 85 houses. This application seeks to utilise an area of ground left over from a previous application to amend the original approved layout of the wider R8 designation. The proposed house would be the 61st unit within the R8 designation and maintains the boundaries of the originally approved play area to the north of the site. Given the number of units on site is less than the indicative capacity of 85 units, in these terms the proposal accords with the terms of policy H1 and the current R8 designation. The proposal is also considered acceptable under the R5 designation in the Moray Local Development Plan 2020.

Layout, Siting and Design (PP1, PP3, H1, R8 (and R5) and IMP1)
The proposed dwelling with associated gardens, parking and boundary treatment represents an appropriate form of development for this location which is compatible with the surrounding housing development at this location. The house provides an active frontage onto Edindiach Road, whilst also maintaining the landscaping strip along the frontage of the site onto Edindiach Road.

The design and material finish of the proposed single storey hipped roof house is in keeping with the style of houses found throughout the designation.

In terms of the relationship between the proposed house and surrounding properties, given the single storey nature of the house and proposed/existing timber screen fencing,

no adverse impacts upon amenity in terms of privacy or overbearing impact will result from the proposal.

On this basis, the proposal complies with the requirements of policies PP1, PP3, H1, R8 (and R5) and IMP1.

Water and Drainage (EP5 and EP10)
The houses will connect to the public water supply and public foul drainage system. Scottish Water has raised no objection to the proposal and it is noted that any connection required will be subject to liaison between the applicant and Scottish Water.

The application has been supported by a Drainage Statement which outlines that surface water will be disposed of via attenuated flows into existing Scottish Water surface water drains within Edindiach Road. Moray Flood Risk Management and Scottish Water has raised no objection to the proposal, subject to a condition as recommended which will require re-use of the stored water within the site where possible and evidence of agreement of a connection to the Scottish Water infrastructure. On this basis the surface water drainage arrangements are considered acceptable and the proposal meets the requirements of policies EP5 and EP10.

Access and Parking (T2 and T5)
The Transportation Service has raised no objection to the proposal subject to conditions requiring the provision of on-site parking, provision of dropped kerbs, and height requirements for boundary treatment onto the public road. Subject to the development being implemented in accordance with these requirements, the proposal is acceptable and would comply with the requirements of policies T2 and T5.

Developer Obligations (IMP3)
A Developer Obligations assessment has been carried out in accordance with current Local Development Plan policy and associated supplementary planning guidance and has identified the need for contributions towards healthcare. The applicants have confirmed that they are agreeable to providing the contribution prior to the release of any consent.

REASON(S) FOR DECISION
The Council's reason(s) for making this decision are: -

The proposal accords with the provisions of the Moray Local Development Plan 2015 and the Keith R5 Edindiach Road (West) Housing designation of the Proposed Moray Local Development Plan 2020, and there are no material considerations that indicate otherwise.

Author/Contact Officer:	Iain T Drummond Planning Officer	**Ext:**	01343 563607

Beverly Smith
Development Management & Building Standards Manager

APPENDIX

Moray Local Development Plan 2015 - Material Consideration

R8: Edindiach Road (East)

This represents the first phase of a land release which will have the effect of incorporating the Den housing estate into the body of the town. Planning consent has previously been granted for 55 houses. The balance of land here is designated LONG as a future growth area.

Road access should be via Edindiach Road, around the mid-point of the site, and a secondary or emergency point of access will be required. A Transport Assessment will be needed. Road widening; footway provision and street lighting will be required in Edindiach Road.

The "Green Roadie" to the north of the site would benefit from some feature tree planting within the road verge along this boundary, and this along with similar planting on the NE site boundary, will be a requirement of the site's development.

A noise impact assessment must be carried out to confirm whether houses nearest the car body repair works will be affected.

Policy H1: Housing Land

Designated sites

Land has been designated to meet the strategic housing land requirements 2013-2025 in the settlement statements as set out in Table 1. Proposals for development on all designated housing sites must include or be supported by information regarding the comprehensive layout and development of the whole site. This allows consideration of all servicing, infrastructure and landscaping provision to be taken into account at the outset. It will also allow an assessment of any contribution or affordable housing needs to be made. Proposals must comply with the site development requirements within the settlement plans and policies and the Council's policy on Place- making and Supplementary Guidance, "People and Places".

Windfall sites within settlements

New housing on land not designated for residential development within settlement boundaries will be acceptable if;

a) The proposal does not adversely impact upon the surrounding environment, and

b) Adequate servicing and infrastructure is available, or can be made available

c) The site is not designated for an alternative use

d) The requirements of policies PP2,PP3 and IMP1are met.

Housing Density

Capacity figures indicated within site designations are indicative and proposed capacities will be considered against the characteristics of the site, conformity with policies PP3, H8 and IMP1.

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

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

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

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

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

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

Policy EP9: Contaminated Land

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

a) The applicant can demonstrate through site investigations and risk assessment, that the site is in a condition suitable for the proposed development and is not causing significant pollution of the environment; and

b) Where necessary, effective remediation measures are agreed to ensure the site is made suitable for the new use and to ensure appropriate disposal and/or treatment of any hazardous material.

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

Policy EP10: Foul Drainage

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

- Systems shall not have an adverse impact on the water environment;

- Systems must be designed and built to a standard which will allow adoption by Scottish Water.

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

All development within or close to settlements (as identified in the Local Development Plan) of less than 2000 population equivalent will require to connect to public sewerage system except where a compelling case is made otherwise. Factors to be considered in such a case will include size of the proposed development, whether the development would jeopardise delivery of public sewerage infrastructure and existing drainage problems within the area. Where a compelling case is made, a private system may be acceptable provided it does not pose or add risk of detrimental effect, including cumulative, to the natural and built environment, surrounding uses or amenity of the general area. Consultation with Scottish Environment Protection Agency will be undertaken in these cases.

Where a private system is deemed to be acceptable (within settlements as above or small scale development in the countryside) a discharge to land (either full soakaway or raised mound soakaway) compatible with Technical Handbooks (which sets out guidance on how proposals may meet the Building (Scotland) Regulations 2004) should be explored prior to considering a discharge to surface waters.

Policy T2: Provision of Access

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

- Proposals must maximise connections and routes for pedestrian and cyclists, including links to active travel and core path routes, to reduce travel demands and provide a safe and realistic choice of access.

- Provide access to public transport services and bus stop infrastructure where appropriate.

- Provide appropriate vehicle connections to the development, including appropriate number and type of junctions.

- Provide safe entry and exit from the development for all road users including ensuring appropriate visibility for vehicles at junctions and bends.

- Provide appropriate mitigation/modification to existing transport networks where required to address the impacts of new development on the safety and efficiency of the transport network. This may include but would not be limited to, the following measures, passing places, road widening, junction enhancement, bus stop infrastructure and drainage infrastructure. A number of potential

road improvements have been identified in association with the development of sites the most significant of these have been shown on the Settlement Map as TSPs.

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

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

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

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

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

Significant travel generating proposals will only be supported where:

- Direct links to walking and cycling networks are available;

- Access to public transport networks would involve walking no more than 400m;

- It would not have a detrimental effect on the capacity of the strategic road and/or rail network; and

- A Transport Assessment identifies satisfactory mechanisms for meeting sustainable transport requirements and no detrimental impact to the performance of the overall network.

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

Policy T5: Parking Standards

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

Policy IMP1: Developer Requirements

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

a) The scale, density and character must be appropriate to the surrounding area.

b) The development must be integrated into the surrounding landscape

c) Road, cycling, footpath and public transport must be provided at a level appropriate to the development. Core paths; long distance footpaths; national cycle routes must not be adversely affected.

d) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water.

e) Where of an appropriate scale, developments should demonstrate how they will incorporate renewable energy systems, and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria.

f) Make provision for additional areas of open space within developments.

g) Details of arrangements for the long term maintenance of landscape areas and amenity open spaces must be provided along with Planning applications.

h) Conservation and where possible enhancement of natural and built environmental resources must be achieved, including details of any impacts arising from the disturbance of carbon rich soil.

i) Avoid areas at risk of flooding, and where necessary carry out flood management measures.

j) Address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.

k) Address and sufficiently mitigate any contaminated land issues

l) Does not sterilise significant workable reserves of minerals or prime quality agricultural land.

m) Make acceptable arrangements for waste management.

Policy IMP3: Developer Obligations

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

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

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

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

Proposed Moray Local Development Plan 2020

PP1 PLACEMAKING

a) Development must be designed to create successful, healthy places that support good physical and mental health, help reduce health inequalities, improve people's wellbeing, safeguard the environment and support economic development.

b) A Placemaking Statement is required for residential developments of 10 units and above to be submitted with the planning application to articulate how the development proposal addresses the requirements of policy PP1 Placemaking and other relevant LDP policies and guidance. The Placemaking Statement must include a sufficient information for the Council to carry out a Quality Audit including a topo survey, slope analysis, site sections, 3D visualisations, a Landscaping Plan, a Street Engineering Review and a Biodiversity Plan as these will not be covered by suspensive conditions on a planning consent. The Placemaking Statement must demonstrate how the development promotes opportunities for healthy living and working. The landscape plan must set out details of species type, size, timescales for planting and maintenance.

c) To create successful, healthy places residential developments of 10 units and above must comply with Scottish Government policy Creating Places and Designing Streets and must incorporate the following fundamental principles;

(i) Character and Identity

- Create places that are distinctive to prevent homogenous 'anywhere' development.
- For developments of 20 units and above, provide a number of character areas that have their own distinctive identity and are clearly distinguishable. Developments of less than 20 units will be considered to be one character area, unless they are part of a larger phase of development or masterplan area.
- Provide distinctiveness between and in each character area through a combination of measures including variation in urban form, street structure/network, architecture and masonry, accent features (such as porches), surrounds and detailing, materials (buildings and surfaces), colour, boundary treatments, hard/soft landscaping and a variety of approaches to tree species and planting that emphasises the hierarchy of open spaces and streets within a cohesive design strategy for the whole development.
- Distinctiveness must be reinforced along main thoroughfares, open spaces and places where people may congregate such as shopping/service centres.
- Retain, incorporate and/or respond to relevant elements of the landscape such as topography and planted features, natural and historic environment, and propose street naming (in residential developments of 20 units and above, where proposed names are to be submitted with the planning application) to retain and enhance local associations.

(ii) Healthier, Safer Environments

- Designed to prevent crime, fear of crime and anti-social behaviour with good levels of natural surveillance and security using treatments such as low boundary walls, dual frontages (principal rooms) and well-lit routes to encourage social interaction. Unbroken high boundary treatments such as wooden fencing and blank gables onto routes, open spaces and communal areas will not be acceptable.

- Designed to encourage physical exercise for people of all abilities.
- Create a distinctive urban form with landmarks, key buildings, vistas, gateways and public art to provide good orientation and navigation through the development.
- Provide a mix of compatible uses, where indicated within settlement statements, integrated into the fabric of buildings within the street.
- Prioritise pedestrians and cyclists by providing a permeable movement framework that incorporates desire lines (including connecting to and upgrading existing desire lines) and is fully integrated with the surrounding network to create walkable neighbourhoods and encourage physical activity.
- Integrate multi-functional active travel routes, green and open space into layout and design, to create well connected places that encourage physical activity, provide attractive spaces for people to interact and to connect with nature.
- Create safe streets that influence driver behaviour to reduce vehicle speeds that are appropriate to the local context such as through shorter streets, reduced visibility and varying the building line.
- Provide seating opportunities within streets, paths and open spaces for all generations and mobility's to interact, participate in activity, and rest and reflect;
- Provide for people with mobility problems or a disability to access buildings, places and open spaces.
- Create development with pbulic fronts and private backs.
- Maximise environmental benefits through the orientation of buildings, streets and open space to maximise the health benefits associated with solar gain and wind shelter.

(iii) Housing Mix

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

(iv) Open Spaces/Landscaping

- Provide accessible, multi-functional open space within a clearly defined hierarchy integrated into the development and connected via an active travel network of green/blue corridors that are fully incorporated into the development and to the surrounding area, and meet the requirements of policy EP5 Open Space and the Open Space Strategy Supplementary Guidance and Policy EP12 Managing the Water Environment and Drainage Impact Assessment for New Developments Supplementary Guidance.
- Landscaped areas must provide seasonal variation, (mix of planting and colour) including native planting for pollination and food production.
- Landscaped areas must not be 'left-over' spaces that provide no function. 'Left-over' spaces will not contribute to the open space requirements of policy EP4 Open Space.
- Semi-mature tree planting and shrubs must be provided along all routes with the variety of approaches reflecting and accentuating the street hierarchy.
- Public and private space must be clearly defined.
- Play areas (where identified) must be inclusive, providing equipment so the facility is for every child/young person regardless of ability and provided upon completion of 50% of the character area.
- Proposals must provide advance landscaping identified in site designations and meet the quality requirements of policy EP5 Open Space.

- Structural landscaping must incorporate countryside style paths (such as bound or compacted gravel) with waymarkers.
- Maintenance arrangements for all paths, trees, hedging, shrubs, play/ sports areas, roundabouts and other open/ green spaces and blue/green corridors must be provided.

(v) Biodiversity

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

(vi) Parking

- Car parking must not dominate the streetscape to the front or rear of properties. On all streets a minimum of 75% of car parking must be provided to the side or rear and behind the building line with a maximum of 25% car parking within the front curtilage or on street, subject to the visual impact being mitigated by hedging, low stone boundary walls or other acceptable treatments that enhance the streetscape.
- Provide semi-mature trees and planting within communal private and public/visitor
- Secured and covered cycle parking and storage, car sharing spaces and electric car charging points must be provided in accordance with policy DP1 Development Principles.
- Parking areas must use a variation in materials to reduce the visual impact on the streetscene.

(vii) Street Layout and Detail

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

(d) Masterplans have been prepared for Findrassie (Elgin), Elgin South, Bilbohall (Elgin), and Dallas Dhu (Forres) and are Supplementary Guidance to the Plan. Further Masterplans will be prepared in partnership for Lochyhill (Forres), Barhill Road (Buckie), Elgin Town Centre/ Cooper Park, Elgin North East, Clarkly Hill, Burghead and West Mosstodloch. A peer review organised by the Council will be undertaken at the draft and final stages in the masterplan's preparation. Following approval, the Masterplans will be Supplementary Guidance to the Plan.

(e) Proposals for sites must reflect the key design principles and safeguard or enhance the green networks set out in the Proposals Maps and Settlement Statements. Alternative design solutions may be proposed where justification is provided to the planning authority's satisfaction to merit this.

PP2 SUSTAINABLE ECONOMIC GROWTH.

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

PP3 INFRASTRUCTURE & SERVICES.

Development must be planned and co-ordinated with infrastructure to ensure that places function properly and proposals are adequately served by infrastructure and services. A Utilities Plan must be submitted with planning applications setting out how existing and new utility (including gas, water, electricity, pipelines and pylons) provision have been incorporated into the layout and design of the proposal.

a) Development proposals will need to provide for the following infrastructure and services:

i) Education, Health, Transport, Sports and Recreation and Access facilities in accord with Supplementary Guidance on Developer Obligations and Open Space.

ii) Green infrastructure and network requirements specified in policy EP5 Open Space, Town and Village Maps and, contained within Supplementary Guidance on the Open Space Strategy, Masterplans and Development Briefs.

iii) Mitigation/modification to the existing transport network to address the impact of the proposed development in terms of safety and efficiency. This may include but not be limited to passing places, road widening, junction enhancement, bus stop infrastructure, and drainage infrastructure. A number of potential road and transport improvements are identified and shown on the Town and Village Maps as Transport Proposals (TSP's) including the interventions in the Elgin Transport Strategy. These requirements are not exhaustive and do not pre-empt any measures which may result from the Transport Assessment process.

iv) Electric car charging points must be provided at all commercial, community and communal parking facilities. Access to charging points must also be provided for residential on plot parking provision. Car share parking spaces must be provided

within communal parking areas where a need is identified by the Transportation Manager.

v) Active Travel and Core Path requirements specified in the Council's Active Travel Strategy and Core Path Plan.

vi) Safe transport and access routes linking to existing networks and mitigating the impacts of development off-site.

vii) Information Communication Technology (ICT) and fibre optic broadband connections for all premises unless justification is provided to substantiate it is technically unfeasible.

viii) Foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS), including construction phase SUDS.

ix) Measures that implement the waste management hierarchy as defined in the Zero Waste Plan for Scotland including the provision of local waste storage and recycling facilities designed into the development in accord with policy PP1 Placemaking. For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.

x) Infrastructure required to improve or increase capacity at Water Treatment Works and Waste Water Treatment Works will be supported subject to compliance with policy DP1.

b) Development proposals will not be supported where they:

i) Create new accesses onto trunk roads and other main/key routes (A941 & A98) unless significant economic benefits are demonstrated.

ii) Adversely impact on active travel routes, core paths, rights of way, long distance and other access routes and cannot be adequately mitigated by an equivalent or better alternative provision in a location convenient for users.

iii) Adversely impact on blue/green infrastructure, including green networks important for wildlife unless an equivalent or better alternative provision will be provided.

iv) Are incompatible with key waste sites at Dallachy, Gollanfield, Moycroft and Waterford and would prejudice their operation.

v) Adversely impact on community and recreational sites, buildings or infrastructure including CF designations and cannot be adequately mitigated.

vi) Adversely impact on flood alleviation and mitigation infrastructure.

vii) Compromise the economic viability of bus or rail facilities.

c) **Harbours.**

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

d) **Developer Obligations.**

Developer obligations will be sought to mitigate any measurable adverse impact of a development proposal on local infrastructure, including education, healthcare, transport, sports and recreational facilities and access routes. Obligations will be sought to reduce, eliminate or compensate for this impact.

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

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

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

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

DP1 DEVELOPMENT PRINCIPLES.

This policy applies to all developments, including extensions and conversions and will be applied proportionately.

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

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

(i) **Design**

•a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.

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

•c) Make provision for new open space and connect to existing open space under the requirements of Policy EP5 and provide details of the future maintenance of these spaces. A detailed landscape plan must be submitted with planning applications and include information about green/blue infrastructure, tree species, planting, ground/soil conditions, and natural and man-made features (e.g. grass areas, wildflower verges, fencing, walls, paths, etc.).

•d) Demonstrate how the development will conserve and enhance the natural and built environment and cultural heritage resources, retain original land contours and integrate into the landscape.

•e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.

•f) Proposals do not result in backland development or plots that are subdivided by more than 50% of the original plot. Sub-divided plots must be a minimum of 400m2, excluding access and the built-up area of the application site will not exceed one-third of the total area of the plot and the resultant plot density and layout reflects the character of the surrounding area.

•g) Pitched roofs will be preferred to flat roofs and box dormers are not acceptable.

•h) Existing stone walls on buildings and boundaries must be retained.

•i) Alteratons and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.

i) Proposals must orientate and design buildings to maximise opportunities for solar gain

(ii) **Transportation**

•a) Proposals must provide safe entry and exit from the development, including the appropriate number and type of junctions, maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, reduce travel demands and ensure appropriate visibility for all road users at junctions and bends. Road, cycling, footpath and public transport connections and infrastructure must be provided at a level appropriate to the development and connect people to education, employment, recreation, health, community and retail facilities.

•b) Car parking must not dominate the street scene and must be provided to the side or rear and behind the building line. Minimal (25%) parking to the front of buildings and on street may be permitted provided that the visual impact of the parked cars is mitigated by hedging or low stone boundary walls. Roadways with a single carriageway must provide sufficient off road parking to avoid access routes being blocked to larger service vehicles and prevent parking on pavements.

•c) Provide safe access to and from the road network, address any impacts on road safety and the local road and public transport network. Any impacts identified through Transport Assessments/ Statements must be identified and mitigated. This may include but would not be limited to, passing places, road widening, junction improvements, bus stop infrastructure and drainage infrastructure. A number of potential mitigation measures have been identified in association with the development of sites and the most significant are shown on the Proposals Map as TSP's.

•d) Provide covered and secure facilities for cycle parking at all flats/apartments, retail, community, education, health and employment centres.

•e) Garages and parking provision must be designed to comply with Moray Council parking specifications see Appendix 2.

•f) The road layout must be designed to allow for the efficient mechanical sweeping of all roadways and channels, paviors, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of service vehicles with hammerheads minimised in preference to turning areas and to provide adequate space for the collection of waste and movement of waste collection vehicles.

•g) The road and house layout in urban development should allow for communal refuse collection points where the design does not allow for individual storage within the curtilage and / or collections at kerbside. Communal collection points may either be for the temporary storage of containers taken by the individual householder or for the permanent storage of larger containers. The requirements for a communal storage area are stated within the Council's Kerbside Collection Policy, which will be a material consideration.

•h) Road signs should be minimised designed and placed at the back of footpaths to reduce street clutter, avoid obstructing pedestrian movements and safeguarding sightlines.

•i) Within communal parking areas there will be a requirement for electric car charging points. Parking spaces for car sharing must be provided where a need is identified by the Transportation Manager.

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

•a) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water including temporary/ construction phase SUDS (see Policy EP12).

•b) New development should not be located in areas at flood risk or increase

vulnerability to flooding (see Policy EP12). Exceptions to this would only be considered in specific circumstances, e.g. extension to an existing building or change of use to an equal or less vulnerable use. Where this exception is applied the proposed development must include resilience measures such as raised floor levels and electrical sockets.

•c) Proposals must avoid major hazard sites and address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.

•d) Proposals must protect and wherever practicable enhance water features through for example naturalisation of watercourses by introducing a more natural planform and removing redundant or unnecessary structures.

•e) Proposals must address and sufficiently mitigate any contaminated land issues.

•f) Make acceptable arrangements for waste collection and management and encourage recycling.

•g) Avoid sterilising significant workable reserves of minerals, prime agricultural land or productive forestry.

•h) Proposals must avoid areas at risk of coastal erosion and coastal change.

EP13 FOUL DRAINAGE

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

- Systems must not have an adverse effect on the water environment.

- Systems must be designed and built to a standard which will allow adoption by Scottish Water.

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

All development within or close to settlements (as above) of less than 2,000 population will require to connect to public sewerage except where a compelling case is made otherwise. Factors to be considered in such a case will include size of the proposed development, whether the development would jeopardise delivery of public sewerage infrastructure and existing drainage problems within the area. Where a compelling case is made, a private system may be acceptable provided it does not pose or add a risk of detrimental effects, including cumulative, to the natural and built environment, surrounding uses or amenity of the general area.

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

R5 Edindiach Road (West) 5.35 ha 55 units

• Planning consent has previously been granted for 55 houses with development commenced.

WARD 02_17

19/01401/APP
2nd December 2019

Section 42 application for vary Condition 1, 7, 8 and 11 of planning permission 15/00271/APP to allow for the permanent retention of the contractors compound associated with the building of HVDC convertor station at Little Gibston Blackhillock Keith Moray for SSE

Comments:

- A SITE VISIT has been carried out.
- The application is being reported to Committee because it is a major development as defined under the Hierarchy Regulations 2008 for industrial development where the site exceeds 2 hectares.
- Advertised for neighbour notification purposes - notification not possible. because no premises situated on land to which notification can be sent.
- No objections/representations received.

Procedure:

- None

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

Conditions/Reasons

1. Unless otherwise agreed in writing by the Planning Authority, in consultation with the Environmental Health Manager, no activity audible from within the nearest noise sensitive property shall be permitted out with the hours of 0730 to 1800 hours, Monday to Friday, and 0800 to 1300 hours on Saturdays with no working on Sundays or public holidays.

   Reason – In order to ensure that use of the compound out with normal working hours can be controlled as to prevent any unacceptable loss of amenity to neighbouring noise sensitive properties.

2. Beyond the conditions varied by this permission (1, 7, 8 and 11) the development must comply with all other conditions and requirements of planning permission 15/00271/APP approved on the 19 May 2015. This is inclusive of the need to maintain the visibility splay as approved and developed under condition 3 of planning permission15/00271/APP.

Reason – In order to clarify which planning conditions remain extant from the original planning permission hereby varied under Section 42 of the Act and to ensure acceptable development that does not create any hazard to road users in the interests of road safety.

3. The development must be developed in accordance with the approved Proposed Site Plan' PSSE-19-109-3002 which seeks variations to the compound layout from that approved under planning permission15/00271/APP.

Reason – In order to clarify which planning conditions remain extant from the original planning permission hereby varied under Section 42 of the Act.

Reason(s) for Decision

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

The proposal accords with the provisions of the local development plan 2015 and there are no material considerations that indicate otherwise.

List of Informatives:

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

A Building Warrant will be required.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	**Title/Description**
PSSE-19-109-330	Location plan
PSSE-19-109-3002	Proposed site plan

PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:
19/01401/APP

Site Address:
Little Gibston
Blackhillock Keith

Applicant Name:
SSE

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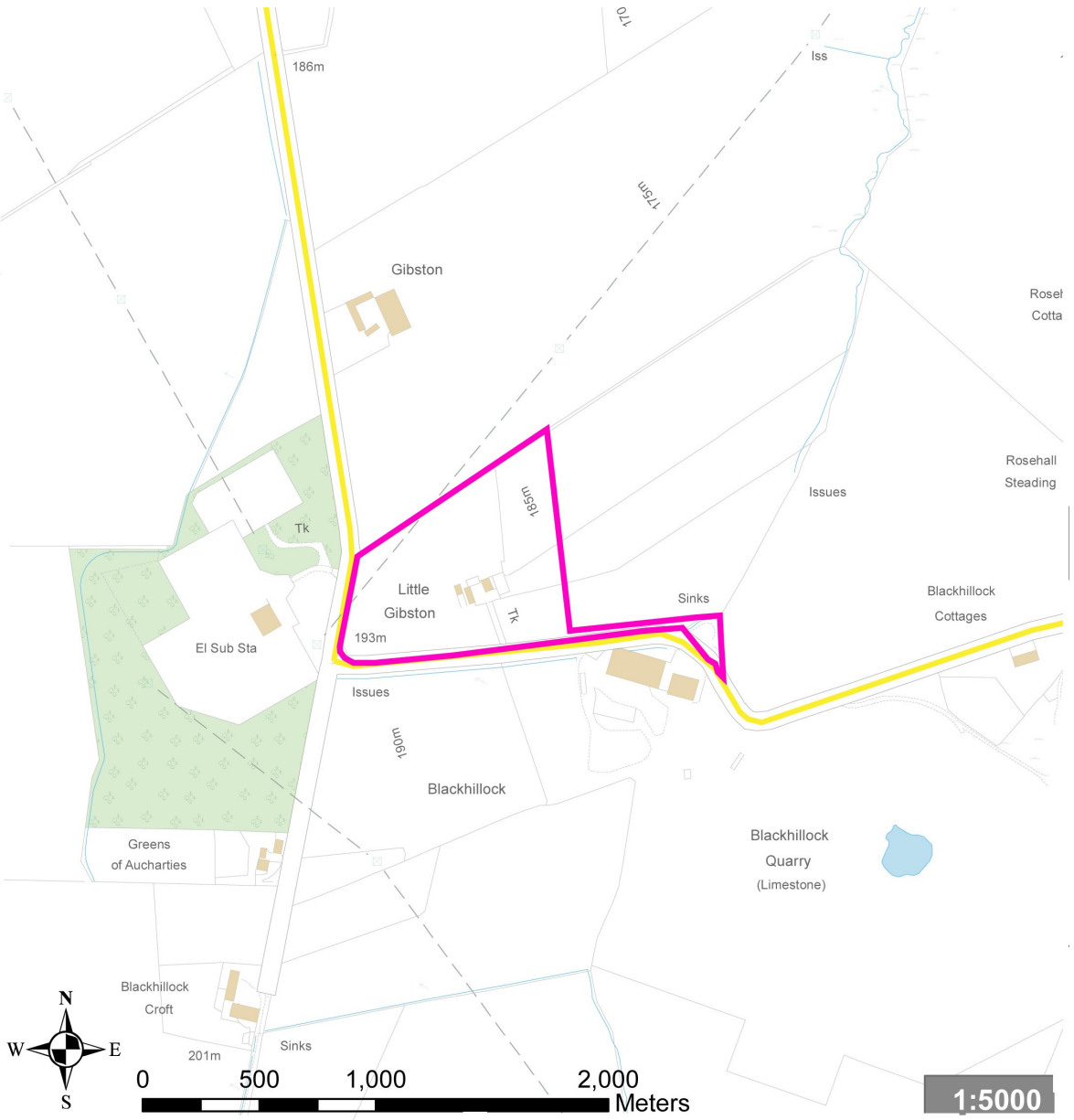
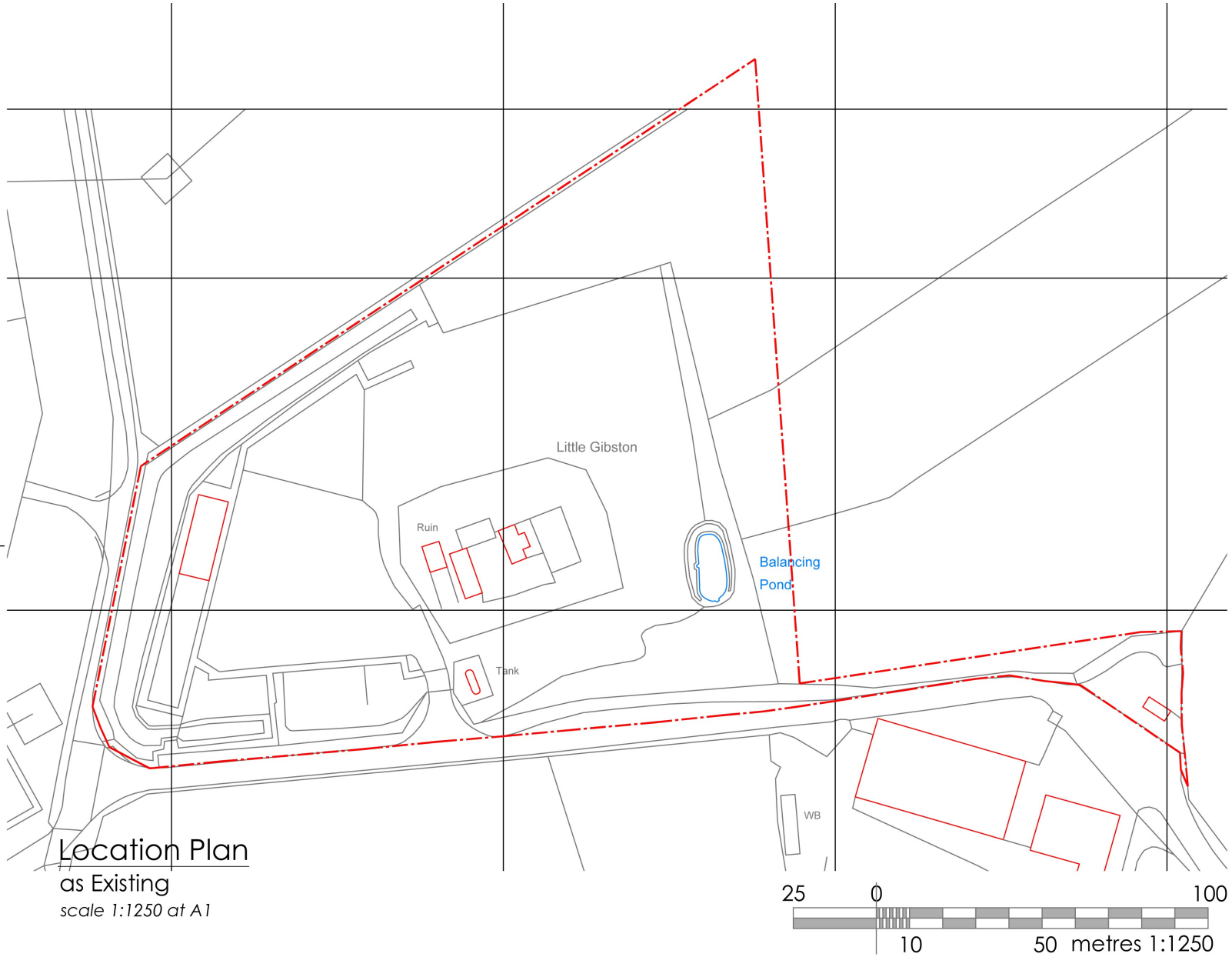
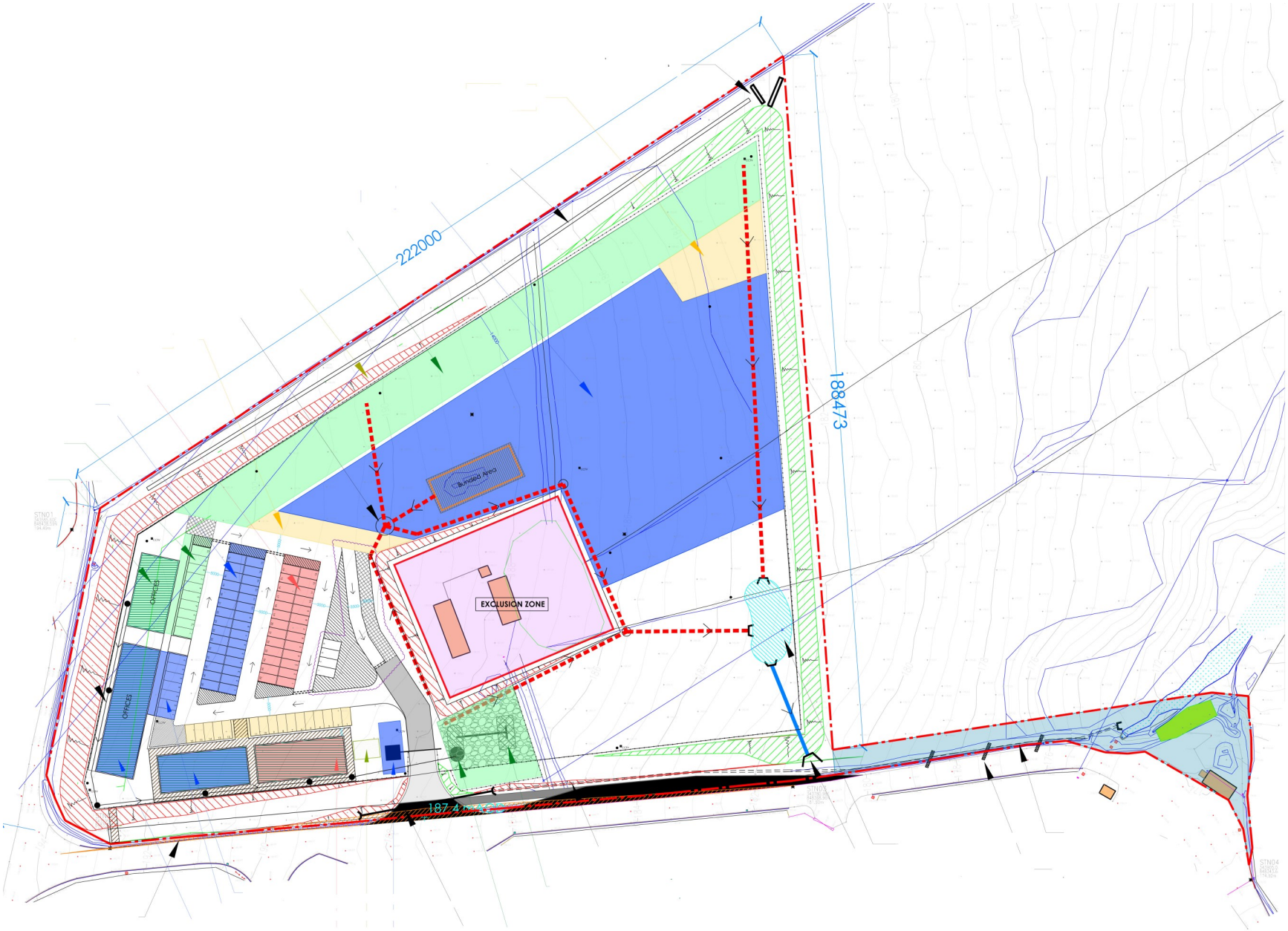
Location Plan



Site Location



Site layout



JCB
GRS

Scottish & Southern
Electricity Networks

PLANNING APPLICATION: 19/01401/APP

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

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THE PROPOSAL

- The development relates to the variation of a former temporary permission for a temporary site construction compound in association with nearby electricity substation expansion and onshore cabling to Portgordon.
- The current application alters various conditions of consent 15/00271/APP seeking to change the temporary consent to permanent retention of the compound for contractors working primarily in relation to the adjoining operational national grid sub-station at Blackhillock. The existing infrastructure currently in situ would be retained inclusive of the security fencing surrounding the compound.
- The development seeks the retention of existing tarred access, adjacent lay-by, onsite car park, large hard-cored surface areas, bunded fuel storage area, foul and surface water drainage infrastructure would remain.
- Retention of single storey welfare, office and canteen modular buildings is also proposed with the office block to be 450sqm in floor area and welfare buildings each to be 240sqm in floor area.

THE SITE

- The site occupies an area approximately 2.8 hectares (excluding area of existing croft buildings known as Little Gibston).
- Currently rough agricultural land. the site is bound to the north and east by agricultural land and to the south and west by a minor public road.
- A derelict cottage and outbuilding at Little Gibston remain within the centre of the site and will be segregated from the surrounding site.
- The site slopes gradually downhill from west to east.

HISTORY

On site

15/00271/APP - Site construction compound and offices associated with the building of HVDC Convertor Station at Blackhillock Substation and cable works to Portgordon at Little Gibston, Keith. Approved by Committee and decision subsequently issued 19 May 2015 and granted a temporary consent for 6 years to cover the major construction project at Blackhillock substation.

Nearby

12/01163/APP - Provision of site office, welfare facilities, and parking for a period of 4 years during construction of the expanded electricity substation and road widening of the

U43(H) east of Blackhillock Sub Station, Keith. Approved in January 2013 and has subsequently been removed.

12/00834/APP - Electricity substation expansion at Blackhillock Sub Station, Keith approved in October 2012 and now under construction. The proposed compound would be used in part in relation to these ongoing works. The current application site was previously considered as part of this larger application, but was latterly omitted from the approval as being surplus to requirements, but the situation has since changed.

POLICY - SEE APPENDIX

ADVERTISEMENTS

Advertised for neighbour notification purposes

CONSULTATIONS

Building Standards – A building warrant is required.

Moray Flood Risk Management - no objection, surface drainage previously installed.

SEPA – no objection

Transportation Manager – no objection

Contaminated Land – no objection

Environmental Health – condition to ensure, as the compound is made permanent, a condition is in place to regulate any noise generating activity out with normal working hours does not cause a nuisance to the nearest noise sensitive buildings.

Scottish Water – no objection, but advice offered. Letter passed to applicant.

Developer Obligations – none sought

OBJECTIONS-REPRESENTATIONS

None.

OBSERVATIONS

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the Development Plan i.e. the adopted Moray Local Development Plan 2015 (MLDP) unless material considerations indicate otherwise. On 18 December 2018, at a special meeting of the Planning and Regulatory Services Committee, the Proposed Moray Local Development Plan 2020 was approved as the "settled view" of the Council and minimal weight will be given to it, with the 2015 MLDP being the primary consideration.

Further consideration of the weight to be attached to the Proposed Plan was considered and agreed at the Planning and Regulatory Services Committee on 29th January 2019, with the Committee agreeing that between June/ August 2019 and adoption of the new LDP in mid-2020, the weight to be given to matters set out in the Proposed Plan will vary;

- Where matters set out in the Proposed Plan are subject to unresolved objections which will be considered through Examination, then those matters will continue to be given minimal weight as a material consideration in the development management process.
- Where matters set out in the Proposed Plan are not subject to unresolved objections, they will be given greater weight as a material consideration in the development management process.

  The weight to be given will be considered on a case by case basis and will be agreed by the Development Management Manager and Development Plans Principal Planning Officer.

In this case the proposal is not subject to a designated site.

Background

The Moray Council has previously approved (under planning reference 12/00834/APP) the substantial upgrading and expansion of the Blackhillock Electricity substation near Keith which is part of the overall re-enforcement and increase in capacity of the national grid in the north east of Scotland. Separate to that, Scottish and Southern Electricity (SSE) are also constructing an underground cable from Blackhillock north towards Portgordon in relation to the North Highland national grid re-enforcement and subsea connection.

This temporary compound was required in relation to these two large projects and compliments the similar existing temporary compound immediately to the south of Little Gibston which was approved under planning application 12/01163/APP in early 2013 (and which has now been removed).

As a major development in its own right (exceeding 2 hectares) this proposal was previously subject to pre-application consultation procedures when planning application 15/00271/APP was submitted. As the current application however is submitted under Seciton 42 of the Town and Country Planning (Scotland) Act 1997 no such consultation is required.

The main issues are considered below:

The request for the Section 42 focused on those conditions pertinent to the applications status as temporary consent. Of note the nature of the compound would change in that specialist contractors now using the compound will have a change in role, from that of construction to maintenance and repair of the neighbouring substation. Given the activities would be very similar to those that occurred during the construction and commissioning of the substation it is considered the request for retention of the compound beyond construction is still acceptable under Section 42. In essence the activity would be very similar, with constant maintenance of equipment and structures on the substation by contractors basing themselves at the compound, but working on the adjoining substation site.

Condition 1 referred to the temporary consent period of 6 years sought to enable various major infrastructure projects in the Blackhillock area.

Condition 7 referred to a specific car park layout relevant to the construction period of Blackhillock substation. The car park requirements will now have changed and the submitted site layout plans shows minor alterations to the proposed compound layout.

Condition 8, given the previous temporary nature of the compound this condition sought compliance with the submitted site 'restoration plan'. The application seeks to negate this condition if permanent approval of the compound is granted. While the portacabins would be approved in perpetuity it is noted they are of a high standard, and the subsequent building warrant would access their longevity.

Condition 11 A condition requiring removal of a foul drainage provisions (including underground tanks) once the site is vacated, would no longer be required of the site were to be retained.

Impact upon locality (ED8 and IMP1)

The site occupies an area of land east of the existing Blackhillock substation and does not occupy a prominent location within the landscape and when viewed from the A96(T) to the east. The compound has a back drop of the existing substation at Blackhillock. The site lies approximately 200m north of the property known as the Greens of Aucharties and a similar distance south from the property known as Gibston to the north, and it is noted there are no objections to the application. As the site is primarily for contractor's welfare and offices and storage of materials to be used off-site it is not considered that it will have any detrimental effect on amenity to the properties in the area. The site will primarily now host contractors and staff working to maintain and upkeep the adjoining substation, so the site should see little other than movements of vehicles, some small plant and personnel.

The site having been established for some time now is well established in the landscape, and is in keeping with the nature of the locality now, where the focus is upon the large SSE substation and adjoining Beatrice substation.

The proposal therefore complies with the requirements of local plan policy ED8 Rural Business Proposals and IMP1 Development Requirements.

Access and parking (T2 and T5)

The various traffic requirements identified in the previous planning application 15/00271/APP were subsequently delivered. In terms of access and parking, the substantive passing place and access bellmouth have been provided for some time now, and aid vehicles movements and turning in the area. The parking within the compound is still sufficient to address the needs of the various contractors.

REASON(S) FOR DECISION
The Council's reason(s) for making this decision are: -

The proposal accords with the provisions of the local development plan 2015 and there are no material considerations that indicate otherwise.

Author/Contact Officer:	Neal MacPherson Principal Planning Officer	**Ext:**	01343 563266

Beverly Smith
Development Management & Building Standards Manager

APPENDIX

POLICY

Adopted Moray Local Development Plan 2015

Primary Policy PP1: Sustainable Economic Growth

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

Primary Policy PP2: Climate Change

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

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

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

Policy ED7: Rural Business Proposals

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

a) There is a locational justification for the site concerned, particularly if there is serviced industrial land available in a nearby settlement.

b) There is capacity in the local infrastructure to accommodate the proposals, particularly road access, or that mitigation measures can be achieved.

c) Account is taken of environmental considerations, including the impact on natural and built heritage designations, with appropriate protection for the natural environment; the use of enhanced opportunities for natural heritage integration into adjoining land.

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

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

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

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

Policy E4: Trees and Development

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

Within Conservation Areas the Council will only agree to the felling of dead, dying, or dangerous trees. Trees felled within Conservation Areas or subject to TPO protection should be replaced, unless otherwise agreed with the Council.

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

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

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

Proposals affecting woodland will be considered against Policy ER2.

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

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

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

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

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

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

Policy EP6: Waterbodies

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

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

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

Policy EP10: Foul Drainage

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

- Systems shall not have an adverse impact on the water environment;

- Systems must be designed and built to a standard which will allow adoption by Scottish Water.

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

All development within or close to settlements (as identified in the Local Development Plan) of less than 2000 population equivalent will require to connect to public sewerage system except where a compelling case is made otherwise. Factors to be considered in such a case will include size of the proposed development, whether the development would jeopardise delivery of public sewerage infrastructure and existing drainage problems within the area. Where a compelling case is made, a private system may be acceptable provided it does not pose or add risk of detrimental effect, including cumulative, to the natural and built environment, surrounding uses or amenity of the general area. Consultation with Scottish Environment Protection Agency will be undertaken in these cases.

Where a private system is deemed to be acceptable (within settlements as above or small scale development in the countryside) a discharge to land (either full soakaway or raised mound soakaway) compatible with Technical Handbooks (which sets out guidance on how proposals may meet the Building (Scotland) Regulations 2004) should be explored prior to considering a discharge to surface waters.

Policy T2: Provision of Access

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

- Proposals must maximise connections and routes for pedestrian and cyclists, including links to active travel and core path routes, to reduce travel demands and provide a safe and realistic choice of access.

- Provide access to public transport services and bus stop infrastructure where appropriate.

- Provide appropriate vehicle connections to the development, including appropriate number and type of junctions.

- Provide safe entry and exit from the development for all road users including ensuring appropriate visibility for vehicles at junctions and bends.

- Provide appropriate mitigation/modification to existing transport networks where required to address the impacts of new development on the safety and efficiency of the transport network. This may include but would not be limited to, the following measures, passing places, road widening, junction enhancement, bus stop infrastructure and drainage infrastructure. A number of potential

road improvements have been identified in association with the development of sites the most significant of these have been shown on the Settlement Map as TSPs.

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

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

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

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

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

Significant travel generating proposals will only be supported where:

- Direct links to walking and cycling networks are available;

- Access to public transport networks would involve walking no more than 400m;

- It would not have a detrimental effect on the capacity of the strategic road and/or rail network; and

- A Transport Assessment identifies satisfactory mechanisms for meeting sustainable transport requirements and no detrimental impact to the performance of the overall network.

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

Policy T5: Parking Standards

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

Policy IMP1: Developer Requirements

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

a) The scale, density and character must be appropriate to the surrounding area.

b) The development must be integrated into the surrounding landscape

c) Road, cycling, footpath and public transport must be provided at a level appropriate to the development. Core paths; long distance footpaths; national cycle routes must not be adversely affected.

d) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water.

e) Where of an appropriate scale, developments should demonstrate how they will incorporate renewable energy systems, and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria.

f) Make provision for additional areas of open space within developments.

g) Details of arrangements for the long term maintenance of landscape areas and amenity open spaces must be provided along with Planning applications.

h) Conservation and where possible enhancement of natural and built environmental resources must be achieved, including details of any impacts arising from the disturbance of carbon rich soil.

i) Avoid areas at risk of flooding, and where necessary carry out flood management measures.

j) Address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.

k) Address and sufficiently mitigate any contaminated land issues

l) Does not sterilise significant workable reserves of minerals or prime quality agricultural land.

m) Make acceptable arrangements for waste management.

Policy IMP3: Developer Obligations

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

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

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

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

Proposed Moray Local Development Plan 2020

PP2 SUSTAINABLE ECONOMIC GROWTH.

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

PP3 INFRASTRUCTURE & SERVICES.

Development must be planned and co-ordinated with infrastructure to ensure that places function properly and proposals are adequately served by infrastructure and services. A Utilities Plan must be submitted with planning applications setting out how existing and new utility (including gas, water, electricity, pipelines and pylons) provision have been incorporated into the layout and design of the proposal.

a) Development proposals will need to provide for the following infrastructure and services:

i) Education, Health, Transport, Sports and Recreation and Access facilities in accord with Supplementary Guidance on Developer Obligations and Open Space.

ii) Green infrastructure and network requirements specified in policy EP5 Open Space, Town and Village Maps and, contained within Supplementary Guidance on the Open Space Strategy, Masterplans and Development Briefs.

iii) Mitigation/modification to the existing transport network to address the impact of the proposed development in terms of safety and efficiency. This may include but not be limited to passing places, road widening, junction enhancement, bus stop infrastructure, and drainage infrastructure. A number of potential road and transport improvements are identified and shown on the Town and Village Maps as Transport Proposals (TSP's) including the interventions in the Elgin Transport Strategy. These requirements are not exhaustive and do not pre-empt any measures which may result from the Transport Assessment process.

iv) Electric car charging points must be provided at all commercial, community and communal parking facilities. Access to charging points must also be provided for residential on plot parking provision. Car share parking spaces must be provided within communal parking areas where a need is identified by the Transportation Manager.

v) Active Travel and Core Path requirements specified in the Council's Active Travel Strategy and Core Path Plan.

vi) Safe transport and access routes linking to existing networks and mitigating the impacts of development off-site.

vii) Information Communication Technology (ICT) and fibre optic broadband connections for all premises unless justification is provided to substantiate it is technically unfeasible.

viii) Foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS), including construction phase SUDS.

ix) Measures that implement the waste management hierarchy as defined in the Zero Waste Plan for Scotland including the provision of local waste storage and recycling facilities designed into the development in accord with policy PP1 Placemaking. For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.

x) Infrastructure required to improve or increase capacity at Water Treatment Works and Waste Water Treatment Works will be supported subject to compliance with policy DP1.

b) Development proposals will not be supported where they:

i) Create new accesses onto trunk roads and other main/key routes (A941 & A98) unless significant economic benefits are demonstrated.

ii) Adversely impact on active travel routes, core paths, rights of way, long distance and other access routes and cannot be adequately mitigated by an equivalent or better alternative provision in a location convenient for users.

iii) Adversely impact on blue/green infrastructure, including green networks important for wildlife unless an equivalent or better alternative provision will be provided.

iv) Are incompatible with key waste sites at Dallachy, Gollanfield, Moycroft and Waterford and would prejudice their operation.

v) Adversely impact on community and recreational sites, buildings or infrastructure including CF designations and cannot be adequately mitigated.

vi) Adversely impact on flood alleviation and mitigation infrastructure.

vii) Compromise the economic viability of bus or rail facilities.

c) **Harbours.**

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

d) **Developer Obligations.**

Developer obligations will be sought to mitigate any measurable adverse impact of a development proposal on local infrastructure, including education, healthcare, transport, sports and recreational facilities and access routes. Obligations will be sought to reduce, eliminate or compensate for this impact.

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

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

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

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

DP1 DEVELOPMENT PRINCIPLES.

This policy applies to all developments, including extensions and conversions and will be applied proportionately.

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

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

(i) **Design**

•a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.

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

•c) Make provision for new open space and connect to existing open space under the requirements of Policy EP5 and provide details of the future maintenance of these spaces. A detailed landscape plan must be submitted with planning applications and include information about green/blue infrastructure, tree species, planting, ground/soil conditions, and natural and man-made features (e.g. grass areas, wildflower verges, fencing, walls, paths, etc.).

•d) Demonstrate how the development will conserve and enhance the natural and built environment and cultural heritage resources, retain original land contours and integrate into the landscape.

•e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.

•f) Proposals do not result in backland development or plots that are subdivided by more than 50% of the original plot. Sub-divided plots must be a minimum of 400m2, excluding access and the built-up area of the application site will not exceed one-third of the total area of the plot and the resultant plot density and layout reflects the character of the surrounding area.

•g) Pitched roofs will be preferred to flat roofs and box dormers are not acceptable.

•h) Existing stone walls on buildings and boundaries must be retained.

•i) Alteratons and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.

i) Proposals must orientate and design buildings to maximise opportunities for solar gain

(ii) **Transportation**

•a) Proposals must provide safe entry and exit from the development, including the appropriate number and type of junctions, maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, reduce travel demands and ensure appropriate visibility for all road users at junctions and bends. Road, cycling, footpath and public transport connections and infrastructure must be provided at a level appropriate to the development and connect people to education, employment, recreation, health, community and retail facilities.

•b) Car parking must not dominate the street scene and must be provided to the side or rear and behind the building line. Minimal (25%) parking to the front of buildings and on street may be permitted provided that the visual impact of the parked cars is mitigated by hedging or low stone boundary walls. Roadways with a single carriageway must provide sufficient off road parking to avoid access routes being blocked to larger service vehicles and prevent parking on pavements.

•c) Provide safe access to and from the road network, address any impacts on road safety and the local road and public transport network. Any impacts identified through Transport Assessments/ Statements must be identified and mitigated. This may include but would not be limited to, passing places, road widening, junction improvements, bus stop infrastructure and drainage infrastructure. A number of potential mitigation measures have been identified in association with the development of sites and the most significant are shown on the Proposals Map as TSP's.

•d) Provide covered and secure facilities for cycle parking at all flats/apartments, retail, community, education, health and employment centres.

•e) Garages and parking provision must be designed to comply with Moray Council parking specifications see Appendix 2.

•f) The road layout must be designed to allow for the efficient mechanical sweeping of all roadways and channels, paviors, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of service vehicles with hammerheads minimised in preference to turning areas and to provide adequate space for the collection of waste and movement of waste collection vehicles.

•g) The road and house layout in urban development should allow for communal refuse collection points where the design does not allow for individual storage within the curtilage and / or collections at kerbside. Communal collection points may either be for the temporary storage of containers taken by the individual householder or for the permanent storage of larger containers. The requirements for a communal storage area are stated within the Council's Kerbside Collection Policy, which will be a material consideration.

•h) Road signs should be minimised designed and placed at the back of footpaths to reduce street clutter, avoid obstructing pedestrian movements and safeguarding sightlines.

•i) Within communal parking areas there will be a requirement for electric car charging points. Parking spaces for car sharing must be provided where a need is identified by the Transportation Manager.

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

•a) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water including temporary/ construction phase SUDS (see Policy EP12).

•b) New development should not be located in areas at flood risk or increase vulnerability to flooding (see Policy EP12). Exceptions to this would only be considered in specific circumstances, e.g. extension to an existing building or change of use to an equal or less vulnerable use. Where this exception is applied the proposed development must include resilience measures such as raised floor levels and electrical sockets.

•c) Proposals must avoid major hazard sites and address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.

•d) Proposals must protect and wherever practicable enhance water features through for example naturalisation of watercourses by introducing a more natural planform and removing redundant or unnecessary structures.

•e) Proposals must address and sufficiently mitigate any contaminated land issues.

•f) Make acceptable arrangements for waste collection and management and encourage recycling.

•g) Avoid sterilising significant workable reserves of minerals, prime agricultural land or productive forestry.

•h) Proposals must avoid areas at risk of coastal erosion and coastal change.

BUSINESS & INDUSTRY

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

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

b) **Business Parks.**

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

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

c) **Industrial Estates.**

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

d) **Existing Business Areas.**

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

e) **Other Uses.**

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

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

f) **Areas of Mixed Use.**

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

g) **Rural Businesses and Farm Diversification.**

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

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

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

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

h) **Inward Investment Sites.**

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

Proposals must comply with Policy DP1 and other relevant policies.

EP7 FORESTRY, WOODLANDS AND TREES.

a) Forestry.

Proposals which support the economic, social and environmental objectives and projects identified in the Moray Forestry and Woodlands Strategy will be supported where they meet the requirements of all other relevant Local Development Plan policies. The Council will consult Forestry Commission Scotland on proposals which are considered to adversely affect commercial forests.

b) Woodlands.

In support of the Scottish Government's Control of Woodland Removal Policy, development which involves permanent woodland removal will only be permitted where it would achieve significant and clearly defined additional public benefits and where removal will not result in unacceptable adverse effects on the amenity, landscape, biodiversity, economic or recreational value of the woodland or prejudice the management of the woodland.

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

Woodlands identified in the Ancient Woodland Inventory are important not just for the trees, but for the soil structure, flora and fauna that rely on such woodlands. Ancient woodland ecosystems have been created over hundreds of years and are irreplaceable. Woodland removal within native woodlands identified as a feature of sites protected under Policy EP1 or woodland identified in the Ancient Woodland Inventory will not be supported.

c) Trees and Tree Preservation Orders.

Development proposals must to retain existing healthy, mature trees and incorporate them within the proposal. Where mature trees exist on or bordering a development site, a tree survey and tree protection and mitigation plan must be provided with planning applications if the trees (or their roots) have the potential to be affected by development and construction activity. Proposals must identify a safeguarding distance to ensure construction works, including access and drainage arrangements, will not damage or interfere with the root systems in the short or longer term.

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

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

EP8 HISTORIC ENVIRONMENT.

a) Scheduled Monuments and National Designations.

Where a proposed development potentially has a direct impact on a scheduled monument, the written consent of Historic Environment Scotland is required, in addition to any other necessary consents.

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

b) Local Designations.

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

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

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

EP12 MANAGEMENT AND ENHANCEMENT OF THE WATER ENVIRONMENT.

a) Flooding.

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

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

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

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

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

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

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

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

a) In areas of little to no risk (less than 0.1%), there will be no general constraint to development.

b) Areas oflow to medium risk (0.1% to 0.5%) will be considered suitable for most development. A flood risk assessment may be required at the upper end of the probability range i.e. (close to 0.5%) and for essential civil infrastructure and the most vulnerable uses. Water resistant materials and construction may be required. Areas within this risk category will generally not be suitable for civil infrastructure. Where civil infrastructure must be located in these areas or is being substantially extended, it should be designed to be capable of remaining operational and accessible during flooding events.

c) Areas of medium to high risk (0.5% or above) may be suitable for:

- Residential, institutional, commercial and industrial development within built up areas provided that flood protection measures to the appropriate standard already exist and are maintained, are under construction, or are a planned measure in a current flood management plan;

- Essential infrastructure within built up areas, designed and constructed to remain operational during floods and not impede water flow;

- Some recreational, sport, amenity and nature conservation uses, provided appropriate evacuation procedures are in place, and

- Employment related accommodation e.g. caretakers or operational staff.

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

- Civil infrastructure and most valnerable uses.

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

- New caravan and camping sites.

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

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

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

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

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

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

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

c) Water Environment

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

relevant), nature conservation (including protected species), fisheries, recreational, landscape, amenity and economic and social impact can be adequately mitigated.

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

A buffer strip of at least 6 metres between any new development and all water features is required and should be proportional to the bank width and functional river corridor (see table on page 104). This must achieve the minimum width within the specified range as a standard, however, the actual required width within the range should be calculated on a case by case basis by an appropriately qualified individual. These must be designed to link with blue and green networks, including appropriate native riparian vegetation and can contribute to open space requirements.

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

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

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

EP13 FOUL DRAINAGE

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

- Systems must not have an adverse effect on the water environment.

- Systems must be designed and built to a standard which will allow adoption by Scottish Water.

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

All development within or close to settlements (as above) of less than 2,000 population will require to connect to public sewerage except where a compelling case is made otherwise. Factors to be considered in such a case will include size of the proposed development, whether the development would jeopardise delivery of public sewerage infrastructure and existing drainage problems within the area. Where a compelling case is made, a private system may be acceptable provided it does not pose or add a risk of detrimental effects, including cumulative, to the natural and built environment, surrounding uses or amenity of the general area.

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

EP14 POLLUTION, CONTAMINATION & HAZARDS.

a) Pollution.

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

b) Contamination.

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

i) The applicant can demonstrate through site investigations and risk assessment, that the site is in a condition suitable for the proposed development and is not causing significant pollution of the environment, and

ii) Where necessary, effective remediation measures are agreed to ensure the site is made suitable for the new use and to ensure appropriate disposal and/ or treatment of any hazardous material.

c) Hazardous sites.

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

WARD 03_17

19/01026/APP **19th September 2019**	**Construction of circular kiln building associated service building malt storage silos and conveyor gantries at The Maltings 20 March Road East Buckie Moray** **for Boormalt**

Comments:

- A SITE VISIT HAS BEEN CARRIED OUT
- The application has a gross floorspace where the combined buildings/structures exceeds 2000sqm.
- The proposal has been advertised as a Schedule 3 Development.
- No objections/representations received.

Procedure:

None

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

Conditions/Reasons

1. No development shall commence until a site-specific Construction Method Statement (CMS) has been submitted to and approved by the Council as Planning Authority. The CMS shall address all pollution prevention and environmental management issues related to the development and:

   a) identify all risks and incorporate all detailed pollution prevention measures, site management and mitigation measures for all elements potentially capable of giving rise to pollution during all phases of the development;

   b) consider and identify measures which shall include (but not be limited to):

      i. the location and design of all temporary site construction SUDs arrangements to protect the water environment including measures to mitigate and guard against run-off from the site including run-off containing soil or sediment or other contaminants;
      ii. on-site storage arrangements for pollutants
      iii. timing of works, to include arrangements for heavy construction works to avoid periods of high rainfall;
      iv. waste, to identify all waste streams and construction practices to

minimise use of raw materials and maximise use of secondary aggregates and recycled or renewable materials; reduction, re-use and recycling where appropriate of waste material generated by the proposal and identify whether materials will likely be imported on or off the site; and:

v. environmental management to identify mechanisms to control and make all construction staff aware of environmental issues including details of emergency procedures, pollution response plans and provision of spillage kits.

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

Reason - In order to minimise the impacts of the development works upon the environment.

2. The surface water drainage arrangements shall be carried out in accordance with the revised drainage scheme as submitted to Moray Council on 3 February 2020 and as shown on the drainage layout plan, drawing reference “GC22079-00-005”.

Reason: In order to avoid any ambiguity regarding the revised onsite drainage arrangements.

3. 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 as a minimum the following information:

a) duration of works;
b) construction programme;
c) number of vehicle movements (i.e. materials, plant, staff, components);
d) schedule for delivery of materials and plant;
e) full details of temporary arrangements to safeguard pedestrian movements during the construction period;
f) full details of any temporary construction access;
g) full details of any temporary closures or diversions;
h) measures to be put in place to prevent material being deposited on the public road;
i) traffic management measures to be put in place during works including any specific instructions to drivers;

Details of the transport of any excavated soils and materials including proposed routes to and from the site, together with mitigation works to be agreed with the Roads Authority if required.

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

4. Noise emissions from the malting kilning plant and associated conveyor shall not exceed an equivalent continuous A-weighted sound pressure level (L A eq) of 61.5 dB, as measured externally at 1 metre from the malting kiln plant structure, and 67.9 dB as measured at 1 metre from the malting kiln conveyor. The measurement time period during any daytime (0700 to 2300 hours) shall be 1 hour and during any night-time period shall be 15 minutes.

   Reason : In the interest of residential amenity to protect local residents from industrial noise

5. Unless otherwise agreed by the Planning Authority, in consultation with the Environmental Health Manager the proposed lighting for the development shall be installed and maintained in accordance with the details provided in the Artificial Lighting Impact Assessment supporting document by DIALUX, dated 10th July 2019 and titled Boormalt, 20 March Road, Buckie AB56 4BY New Circular Kiln and Malt Storage Silos, Artificial Lighting Impact Assessment.

   Reason: In the interest of residential amenity to protect local residents from artificial light.

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

The proposal accords with the provisions of the Moray local Development Plan 2015, BuckieI1 designation under the Emerging 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 not be required.

THE TRANSPORTATION MANAGER, has commented that:-

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

No details of abnormal load requirements have been identified at this stage. If any requirement is identified, further detailed assessment will be required to demonstrate that the delivery of abnormal loads can be accommodated and that all necessary mitigation or temporary works required are deliverable.

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**
GC22079-00-003		Location plan
0458-PFD-002		Process flow diagram for kiln
GC22079-00-004	A	Elevations
GC22079-00-006	A	Site plan

PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:
19/01026/APP

Site Address:
The Maltings
20 March Road East Buckie

Applicant Name:
Boormalt

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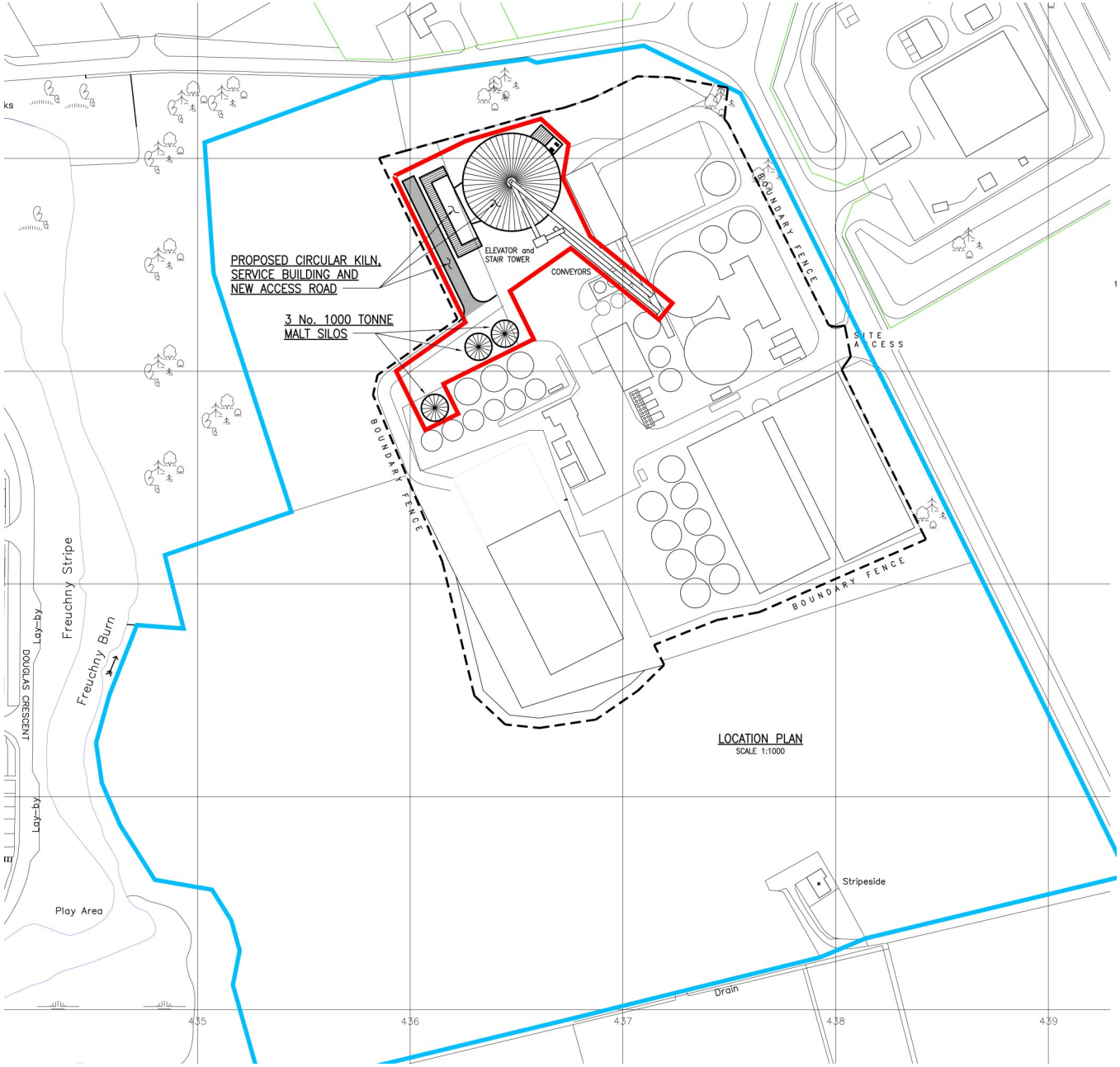
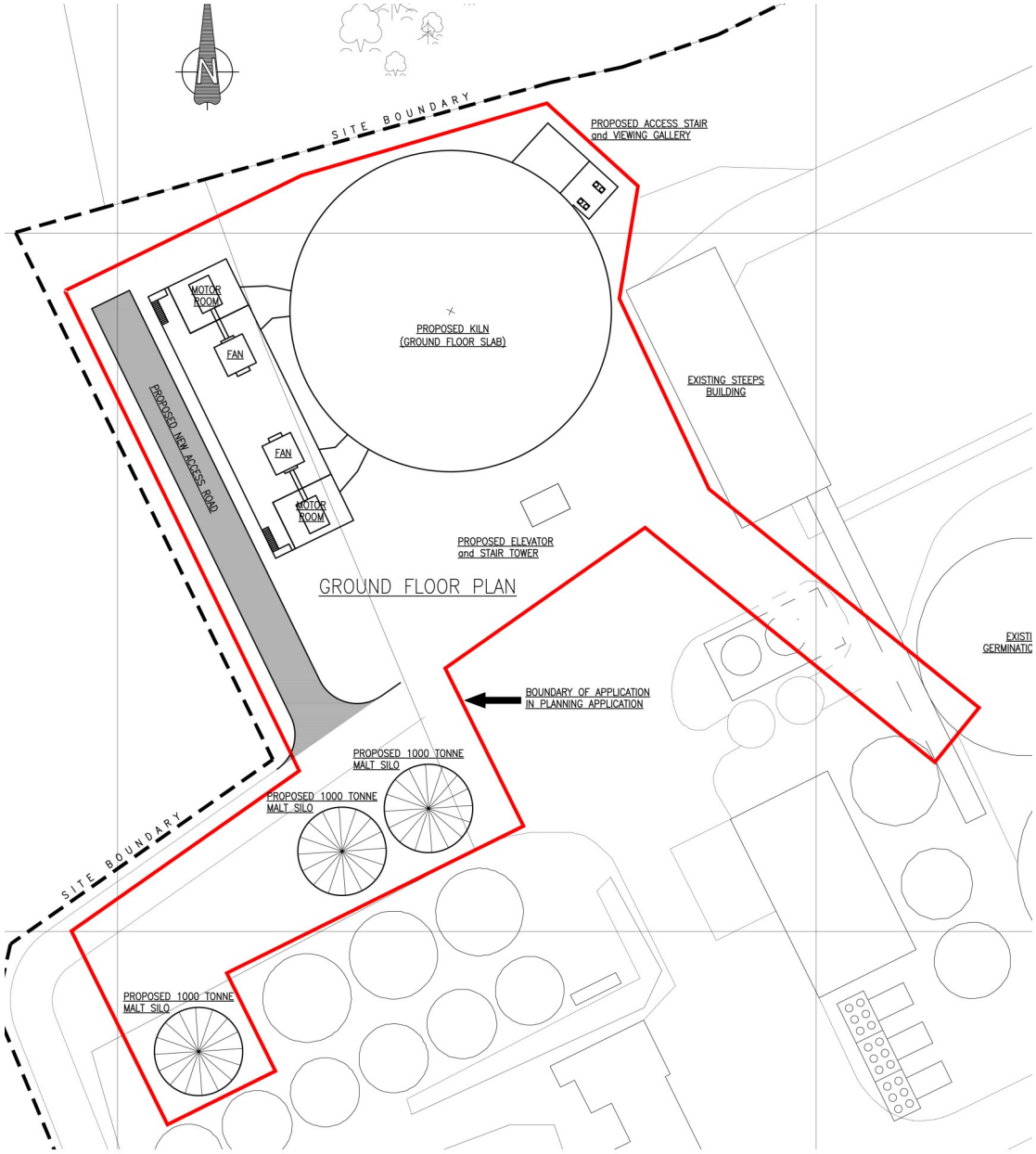
Location Plan

Site Location



Site plan


SITE BOUNDARY
PROPOSED ACCESS STAIR and VIEWING GALLERY
MOTOR ROOM
FAN
PROPOSED KILN (GROUND FLOOR SLAB)
EXISTING STEEPS BUILDING
PROPOSED NEW ACCESS ROAD
FAN
MOTOR ROOM
PROPOSED ELEVATOR and STAIR TOWER
GROUND FLOOR PLAN
EXISTI GERMINATIC
BOUNDARY OF APPLICATION IN PLANNING APPLICATION
PROPOSED 1000 TONNE MALT SILO
PROPOSED 1000 TONNE MALT SILO
SITE BOUNDARY
PROPOSED 1000 TONNE MALT SILO

31/OCT/2019

STOP
31/OCT/2019

PLANNING APPLICATION: 19/01026/APP

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

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THE PROPOSAL

- Planning permission is sought for the construction of circular kiln structure associated service building malt storage silos and conveyor gantries at The Maltings, 20 March Road East, Buckie.
- The proposed extension will include additional production plant, associated service building and an extension to an existing internal service access. The development is needed to help increase production at this existing Maltings site. The development will specifically comprise:
  - 1No. 46m diameter circular single-deck kilning vessel, approximately 12m high to roof level, with access gantries and elevator heads above this height. The vessel will have a goosewing grey metal clad external finish;
  - A rectangular metal clad (goosewing grey) service building for the kiln vessel, approximately 41.7m x 12.4m and 20m in height;
  - An elevator and stair tower approximately 6m x 4m and 22m high with an associated open conveyor gantry at 15m above ground level;
  - 3 No. 1000 tonnes malted barley silos, 12.7 in diameter and 22m high to the silo roof. The silo access walkways will project approximately 3m above this existing level as per the existing silo access walkways;
  - Associated conveyors, elevators, pipebridges and gantries to have a galvanised steel finish;
  - Extension to the existing internal service access road.
- In terms of the industrial process enabled by the development: The new kiln will take germinated barley (also known as green malt), directly from the existing germination vessels. These vessels are currently used for germination and kilning but will become dedicated to germination only. High quality malted barley is the main feedstock, along with water, for malt whisky production at distilleries throughout Scotland. The existing gas-fired kiln heaters, which were installed within the last few years, will be removed from the existing production building and installed within the new dedicated kiln building.
- No foul drainage is proposed within the development as there are no new toilet facilities within the proposed service building (existing facilities in the main staff accommodation building will be used).
- Surface water run-off from the new kiln service building will be drained by conventional down pipes to a sub-surface drainage system (filter strip) with attenuation storage provided by a dry basin and thereafter tying into the existing drainage system at a controlled rate which discharges to the Freuchny Burn.
- Roof runoff from the Service Building will be treated by the adjacent filter trench then and attenuated by the dry basin before outfalling to Freuchny Burn via the existing drainage system at a controlled rate.
- The kiln and storage silos roof run off will be accommodated by an eaves drop system before infiltrating to the soil via permeable hardcore (this is the same system used by the existing silos).

- The proposal will enable an increase in production at this existing Maltings site; increasing production from approximately 58,000 tonnes of malted barley per year to 88,000 tonnes per year.
- The application is supported by the following assessments: Design and Access Statement, Drainage Impact Assessment, Ecological Impact Assessment, Noise Impact Assessment (as amended) and an Artificial Lighting Assessment.
- Six non-native trees to be removed from within the proposed site.

THE SITE

- The site area extends to 7400.00 sqm.
- The development site falls largely within the existing boundary of The Buckie Maltings.
- The site is located at the north-west corner of The Maltings with much of the site laid under hardstanding and areas grass.
- There is a stand of 6 non-native coniferous trees (Cypress) with a small patch of dense scrub (located to the west of the existing hardstanding).
- Both the existing Maltings and the proposed application site/adjoining field are located within the Buckie, I4 Maltings designation, an "Existing Business Area" as defined within the Moray Local Development Plan (MDLP) 2015.
- There are established mature trees that extend around the north and western boundaries of the adjoining field around the Maltings.
- “Cunningholes” is the closest residential property to the site and is approximately 50m to the north of the site located beyond the existing mature trees.
- Beyond the existing Maltings and joining field, the surrounding land uses include: The wider industrial; commercial and sewage works at March Road which are located to the north and east of the Maltings.
- Burn of Freuchny ENV Green Corridor Designation is located to the west of the field which surrounds the Maltings site.
- The Burn of Freuchny is located approximately 150m to the west of the site (beyond the area of mature trees). The residential properties at Douglas Crescent are located approximately 190m to the west of site.

HISTORY

For the site:

19/00685/SCN - Environmental Impact Screening Opinion on the erection of a circular malting kiln, service building and 3 No. 1000 tone malt storage silos as issued on 14 July 2019. Adopted where the proposal is a “Schedule 2 Development” but not considered to result in significant environmental effects, therefore the proposal is not an EIA Development.

18/01621/PE – Preliminary Enquiry for the erection of a circular malting kiln, service building and 3nr 1000 tone malt storage silos. The response provides detailed comments and details policy requirements to assist and inform the submission of any future planning application for this development. This enquiry was focussed upon the location of the current planning application.

16/01261/APP - Erection of a single storey grain storage building with hard standing area and 6 no grain storage silos – approved subject to conditions by the Planning and Regulatory Services Committee on 1 November 2016.

09/00250/FUL - Planning permission granted for the erection of a workshop building and boundary fence - approved 28 April 2009 subject to conditions.

07/01899/FUL - Planning permission granted for the erection of a new steeps building and drier complex - approved 19 December 2007 subject to conditions.

POLICY - SEE APPENDIX

ADVERTISEMENT

The application has been advertised as a Schedule 3 Development.

CONSULTATIONS

Building Standards – Response confirms that a Building Warrant is not required.

Contaminated Land – No objection.

Environmental Health – No objection subject to conditions relating to noise and artificial lighting.

Developer Obligations – Response confirms that no obligation is sought for this development.

Planning and Development – No objection. The designation text for this site states that the land around the Maltings has in the past been reserved for expansion purposes. The application for the expansion of the Maltings to accommodate the kiln and silos is an acceptable use on this site.

Moray Flood Risk Management – No objection

Transportation – No objection subject to conditions requiring a Construction Traffic Management Plan and advisory informatives.

Scottish Water – No objection with standard advice provided for the applicant.

OBJECTIONS-REPRESENTATIONS

None.

OBSERVATIONS

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the Development Plan i.e. the adopted Moray Local Development Plan 2015 (MLDP) unless material considerations indicate otherwise. On 18 December 2018, at a special meeting of the Planning and Regulatory Services Committee, the Proposed Moray Local Development Plan 2020 was approved as the "settled view" of the Council and minimal weight will be given to it, with the 2015 MLDP being the primary consideration.

Further consideration of the weight to be attached to the Proposed Plan was considered and agreed at the Planning and Regulatory Services Committee on 29th January 2019, with the Committee agreeing that between June/ August 2019 and adoption of the new LDP in mid-2020, the weight to be given to matters set out in the Proposed Plan will vary;

- Where matters set out in the Proposed Plan are subject to unresolved objections which will be considered through Examination, then those matters will continue to be given minimal weight as a material consideration in the development management process.
- Where matters set out in the Proposed Plan are not subject to unresolved objections, they will be given greater weight as a material consideration in the development management process.

The weight to be given will be considered on a case by case basis and will be agreed by the Development Management Manager and Development Plans Principal Planning Officer.

In this case the proposal is subject to a designated site which will not be subject to the Examination process and therefore will be given greater weight.

The planning main issues are considered below:-

Primary Policies (PP1, PP2 and PP3)

This proposal requires assessment against primary policies PP1, PP2 and PP3 of the MLDP. These policies reflect the objectives of Scottish Planning Policy and the Moray Council with regard to sustainable economic growth, climate change and placemaking, and contain the necessary criteria for assessing planning applications.

PP1 Sustainable Economic Growth

The proposal is supported by PP1 Sustainable Economic Growth as the proposal will enable an increase in production at this existing Maltings site. From the applicant's Supporting Statement the development will secure the long-term future of The Maltings and will consolidate the high-quality long-term employment created in the Moray area. The installation and operation of the new plant will also provide additional local employment in the engineering and construction sectors, greater security for local farmers, and shorter distances for the movement of raw materials and finished product to key customers in the whisky distilling and brewing sectors.

PP2 Climate Change

The proposal is supported by Policy PP2 Climate Change because the development is part of an existing established Malting business: Boortmalt Buckie supply a number of Speyside distilleries. The strategic location of the Maltings relative to suppliers and customers whose current and projected demand for malt is greatest, means that if the proposed expansion did not to take place then the additional demand would most likely be met by malt transported over long distances from elsewhere in the UK or continental Europe. It is also noted that as part of this development the proposal will increase the grain storage capacity on site, thus reducing the amount of grain stored at third party locations elsewhere and reduce the distance and number of trips required to transport grain to/from the site, this will also help to increase the sustainability of the existing Maltings.

PP3 Placemaking

In so far as is relevant, the proposal is considered acceptable in terms of Policy PP3 Place-making principles. The proposed development is an extension of an existing Maltings business within this existing industrial urban setting. The proposal is in scale and character with the existing Maltings operations and the wider industrial/commercial uses located around March Road.

Location and siting of the proposed development (Buckie I4, ED4, EP8 and IMP1)

The site is located within the Buckie, I4 Maltings designation as defined in the MLDP 2015. This designation, coupled with the related Policy ED4 'Existing Business Areas', is supportive of business expansion at this location subject to technical and environmental considerations, and compatibility with the surrounding uses.

In this instance, the proposed development for the expansion of the Maltings premises and operations will involve a somewhat modest extension to the Maltings relative to the size and scale of the existing Maltings site which is industrial in character comprising of existing large scale industrial plant, storage sheds and silos, gantries and workshop buildings. The development site which falls largely within the existing boundary of the existing Maltings site is located at the north west corner of the Maltings making use of a large area of vacant ground within the Maltings site and affording the opportunity to site the proposed silos next to an existing row of silos. The siting of the development at this location is driven by process requirements, minimising material transfer distances and making the best use of existing land within the Maltings site. The siting of the development at this location will give the appearance of squaring off the existing Maltings site. It is also noted that the existing mature trees along the north and west of the field adjoining the Maltings site will help to provide an element of screening for the development to help and offset some of the overall visual impact of the development. In terms of the overall siting of the proposal, the development will take place within an existing industrial area within an urban setting and will conform to the existing character of the existing Maltings site and the surrounding industrial area. The proposal would not appear incongruous with is industrial surroundings.

In terms of technical and environmental considerations, the Buckie I4 designation requires consideration to be given to the noise impacts of any new development. Following consideration of a Noise Impact Assessment, conditions are recommended to ensure that

the development remains acceptable in relation to the noise impacts associated with the operation of the development (see further details below).

The designation also requires a buffer zone to be provided around the Burn of Freuchny. In this instance, the Burn is located some 150m from the closest point of the application site boundary (i.e. the south west corner of the application site) as such there is sufficient separation distance between the site and the Burn when considered in relation to the 6m separation requirement identified in Policy EP6.

Having considered these points, the proposed location and siting of the development is considered acceptable in relation to the Buckie I4 Maltings Designation and the identified planning policies.

Design and Layout (Buckie I4, ED4, EP8 and IMP1)

Given the industrial nature of the site and the development, the design and layout of the proposal is driven by the operational need for the development within the context of the existing Maltings which is located within a designated industrial site under the terms of the MLDP 2015.

Whilst it is recognised that the proposed buildings and structures are large industrial buildings (i.e. the kiln service building approx. 20m in height) and related high level features such as the proposed conveyer (approx. 15m above ground) and elevator/stair tower (approx. 22m high) with the proposed silos to be some 22m above ground, these buildings and structures features will be seen in the context of this existing large industrial site which accommodates building and structure heights in excess of 25m (e.g. existing workhouse building is approximately 26m in height). As such the proposed features are considered to be in scale and character to the existing site and will have a design and appearance (including material finishes) which are appropriate to the existing site. The development is of a scale, form, design and appearance which will integrate into the existing Maltings and the wider industrial setting of the area.

The proposed extension to the internal service road, which will be located at ground level on the north-west boundary of the site and tying into the existing road is an acceptable and functional feature which will readily assimilate into the development and the wider Maltings site.

On this basis, the proposed design and layout of the development is functional in its appearance but it will reflect the industrial nature of the existing site making best use of existing land within the Maltings. The development will meet the operational needs of the maltings and will enable a significant increase in production at this existing business increasing production from approximately 58,000 tonnes of malted barley per year to 88,000 tonnes per year to meet the growing demand for malt barley.

Impact on Amenity (Buckie I4, EP8, EP12 and IMP1)

As required by the Buckie I4 Designation, a Noise Impact Assessment (NIA) has been submitted. During the assessment process the NIA was amended to take account of the noise sensitive receptor at Cunningholes and the additional seasonal noise contribution from barley dryers during harvest time. The key conclusion from the NIA confirms that the introduction of the new malting kiln plant to the existing site, with or without the seasonal operation of barley dryers, is not expected to give rise to a significant adverse effect on

noise levels at the site. The updated NIA has been accepted by the Environmental Health Section subject to a condition limiting noise levels.

The application has also been supported by a Lighting Impact Assessment which confirms that the lighting will be motion sensitive and will be positioned to face into the plant and away from the boundary. The Lighting Impact Assessment has been accepted by Environmental Health and the Environmental Health Section has recommended a condition requiring the proposed lighting for the development to be installed and maintained in accordance with the lighting impact assessment.

Subject to the conditions as recommended by Environmental Health the proposal is acceptable to the policies identified.

Water and Drainage (EP6, EP5 and IMP1)

Scottish Water has raised no objection to the proposal. No foul drainage is proposed within the development.

Surface water run-off from the new kiln service building will be drained by conventional down pipes to a sub-surface drainage system (filter strip) with attenuation storage provided by a dry basin and thereafter tying into the existing drainage system at a controlled rate which discharges to the Freuchny Burn.

Roof runoff from the Service Building will be treated by the adjacent filter trench then and attenuated by the dry basin before outfalling to Freuchny Burn via the existing drainage system at a controlled rate.

The kiln and storage silos roof run off will be accommodated by an eaves drop system before infiltrating to the soil via permeable hardcore (this is the same system used by the existing silos).

Following assessment of the proposal (including the amended Drainage Impact Assessment and related revised drainage design) Moray Flood Risk Management has not objected to the proposal in drainage terms and the proposal complies with the relevant policy provisions.

Woodland and Protected Species (E3, E4 and IMP1)

The application has been supported by an Ecological Impact Assessment which concludes that the development site is entirely man made and is of very low wildlife and biodiversity interest. The Ecological Survey does identify the replacing the existing stand of 6 non-native Cypress trees on a like-for-like basis using native trees of local provenance only. However, given the small number of trees involved (below the policy threshold for which compensatory planting would be required) and the existing established woodland around the site the replacement of this small number of non native trees is not considered necessary. The recommendation for a Construction Method Statement should be applied by condition.

Access and Parking (T2 and T5)

Policy T2 requires the provision of suitable and safe road access from the public highway to serve new development. Policy T5 requires the provision of adequate parking provision

to service development. The application has been supported by a Transport Statement which has demonstrated that the proposed increase in production will only result in a very modest increase in HGV traffic and that there will be no operational detriment to the existing road network. Following consideration, the Transportation Manager has raised no objection to the proposal subject to a condition requiring a Construction Traffic Management Plan in order to manage traffic during the construction works at the site. Subject to compliance with condition the proposal is acceptable is acceptable in relation to Policies T2 and T5.

Developer Obligations (IMP3)

Policy IMP3 seeks contributions from developers where development would have a measureable adverse or negative impact on existing infrastructure, community facilities or amenity. In this instance, as the development will not have a detrimental impact on local infrastructure, no developer obligation requirements have been identified or sought.

Conclusion

On the basis of the point highlighted above, the proposal is acceptable and satisfies the relevant policies as identified in the MLDP 2015. It is also noted that the proposal is in accordance with the Buckie I4 designation under the Emerging Moray Local Development Plan 2020.

REASON(S) FOR DECISION
The Council's reason(s) for making this decision are: -

The proposal accords with the provisions of the Moray Local Development Plan 2015, Buckie I4 designation under the Emerging Moray Local Development Plan 2020 and there are no material considerations that indicate otherwise.

Author/Contact Officer:	Shona Strachan Planning Officer	**Ext:**	01343 563303

Beverly Smith
Development Management & Building Standards Manager

APPENDIX

POLICY

Adopted Moray Local Development Plan 2015

I4 Maltings Existing Business Area

- The undeveloped area around the maltings has in the past been reserved for expansion purposes, and as such, there may be scope for alternative business activities to be introduced.

- Proposals must be compatible with the operations of the maltings.

- Impact of noise from the maltings must be considered.

- Potential noise impact on new housing areas to the west of the site must be considered.

- As the site is within close proximity to a sewage treatment works and local maltings, the developer should consult with the local maltings and Scottish Water in case this impacts upon their operations due to perceived pollution.

- Drainage Impact Assessment (DIA) required.

Moray Local Development Plan 2015 - Material Consideration

Primary Policy PP1: Sustainable Economic Growth

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

Primary Policy PP2: Climate Change

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

- Be in sustainable locations that make efficient use of land and infrastructure

- Optimise accessibility to active travel options and public transport

- Create quality open spaces, landscaped areas and green wedges that are well connected

- Utilise sustainable construction techniques and materials and encourage energy efficiency through the orientation and design of buildings

- Where practical, install low and zero carbon generating technologies

- Prevent further development that would be at risk of flooding or coastal erosion

- Where practical, meet heat and energy requirements through decentralised and local renewable or low carbon sources of heat and power

- Minimise disturbance to carbon rich soils and, in cases where it is agreed that trees can be felled, to incorporate compensatory tree planting.

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

Primary Policy PP3: Placemaking

All residential and commercial (business, industrial and retail) developments must incorporate the key principles of Designing Streets, Creating Places and the Council's supplementary guidance on Urban Design.

Developments should;

- create places with character, identity and a sense of arrival

- create safe and pleasant places, which have been designed to reduce the fear of crime and anti social behaviour

- be well connected, walkable neighbourhoods which are easy to move around and designed to encourage social interaction and healthier lifestyles

- include buildings and open spaces of high standards of design which incorporate sustainable design and construction principles

- have streets which are designed to consider pedestrians first and motor vehicles last and minimise the visual impact of parked cars on the street scene.

- ensure buildings front onto streets with public fronts and private backs and have clearly defined public and private space

- maintain and enhance the natural landscape features and distinctive character of the area and provide new green spaces which connect to green and blue networks and promote biodiversity

- The Council will work with developers and local communities to prepare masterplans, key design principles and other site specific planning guidance as indicated in the settlement designations.

Policy ED3: Business Parks

Business Park designations are made to accommodate uses which require a higher amenity/environmental setting than is available on traditional industrial estates, and may include more "commercial" activities such as offices; call centres or high technology uses. A high standard of building design and landscaping would be expected, and development that impacts upon the high amenity value of a business park will not be permitted.

Business parks have been identified at Forres Enterprise Park; Elgin West; Buckie High Street, which will be the site reserved for the East Moray Science Campus, until this concept is further developed.

Elgin Barmuckity will be a mixed site, accommodating business park uses in addition to more general industrial use.

I4: Maltings

The undeveloped area around the Maltings has in the past been reserved for expansion purposes but has never been required, and as such, there may be scope for alternative business activities to be introduced. Any such proposals must be compatible with the operation of the Maltings, and the impact of any noise from the Maltings must be taken into account. Similar consideration must also be given to any potential noise impact from new developments on the housing areas to the west of the site. There is requirement to include a buffer zone to the Burn of Freuchny.

As the proposal is in close proximity to a sewage treatment works and local maltings, the developer should consult with the local malting and Scottish Water in case this impacts upon their operations due to perceived pollution.

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

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

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

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

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

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

Policy EP10: Foul Drainage

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

- Systems shall not have an adverse impact on the water environment;

- Systems must be designed and built to a standard which will allow adoption by Scottish Water.

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

All development within or close to settlements (as identified in the Local Development Plan) of less than 2000 population equivalent will require to connect to public sewerage system except where a compelling case is made otherwise. Factors to be considered in such a case will include size of the proposed development, whether the development would jeopardise delivery of public sewerage infrastructure and existing drainage problems within the area. Where a compelling case is made, a private system may be acceptable provided it does not pose or add risk of detrimental effect, including cumulative, to the natural and built environment, surrounding uses or amenity of the general area. Consultation with Scottish Environment Protection Agency will be undertaken in these cases.

Where a private system is deemed to be acceptable (within settlements as above or small scale development in the countryside) a discharge to land (either full soakaway or raised mound soakaway) compatible with Technical Handbooks (which sets out guidance on how proposals may meet the Building (Scotland) Regulations 2004) should be explored prior to considering a discharge to surface waters.

Policy EP9: Contaminated Land

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

a) The applicant can demonstrate through site investigations and risk assessment, that the site is in a condition suitable for the proposed development and is not causing significant pollution of the environment; and

b) Where necessary, effective remediation measures are agreed to ensure the site is made suitable for the new use and to ensure appropriate disposal and/or treatment of any hazardous material.

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

Policy EP12: Air Quality

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

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

Policy T2: Provision of Access

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

- Proposals must maximise connections and routes for pedestrian and cyclists, including links to active travel and core path routes, to reduce travel demands and provide a safe and realistic choice of access.

- Provide access to public transport services and bus stop infrastructure where appropriate.

- Provide appropriate vehicle connections to the development, including appropriate number and type of junctions.

- Provide safe entry and exit from the development for all road users including ensuring appropriate visibility for vehicles at junctions and bends.

- Provide appropriate mitigation/modification to existing transport networks where required to address the impacts of new development on the safety and efficiency of the transport network. This may include but would not be limited to, the following measures, passing places, road widening, junction enhancement, bus stop infrastructure and drainage infrastructure. A number of potential road improvements have been identified in association with the development of sites the most significant of these have been shown on the Settlement Map as TSPs.

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

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

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

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

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

Significant travel generating proposals will only be supported where:

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

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

Policy T5: Parking Standards

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

Policy IMP1: Developer Requirements

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

a) The scale, density and character must be appropriate to the surrounding area.

b) The development must be integrated into the surrounding landscape

c) Road, cycling, footpath and public transport must be provided at a level appropriate to the development. Core paths; long distance footpaths; national cycle routes must not be adversely affected.

d) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water.

e) Where of an appropriate scale, developments should demonstrate how they will incorporate renewable energy systems, and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria.

f) Make provision for additional areas of open space within developments.

g) Details of arrangements for the long term maintenance of landscape areas and amenity open spaces must be provided along with Planning applications.

h) Conservation and where possible enhancement of natural and built environmental resources must be achieved, including details of any impacts arising from the disturbance of carbon rich soil.

i) Avoid areas at risk of flooding, and where necessary carry out flood management measures.

j) Address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.

k) Address and sufficiently mitigate any contaminated land issues

l) Does not sterilise significant workable reserves of minerals or prime quality agricultural land.

m) Make acceptable arrangements for waste management.

Policy IMP2: Development Impact Assessments

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

a) An Environmental Assessment (EA) will be required for developments that are likely to have significant environmental affects under the terms of the regulations.

b) A Transport Assessment (TA) will be sought where a change of use or new development is likely to generate a significant increase in the number of trips being made. TAs should identify any potential cumulative effects which would need to be addressed. Transport Assessments should assess the effects the development will have on roads and railway infrastructure including stations and any crossings. Transport Scotland (Trunk Roads) and Network Rail (Railway) should be consulted on the scoping of Transport Assessments. Moray Council's Transportation Service can assist in providing a screening opinion on whether a TA will be sought.

c) In order to demonstrate that an out of centre retail proposal will have no unacceptable individual or cumulative impact on the vitality and viability of the identified network of town centres, a Retail Impact Assessment will be sought where appropriate. This may also apply to neighbourhood shops, ancillary retailing and recreation/tourism retailing.

d) Where appropriate, applicants may be asked to carry out other assessments (e.g. noise; air quality; flood risk; drainage; bat; badger; other species and habitats) in order to confirm the compatibility of the proposal.

Policy IMP3: Developer Obligations

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

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

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

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

Proposed Moray Local Development Plan 2020

PP1 PLACEMAKING

a) Development must be designed to create successful, healthy places that support good physical and mental health, help reduce health inequalities, improve people's wellbeing, safeguard the environment and support economic development.

b) A Placemaking Statement is required for residential developments of 10 units and above to be submitted with the planning application to articulate how the development proposal addresses the requirements of policy PP1 Placemaking and other relevant LDP policies and guidance. The Placemaking Statement must include a sufficient information for the Council to carry out a Quality Audit including a topo survey, slope analysis, site sections, 3D visualisations, a Landscaping Plan, a Street Engineering Review and a Biodiversity Plan as these will not be covered by suspensive conditions on a planning consent. The Placemaking Statement must demonstrate how the development promotes opportunities for healthy living and working. The landscape plan must set out details of species type, size, timescales for planting and maintenance.

c) To create successful, healthy places residential developments of 10 units and above must comply with Scottish Government policy Creating Places and Designing Streets and must incorporate the following fundamental principles;

(i) Character and Identity

- Create places that are distinctive to prevent homogenous 'anywhere' development.
- For developments of 20 units and above, provide a number of character areas that have their own distinctive identity and are clearly distinguishable. Developments of less than 20 units will be considered to be one character area, unless they are part of a larger phase of development or masterplan area.
- Provide distinctiveness between and in each character area through a combination of measures including variation in urban form, street structure/network, architecture and masonry, accent features (such as porches), surrounds and detailing, materials (buildings and surfaces), colour, boundary treatments, hard/soft landscaping and a variety of approaches to tree species and planting that emphasises the hierarchy of open spaces and streets within a cohesive design strategy for the whole development.

- Distinctiveness must be reinforced along main thoroughfares, open spaces and places where people may congregate such as shopping/service centres.
- Retain, incorporate and/or respond to relevant elements of the landscape such as topography and planted features, natural and historic environment, and propose street naming (in residential developments of 20 units and above, where proposed names are to be submitted with the planning application) to retain and enhance local associations.

(ii) Healthier, Safer Environments

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

(iii) Housing Mix

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

(iv) Open Spaces/Landscaping

- Provide accessible, multi-functional open space within a clearly defined hierarchy integrated into the development and connected via an active travel

network of green/blue corridors that are fully incorporated into the development and to the surrounding area, and meet the requirements of policy EP5 Open Space and the Open Space Strategy Supplementary Guidance and Policy EP12 Managing the Water Environment and Drainage Impact Assessment for New Developments Supplementary Guidance.

- Landscaped areas must provide seasonal variation, (mix of planting and colour) including native planting for pollination and food production.
- Landscaped areas must not be 'left-over' spaces that provide no function. 'Left-over' spaces will not contribute to the open space requirements of policy EP4 Open Space.
- Semi-mature tree planting and shrubs must be provided along all routes with the variety of approaches reflecting and accentuating the street hierarchy.
- Public and private space must be clearly defined.
- Play areas (where identified) must be inclusive, providing equipment so the facility is for every child/young person regardless of ability and provided upon completion of 50% of the character area.
- Proposals must provide advance landscaping identified in site designations and meet the quality requirements of policy EP5 Open Space.
- Structural landscaping must incorporate countryside style paths (such as bound or compacted gravel) with waymarkers.
- Maintenance arrangements for all paths, trees, hedging, shrubs, play/ sports areas, roundabouts and other open/ green spaces and blue/green corridors must be provided.

(v) Biodiversity

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

(vi) Parking

- Car parking must not dominate the streetscape to the front or rear of properties. On all streets a minimum of 75% of car parking must be provided to the side or rear and behind the building line with a maximum of 25% car parking within the front curtilage or on street, subject to the visual impact being mitigated by hedging, low stone boundary walls or other acceptable treatments that enhance the streetscape.
- Provide semi-mature trees and planting within communal private and public/visitor
- Secured and covered cycle parking and storage, car sharing spaces and electric car charging points must be provided in accordance with policy DP1 Development Principles.

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

(vii) Street Layout and Detail

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

(d) Masterplans have been prepared for Findrassie (Elgin), Elgin South, Bilbohall (Elgin), and Dallas Dhu (Forres) and are Supplementary Guidance to the Plan. Further Masterplans will be prepared in partnership for Lochyhill (Forres), Barhill Road (Buckie), Elgin Town Centre/ Cooper Park, Elgin North East, Clarkly Hill, Burghead and West Mosstodloch. A peer review organised by the Council will be undertaken at the draft and final stages in the masterplan's preparation. Following approval, the Masterplans will be Supplementary Guidance to the Plan.

(e) Proposals for sites must reflect the key design principles and safeguard or enhance the green networks set out in the Proposals Maps and Settlement Statements. Alternative design solutions may be proposed where justification is provided to the planning authority's satisfaction to merit this.

PP2 SUSTAINABLE ECONOMIC GROWTH.

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

PP3 INFRASTRUCTURE & SERVICES.

Development must be planned and co-ordinated with infrastructure to ensure that places function properly and proposals are adequately served by infrastructure and services. A Utilities Plan must be submitted with planning applications setting out how existing and new utility (including gas, water, electricity, pipelines and pylons) provision have been incorporated into the layout and design of the proposal.

a) Development proposals will need to provide for the following infrastructure and services:

i) Education, Health, Transport, Sports and Recreation and Access facilities in accord with Supplementary Guidance on Developer Obligations and Open Space.

ii) Green infrastructure and network requirements specified in policy EP5 Open Space, Town and Village Maps and, contained within Supplementary Guidance on the Open Space Strategy, Masterplans and Development Briefs.

iii) Mitigation/modification to the existing transport network to address the impact of the proposed development in terms of safety and efficiency. This may include but not be limited to passing places, road widening, junction enhancement, bus stop infrastructure, and drainage infrastructure. A number of potential road and transport improvements are identified and shown on the Town and Village Maps as Transport Proposals (TSP's) including the interventions in the Elgin Transport Strategy. These requirements are not exhaustive and do not pre-empt any measures which may result from the Transport Assessment process.

iv) Electric car charging points must be provided at all commercial, community and communal parking facilities. Access to charging points must also be provided for residential on plot parking provision. Car share parking spaces must be provided within communal parking areas where a need is identified by the Transportation Manager.

v) Active Travel and Core Path requirements specified in the Council's Active Travel Strategy and Core Path Plan.

vi) Safe transport and access routes linking to existing networks and mitigating the impacts of development off-site.

vii) Information Communication Technology (ICT) and fibre optic broadband connections for all premises unless justification is provided to substantiate it is technically unfeasible.

viii) Foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS), including construction phase SUDS.

ix) Measures that implement the waste management hierarchy as defined in the Zero Waste Plan for Scotland including the provision of local waste storage and recycling facilities designed into the development in accord with policy PP1 Placemaking. For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.

x) Infrastructure required to improve or increase capacity at Water Treatment Works and Waste Water Treatment Works will be supported subject to compliance with policy DP1.

b) Development proposals will not be supported where they:

i) Create new accesses onto trunk roads and other main/key routes (A941 & A98) unless significant economic benefits are demonstrated.

ii) Adversely impact on active travel routes, core paths, rights of way, long distance and other access routes and cannot be adequately mitigated by an equivalent or better alternative provision in a location convenient for users.

iii) Adversely impact on blue/green infrastructure, including green networks important for wildlife unless an equivalent or better alternative provision will be provided.

iv) Are incompatible with key waste sites at Dallachy, Gollanfield, Moycroft and Waterford and would prejudice their operation.

v) Adversely impact on community and recreational sites, buildings or infrastructure including CF designations and cannot be adequately mitigated.

vi) Adversely impact on flood alleviation and mitigation infrastructure.

vii) Compromise the economic viability of bus or rail facilities.

c) **Harbours.**

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

d) **Developer Obligations.**

Developer obligations will be sought to mitigate any measurable adverse impact of a development proposal on local infrastructure, including education, healthcare, transport, sports and recreational facilities and access routes. Obligations will be sought to reduce, eliminate or compensate for this impact.

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

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

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

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

BUSINESS & INDUSTRY

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

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

b) **Business Parks.**

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

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

c) **Industrial Estates.**

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

d) **Existing Business Areas.**

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

e) **Other Uses.**

Class 2 (business and financial), 3 (food and drink), 11 (assembly and leisure) and activities which do not fall within a specific use class (sui generis), including waste management facilities will be considered in relation to their suitability to the business or industrial area concerned, their compatibility with neighbouring uses and the supply of serviced employment land. Retail uses will not be permitted unless they are considered ancillary to the principal use (e.g. manufacture, wholesale). For this purpose, 'ancillary' is taken as being linked directly to the existing use of the unit and comprising no more than 10% of the total floor area up to a total of 1,000 sq metres (gross) or where a sequential approach in accordance with town centre first principles has identified no other suitable sites and the proposal is in accordance with all other relevant policies and site requirements are met.

f) **Areas of Mixed Use.**

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

g) **Rural Businesses and Farm Diversification.**

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

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

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

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

h) **Inward Investment Sites.**

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

Proposals must comply with Policy DP1 and other relevant policies.

EP2 BIODIVERSITY

All development proposals must retain, protect and enhance features of biological interest and provide for their appropriate management. Developments must safeguard and connect into wildlife corridors, green/blue networks and prevent fragmentation of existing habitats.

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

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

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

Where development results in the loss of natural habitats of ecological and amenity value, compensatory habitat creation will be required on an alternative site in Moray.

EP7 FORESTRY, WOODLANDS AND TREES.

a) Forestry.

Proposals which support the economic, social and environmental objectives and projects identified in the Moray Forestry and Woodlands Strategy will be supported where they meet the requirements of all other relevant Local Development Plan policies. The Council will consult Forestry Commission Scotland on proposals which are considered to adversely affect commercial forests.

b) Woodlands.

In support of the Scottish Government's Control of Woodland Removal Policy, development which involves permanent woodland removal will only be permitted where it would achieve significant and clearly defined additional public benefits and where removal will not result in unacceptable adverse effects on the amenity, landscape, biodiversity, economic or recreational value of the woodland or prejudice the management of the woodland.

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

Woodlands identified in the Ancient Woodland Inventory are important not just for the trees, but for the soil structure, flora and fauna that rely on such woodlands. Ancient woodland ecosystems have been created over hundreds of years and are irreplaceable. Woodland removal within native woodlands identified as a feature of sites protected under Policy EP1 or woodland identified in the Ancient Woodland Inventory will not be supported.

c) Trees and Tree Preservation Orders.

Development proposals must to retain existing healthy, mature trees and incorporate them within the proposal. Where mature trees exist on or bordering a development site, a tree survey and tree protection and mitigation plan must be provided with planning applications if the trees (or their roots) have the potential to be affected by development and construction activity. Proposals must identify a safeguarding distance to ensure

construction works, including access and drainage arrangements, will not damage or interfere with the root systems in the short or longer term.

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

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

EP12 MANAGEMENT AND ENHANCEMENT OF THE WATER ENVIRONMENT.

a) Flooding.

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

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

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

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

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

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

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

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

a) In areas of little to no risk (less than 0.1%), there will be no general constraint to development.

b) Areas of low to medium risk (0.1% to 0.5%) will be considered suitable for most development. A flood risk assessment may be required at the upper end of the probability range i.e. (close to 0.5%) and for essential civil infrastructure and the most vulnerable uses. Water resistant materials and construction may be required. Areas within this risk category will generally not be suitable for civil infrastructure. Where civil infrastructure must be located in these areas or is being substantially extended, it should be designed to be capable of remaining operational and accessible during flooding events.

c) Areas of medium to high risk (0.5% or above) may be suitable for:

- Residential, institutional, commercial and industrial development within built up areas provided that flood protection measures to the appropriate standard already exist and are maintained, are under construction, or are a planned measure in a current flood management plan;

- Essential infrastructure within built up areas, designed and constructed to remain operational during floods and not impede water flow;

- Some recreational, sport, amenity and nature conservation uses, provided appropriate evacuation procedures are in place, and

- Employment related accommodation e.g. caretakers or operational staff.

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

- Civil infrastructure and most vulnerable uses.

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

- New caravan and camping sites.

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

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

Surface water from development must be dealt with in a sustainable manner that has a neutral effect on flooding or which reduces the risk of flooding. The method of dealing with surface water must also avoid pollution and promote habitat enhancement and amenity. All sites must (except single houses) be drained by a sustainable drainage system (SUDS) designed in line with current CIRIA guidance. Drainage systems must

contribute to enhancing existing "blue" and "green" networks while contributing to place-making, biodiversity, recreational, flood risk and climate change objectives.

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

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

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

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

c) Water Environment

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

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

A buffer strip of at least 6 metres between any new development and all water features is required and should be proportional to the bank width and functional river corridor (see table on page 104). This must achieve the minimum width within the specified range as a standard, however, the actual required width within the range should be calculated on a case by case basis by an appropriately qualified individual. These must be designed to link with blue and green networks, including appropriate native riparian vegetation and can contribute to open space requirements.

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

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

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

EP14 POLLUTION, CONTAMINATION & HAZARDS.

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

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

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

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

WARD 08_17

19/01184/APP **Installation of SuDS basin at R3 Ferrylea Forres Moray**
25th September 2019 **for Springfield Properties PLC**

Comments:

- A SITE VISIT has been carried out.
- Advertised for neighbour notification purposes – notification not possible. because no premises are situated on land to which notification can be sent.
- The application has been referred to the Planning and Regulatory Services Committee because it is a proposal on a site designated for 50 or more houses.
- A request to delegate this application to the appointed officer was put forward at the previous meeting of Planning and Regulatory Services Committee (8 October 2019), however Members resolved that they wished for this application to be referred to the Committee for consideration.

Procedure:

- None

Recommendation Grant Planning Permission - Subject To The Following:-

Conditions/Reasons

1. Notwithstanding the details submitted on Drawing No. FO(--) – ENG-223 Rev C, the proposed blinded hardcore finishing of the Lay-by and Access Path is not accepted. No part of the development shall commence until details have been submitted and approved by the Planning Authority in consultation with the Roads Authority confirming the finishing of the access and lay-by in a suitable surfacing to prevent loose material and water being deposited on the public road and footway e.g. a bound surface, grasscrete or similar.

   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.

2. No development shall commence until a Tree Protection Plan has been submitted to and approved in writing by the Council (as Planning Authority). The Tree Protection Plan shall show the following:

   (a) the proposed design/layout of the development hereby approved (including accesses and services);
   (b) all trees to the north and those within the southern part of the site retained; and

(c) the location and specification of protective fencing around those trees to the north and south of the site.

The protective fencing shall be put in place prior to any works commencing on site and be retained until the completion of development.

Reason – To ensure construction works do not adversely impact on the integrity of trees on or adjacent to the site that contribute amenity and character of the wider area.

Reason(s) for Decision

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

The proposal complies with the provisions of the development plan and there are no material considerations that indicate otherwise.

List of Informatives:

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

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.

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

Street lighting shall be consulted in the proposals and any changes required prior to works commencing.

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 his 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.

The developer must contact the Roads Authority Street Lighting Section at Ashgrove Depot, Elgin - Tel (01343) 557300, Ext 7343 to discuss the proposals and the relocation of any street lighting if required.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT		
Reference No.	**Version No.**	**Title/Description**
FO(--)-ENG-223	C	SW Tanker Swept Path
FO(--)_PL_SUDS	01	Location plan
FO(--)-ENG-221		Infiltration basin cross section
FO(--)-ENG-220	E	Infiltration basin section
FO(--)_PL_SUDS_02	B	Site plan

PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:
19/01184/APP

Site Address:
R3 Ferrylea
Forres

Applicant Name:
Springfield Properties PLC

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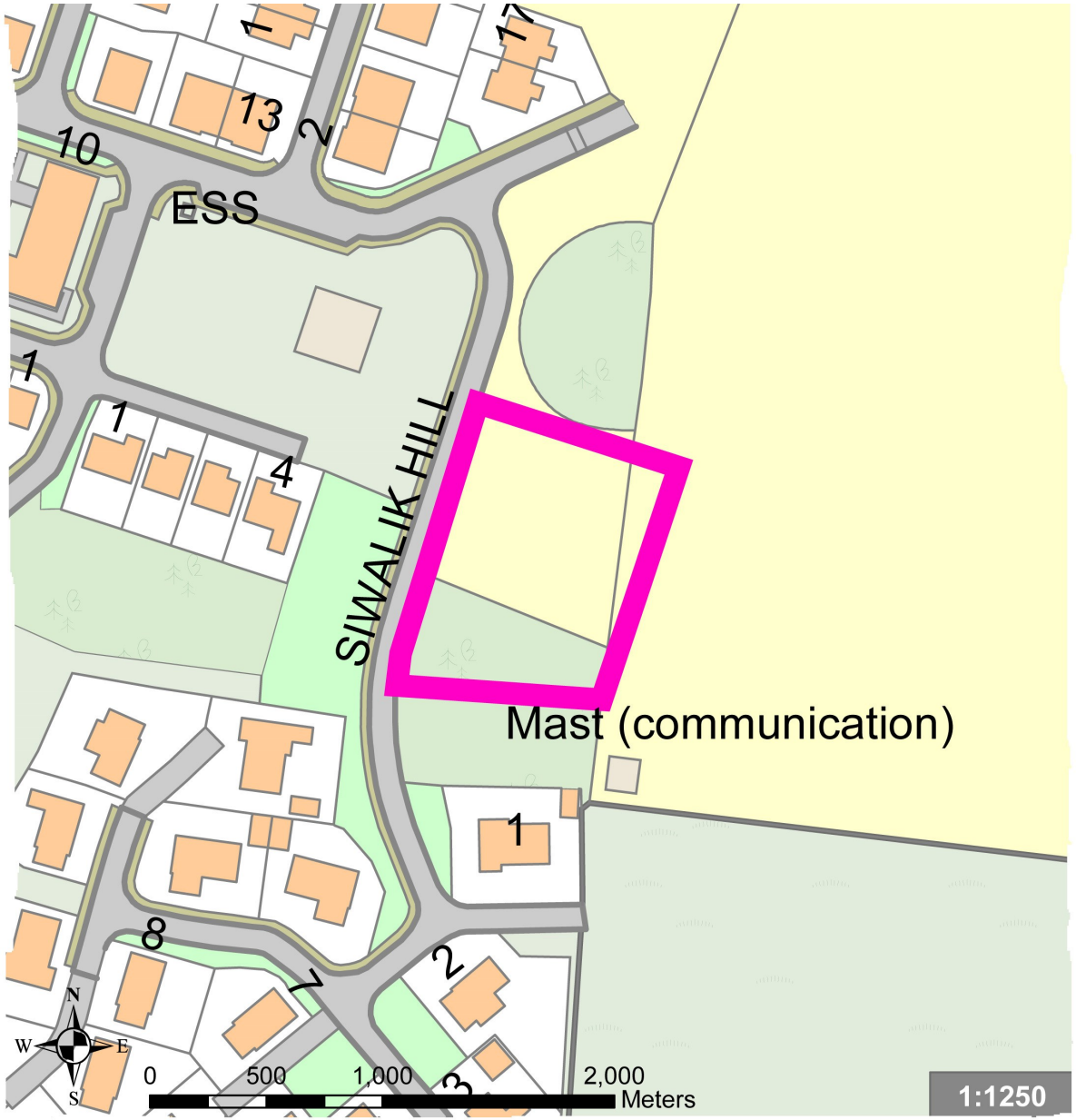
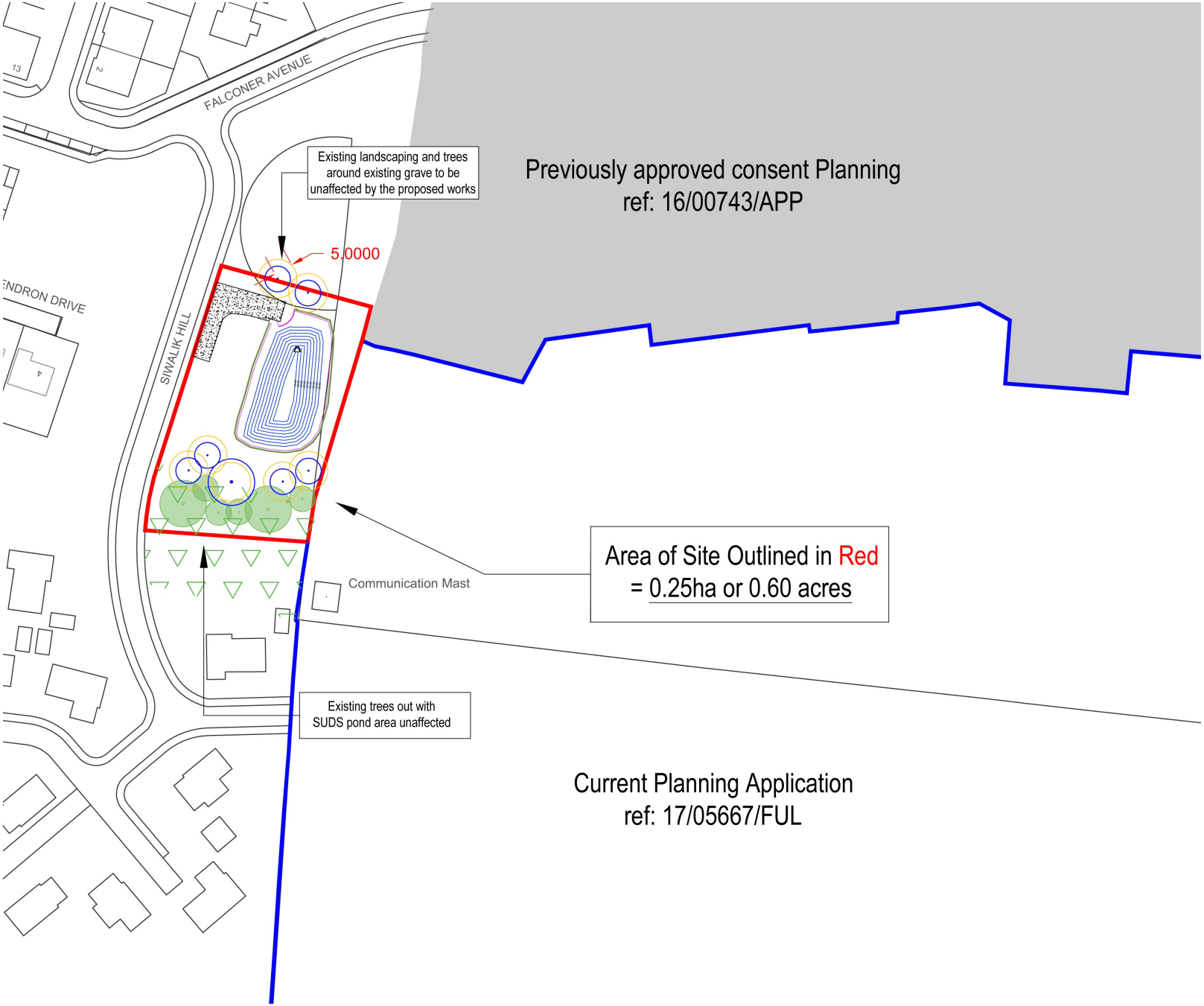
Location Plan



Site Location

Site plan


FALCONER AVENUE
SIWALIK HILL
ENDRON DRIVE
Existing landscaping and trees around existing grave to be unaffected by the proposed works
5.0000
Previously approved consent Planning ref: 16/00743/APP
Communication Mast
Area of Site Outlined in Red = 0.25ha or 0.60 acres
Existing trees out with SUDS pond area unaffected
Current Planning Application ref: 17/05667/FUL

PLANNING APPLICATION: 19/01184/APP

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

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THE PROPOSAL

- Detailed planning permission for the installation of a SuDS basin.
- The basin would act as an infiltration basin for surface water from development within the final phase of development on the remaining balance of site R3 and LONG3 Forres.
- It would be 1.6 metres deep, and have a gradient of 1:4 from ground level to the bottom of the basin.
- The basin would effectively be the last stage for the treatment of surface water, whereby water that is not attenuated or infiltrated via swales would ultimately discharge to this basin for detention and infiltration during periods of high rainfall.
- An access road and turning area would be to the west of the site, accessed via Siwalik Hill.
- A 1.1 m high post and rail timber fence would be installed around the perimeter of the site, whilst beech hedging would surround the basin. Existing trees within the site will be retained.
- A Drainage Impact Assessment has been provided in support of the application.

THE SITE

- An area of grassed ground to the east of Siwalik Hill at Knockomie Braes.
- The site sits at an elevated level relative to the recently developed housing to the west.
- Mature trees are located to the north (oak and birch) and in and to the south of the site (pine), with housing under development to the north east. Undeveloped land is located to the south east.
- The site is within the Forres R3 (Ferrylea) designation for residential development in the adopted Moray Local Development Plan 2015.
- The site is within the Forres R2 (Ferrylea) designation for residential development in the Proposed Moray Local Development Plan 2020.

HISTORY

For Phase 1 (on which this site is located, construction largely completed):

12/01110/APP – Erection of 129 residential units and community facilities (dental practice, retail units) with associated infrastructure and landscaping, as well as masterplan covering the remaining balance of site R3 (up to 380 units) granted planning consent by Planning and Regulatory Services Committee of 18 December 2012 subject to conditions and legal agreement.

15/01923/APP – Application for a partial reconfiguration of the site granted under 12/01110/APP increasing number of units on part of site from 5 to 10 units granted planning consent by Planning and Regulatory Services Committee of 23 February 2016 subject to conditions.

10/00048/PAN – Proposal of Application Notice for housing development and community facilities.

For Phase 2 (currently under construction):

16/00743/APP – 120 residential units with associated infrastructure granted planning permission on 28 April 2017 following decision of Planning and Regulatory Services Committee meeting of 6 December 2016 to grant consent subject to conditions and legal agreement.

15/01861/PAN – PAN for residential development on part of R3 Ferrylea, Forres.
This PAN was reported to the Planning and Regulatory Services Committee on 1 December 2015. Feedback was given by the Committee on access arrangements.

Phases 1 & 2:
Several consents to vary house types across the consented phases have been approved.

For Phase 3:

18/01142/APP – Erection of 316 residential units and associated infrastructure refused planning permission by the Planning and Regulatory Services Committee at their meeting of 8 October 2019. This decision was subsequently appealed to the Scottish Government Planning and Environmental Appeals Division (DPEA). The DPEA issued a notice of intention to allow the appeal and grant planning permission subject to conditions. This is subject to a legal agreement being concluded between the applicant and the Council (and other relevant parties – e.g. land owners, funders etc.) in order to secure developer obligations associated with the housing development.

17/00970/PAN – Proposal of Application Notice (PAN) for residential development and associated infrastructure incorporating the balance of Forres R3 Ferrylea and Forres LONG 3.

This PAN was presented to the Planning and Regulatory Services Committee on 15 August 2017. Feedback was given by the Committee on matters that should be taken into account:

- topography of the site;
- unbroken high density development south of Forres changing character of town;
- little demand for housing on present site, and need for further development;
- design of current development unappealing, unimaginative and very dense;
- people living south of High Street are deprived of access to countryside; and
- residents have to commute into Elgin and Aberdeen for employment, resulting in Forres resembling a commuter town with abandoned housing estates during the day.

19/00615/APP – Proposed student accommodation development (42 bed spaces) approved subject to signing of legal agreement by the Planning and Regulatory Services Committee at their meeting of 8 October 2019.

POLICY – SEE APPENDIX

ADVERTISEMENTS

- Advertised for neighbour notification purposes.

CONSULTATIONS

Transportation Manager – No objections subject to condition requiring details of surfacing to be submitted to and approved by the Council.

Moray Flood Risk Management – No objections.

Contaminated Land – No objections.

OBJECTIONS-REPRESENTATIONS

None received.

OBSERVATIONS

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the Development Plan i.e. the adopted Moray Local Development Plan 2015 (MLDP) unless material considerations indicate otherwise. On 18 December 2018, at a special meeting of the Planning and Regulatory Services Committee, the Proposed Moray Local Development Plan 2020 was approved as the "settled view" of the Council and minimal weight will be given to it, with the 2015 MLDP being the primary consideration.

Further consideration of the weight to be attached to the Proposed Plan was considered and agreed at the Planning and Regulatory Services Committee on 29th January 2019, with the Committee agreeing that between June/ August 2019 and adoption of the new LDP in mid-2020, the weight to be given to matters set out in the Proposed Plan will vary;

- Where matters set out in the Proposed Plan are subject to unresolved objections which will be considered through Examination, then those matters will continue to be given minimal weight as a material consideration in the development management process.
- Where matters set out in the Proposed Plan are not subject to unresolved objections, they will be given greater weight as a material consideration in the development management process.

The weight to be given will be considered on a case by case basis and will be agreed by the Development Management Manager and Strategic Planning and Delivery Manager.

In this case the proposal is subject to a designated site which will be subject to the Examination process and therefore will be given minimal weight.

The main issues are considered below.

Background
The site lies within an area that was developed under phase 1 of housing delivered on site R3 Forres under application 12/01110/APP. As part of that application, an approved scheme of landscaping identifies the area subject to this application for new tree planting.

Application 18/01142/APP (erection of 316 units) forming phase 3 of R3 (incorporating LONG3) was refused at the meeting of the Planning and Regulatory Services Committee of 8 October 2019. Following a subsequent appeal to the DPEA, on 20 January 2020 the Council received a notice of intent to allow the appeal and grant planning permission subject to conditions. This is subject to a legal agreement being concluded between the applicant and the Council (and other relevant parties – e.g. land owners, funders etc.) in order to secure developer obligations associated with the housing development.

This current application was submitted as it was necessary to provide a surface water detention basin for part of that development. This application was submitted prior to the Council's determination of application 18/01142/APP.

Provision of SuDS Basin on Landscaped Area (H1, Forres R3)
Policy H1 requires proposals for development on all designated land to be accompanied by a comprehensive layout for development of the whole site. In this case the proposal is contained within a small portion of Phase 1 of development on allocated site R3 and forms part of a wider drainage layout that will service future development on the remaining balance of R3. On this basis, the proposal would not prejudice the delivery of further areas of site R3, and would not conflict with policy H1 on this basis.

Although not delivered, this proposal would result in the loss of land that is intended to be new woodland. The proposal as submitted would see the site (within the red line boundary) being delivered as a SuDS pond and landscape planting, in a clearing between two areas of mature tree planting. Given the mature planting to the north and south, the introduction of a pond with landscaping is considered to be a suitable alternative to tree planting of the entire site. Whilst in itself forming part of the surface water drainage system of the residential land, the provision of the pond would provide a degree of variety in the current landscaping in this portion (phase 1) of R3, which comprises tree planting and grassed areas. The introduction of the blue infrastructure would enhance the biodiversity value of the landscaping within the site. A condition is recommended requiring submission and approval of details of the landscape and tree planting.

Surface Water Drainage (EP5)
The SuDS pond comprises above ground infrastructure for surface water drainage (an infiltration basin), which is advocated as the preferred option for new SuDS infrastructure per the ideals contained in the Council's Supplementary Guidance on Flood Risk and Drainage Impact Assessment for New Developments. Moray Flood Risk Management has not objected to the proposal. Taking account of these matters, the proposal complies with policy EP5 and the Supplementary Guidance.

Provision of Access (T2)
Access to service the basin would be provided from the road to the west (Siwalik Hill), and would enable large service vehicles to enter and exit the site in a forward gear. Service vehicles may include diggers and tankers to remove silt from the basin and the wider drainage network discharging to it The Transportation Manager raised no objections to

the proposal, subject to a condition requiring details of the surfacing of the access road to be agreed prior to works commencing. The proposal is not considered to conflict with policy T2 in light of these matters.

Impact on Trees (E4)
Policy E4 along with the Council's Supplementary Guidance on Trees and Woodland (SG) presumes in favour of retention of trees that may be impacted upon by development. The site plan submitted shows the canopy spread of trees to the north and south of the site, along with a one metre buffer beyond, per the root protection areas specified in the SG. Trees to the south of the site are offered sufficient separation.

Two trees to the north of the site are at mature height. Their root protection areas are immediately adjacent to the proposed basin and service access. In line with guidance in the SG as well as advice provided by the Lands and Parks Service, as the proposed pond would be located outwith the canopy spread of those two trees, the proposal is not considered to result in an adverse impact on any existing trees adjacent to the site.

In order to ensure construction activity does not adversely impact on trees within and adjacent to the site, a condition is recommended requiring a scheme of tree protection to be implemented during construction works. Subject to this condition being placed, the proposal is considered to comply with policy E4 and the Supplementary Guidance on Trees and Woodland.

Conclusion and Recommendation
The introduction of a basin/pond provides variety to the landscaping and biodiversity of the site, as well as sustainable urban drainage to serve development on the wider R3 site. Whilst the application for residential development in which this pond was intended to serve was refused, the DPEA have subsequently issued a notice of intention to allow the appeal and grant planning permission subject to conditions and conclusion of a legal agreement between the applicant and the Council (and other relevant parties – e.g. land owners, funders etc.) in order to secure developer obligations associated with the housing development. Accordingly, approval is recommended subject to conditions.

REASON(S) FOR DECISION
The Council's reason(s) for making this decision are: -

The proposal complies with the provisions of the development plan and there are no material considerations that indicate otherwise.

Author/Contact Officer:	Andrew Miller Planning Officer	**Ext:**	01343 563274

Beverly Smith
Development Management & Building Standards Manager

APPENDIX

POLICY

Adopted Moray Local Development Plan 2015

Policy E4: Trees and Development

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

Within Conservation Areas the Council will only agree to the felling of dead, dying, or dangerous trees. Trees felled within Conservation Areas or subject to TPO protection should be replaced, unless otherwise agreed with the Council.

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

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

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

Proposals affecting woodland will be considered against Policy ER2.

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

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

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

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

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

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

Policy T2: Provision of Access

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

- Proposals must maximise connections and routes for pedestrian and cyclists, including links to active travel and core path routes, to reduce travel demands and provide a safe and realistic choice of access.

- Provide access to public transport services and bus stop infrastructure where appropriate.

- Provide appropriate vehicle connections to the development, including appropriate number and type of junctions.

- Provide safe entry and exit from the development for all road users including ensuring appropriate visibility for vehicles at junctions and bends.

- Provide appropriate mitigation/modification to existing transport networks where required to address the impacts of new development on the safety and efficiency of the transport network. This may include but would not be limited to, the following measures, passing places, road widening, junction enhancement, bus stop infrastructure and drainage infrastructure. A number of potential road improvements have been identified in association with the development of sites the most significant of these have been shown on the Settlement Map as TSPs.

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

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

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

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

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

Significant travel generating proposals will only be supported where:

- Direct links to walking and cycling networks are available;

- Access to public transport networks would involve walking no more than 400m;

- It would not have a detrimental effect on the capacity of the strategic road and/or rail network; and

- A Transport Assessment identifies satisfactory mechanisms for meeting sustainable transport requirements and no detrimental impact to the performance of the overall network.

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

Policy H1: Housing Land

Designated sites

Land has been designated to meet the strategic housing land requirements 2013-2025 in the settlement statements as set out in Table 1. Proposals for development on all designated housing sites must include or be supported by information regarding the comprehensive layout and development of the whole site. This allows consideration of all servicing, infrastructure and landscaping provision to be taken into account at the outset. It will also allow an assessment of any contribution or affordable housing needs to be made. Proposals must comply with the site development requirements within the settlement plans and policies and the Council's policy on Place- making and Supplementary Guidance, "People and Places".

Windfall sites within settlements

New housing on land not designated for residential development within settlement boundaries will be acceptable if;

a) The proposal does not adversely impact upon the surrounding environment, and

b) Adequate servicing and infrastructure is available, or can be made available

c) The site is not designated for an alternative use

d) The requirements of policies PP2, PP3 and IMP1are met.

Housing Density

Capacity figures indicated within site designations are indicative and proposed capacities will be considered against the characteristics of the site, conformity with policies PP3, H8 and IMP1.

Policy IMP1: Developer Requirements

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

a) The scale, density and character must be appropriate to the surrounding area.

b) The development must be integrated into the surrounding landscape

c) Road, cycling, footpath and public transport must be provided at a level appropriate to the development. Core paths; long distance footpaths; national cycle routes must not be adversely affected.

d) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water.

e) Where of an appropriate scale, developments should demonstrate how they will incorporate renewable energy systems, and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria.

f) Make provision for additional areas of open space within developments.

g) Details of arrangements for the long term maintenance of landscape areas and amenity open spaces must be provided along with Planning applications.

h) Conservation and where possible enhancement of natural and built environmental resources must be achieved, including details of any impacts arising from the disturbance of carbon rich soil.

i) Avoid areas at risk of flooding, and where necessary carry out flood management measures.

j) Address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.

k) Address and sufficiently mitigate any contaminated land issues

l) Does not sterilise significant workable reserves of minerals or prime quality agricultural land.

m) Make acceptable arrangements for waste management.

R3: Ferrylea

This first phase of housing on this site is currently under construction. Future phases should be in accordance with the principles established in the approved masterplan for the whole site.

PP3 INFRASTRUCTURE & SERVICES.

Development must be planned and co-ordinated with infrastructure to ensure that places function properly and proposals are adequately served by infrastructure and services. A Utilities Plan must be submitted with planning applications setting out how existing and new utility (including gas, water, electricity, pipelines and pylons) provision have been incorporated into the layout and design of the proposal.

a) Development proposals will need to provide for the following infrastructure and services:

i) Education, Health, Transport, Sports and Recreation and Access facilities in accord with Supplementary Guidance on Developer Obligations and Open Space.

ii) Green infrastructure and network requirements specified in policy EP5 Open Space, Town and Village Maps and, contained within Supplementary Guidance on the Open Space Strategy, Masterplans and Development Briefs.

iii) Mitigation/modification to the existing transport network to address the impact of the proposed development in terms of safety and efficiency. This may include but not be limited to passing places, road widening, junction enhancement, bus stop infrastructure, and drainage infrastructure. A number of potential road and transport improvements are identified and shown on the Town and Village Maps as Transport Proposals (TSP's) including the interventions in the Elgin Transport Strategy. These requirements are not exhaustive and do not pre-empt any measures which may result from the Transport Assessment process.

iv) Electric car charging points must be provided at all commercial, community and communal parking facilities. Access to charging points must also be provided for residential on plot parking provision. Car share parking spaces must be provided within communal parking areas where a need is identified by the Transportation Manager.

v) Active Travel and Core Path requirements specified in the Council's Active Travel Strategy and Core Path Plan.

vi) Safe transport and access routes linking to existing networks and mitigating the impacts of development off-site.

vii) Information Communication Technology (ICT) and fibre optic broadband connections for all premises unless justification is provided to substantiate it is technically unfeasible.

viii) Foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS), including construction phase SUDS.

ix) Measures that implement the waste management hierarchy as defined in the Zero Waste Plan for Scotland including the provision of local waste storage and recycling facilities designed into the development in accord with policy PP1 Placemaking. For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.

x) Infrastructure required to improve or increase capacity at Water Treatment Works and Waste Water Treatment Works will be supported subject to compliance with policy DP1.

b) Development proposals will not be supported where they:

i) Create new accesses onto trunk roads and other main/key routes (A941 & A98) unless significant economic benefits are demonstrated.

ii) Adversely impact on active travel routes, core paths, rights of way, long distance and other access routes and cannot be adequately mitigated by an equivalent or better alternative provision in a location convenient for users.

iii) Adversely impact on blue/green infrastructure, including green networks important for wildlife unless an equivalent or better alternative provision will be provided.

iv) Are incompatible with key waste sites at Dallachy, Gollanfield, Moycroft and Waterford and would prejudice their operation.

v) Adversely impact on community and recreational sites, buildings or infrastructure including CF designations and cannot be adequately mitigated.

vi) Adversely impact on flood alleviation and mitigation infrastructure.

vii) Compromise the economic viability of bus or rail facilities.

c) **Harbours.**

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

d) **Developer Obligations.**

Developer obligations will be sought to mitigate any measurable adverse impact of a development proposal on local infrastructure, including education, healthcare, transport, sports and recreational facilities and access routes. Obligations will be sought to reduce, eliminate or compensate for this impact.

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

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

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

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

DP1 DEVELOPMENT PRINCIPLES.

This policy applies to all developments, including extensions and conversions and will be applied proportionately.

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

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

(i) **Design**

- a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.

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

- c) Make provision for new open space and connect to existing open space under the requirements of Policy EP5 and provide details of the future maintenance of these spaces. A detailed landscape plan must be submitted with planning applications and include information about green/blue infrastructure, tree species, planting, ground/soil conditions, and natural and man-made features (e.g. grass areas, wildflower verges, fencing, walls, paths, etc.).

- d) Demonstrate how the development will conserve and enhance the natural and built environment and cultural heritage resources, retain original land contours and integrate into the landscape.

- e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.

- f) Proposals do not result in backland development or plots that are subdivided by more than 50% of the original plot. Sub-divided plots must be a minimum of 400m2, excluding access and the built-up area of the application site will

not exceed one-third of the total area of the plot and the resultant plot density and layout reflects the character of the surrounding area.

•g) Pitched roofs will be preferred to flat roofs and box dormers are not acceptable.

•h) Existing stone walls on buildings and boundaries must be retained.

•i) Alteratons and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.

i) Proposals must orientate and design buildings to maximise opportunities for solar gain

(ii) **Transportation**

•a) Proposals must provide safe entry and exit from the development, including the appropriate number and type of junctions, maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, reduce travel demands and ensure appropriate visibility for all road users at junctions and bends. Road, cycling, footpath and public transport connections and infrastructure must be provided at a level appropriate to the development and connect people to education, employment, recreation, health, community and retail facilities.

•b) Car parking must not dominate the street scene and must be provided to the side or rear and behind the building line. Minimal (25%) parking to the front of buildings and on street may be permitted provided that the visual impact of the parked cars is mitigated by hedging or low stone boundary walls. Roadways with a single carriageway must provide sufficient off road parking to avoid access routes being blocked to larger service vehicles and prevent parking on pavements.

•c) Provide safe access to and from the road network, address any impacts on road safety and the local road and public transport network. Any impacts identified through Transport Assessments/ Statements must be identified and mitigated. This may include but would not be limited to, passing places, road widening, junction improvements, bus stop infrastructure and drainage infrastructure. A number of potential mitigation measures have been identified in association with the development of sites and the most significant are shown on the Proposals Map as TSP's.

•d) Provide covered and secure facilities for cycle parking at all flats/apartments, retail, community, education, health and employment centres.

•e) Garages and parking provision must be designed to comply with Moray Council parking specifications see Appendix 2.

•f) The road layout must be designed to allow for the efficient mechanical sweeping of all roadways and channels, paviors, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of service vehicles with hammerheads

minimised in preference to turning areas and to provide adequate space for the collection of waste and movement of waste collection vehicles.

•g) The road and house layout in urban development should allow for communal refuse collection points where the design does not allow for individual storage within the curtilage and / or collections at kerbside. Communal collection points may either be for the temporary storage of containers taken by the individual householder or for the permanent storage of larger containers. The requirements for a communal storage area are stated within the Council's Kerbside Collection Policy, which will be a material consideration.

•h) Road signs should be minimised designed and placed at the back of footpaths to reduce street clutter, avoid obstructing pedestrian movements and safeguarding sightlines.

•i) Within communal parking areas there will be a requirement for electric car charging points. Parking spaces for car sharing must be provided where a need is identified by the Transportation Manager.

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

•a) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water including temporary/ construction phase SUDS (see Policy EP12).

•b) New development should not be located in areas at flood risk or increase vulnerability to flooding (see Policy EP12). Exceptions to this would only be considered in specific circumstances, e.g. extension to an existing building or change of use to an equal or less vulnerable use. Where this exception is applied the proposed development must include resilience measures such as raised floor levels and electrical sockets.

•c) Proposals must avoid major hazard sites and address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.

•d) Proposals must protect and wherever practicable enhance water features through for example naturalisation of watercourses by introducing a more natural planform and removing redundant or unnecessary structures.

•e) Proposals must address and sufficiently mitigate any contaminated land issues.

•f) Make acceptable arrangements for waste collection and management and encourage recycling.

•g) Avoid sterilising significant workable reserves of minerals, prime agricultural land or productive forestry.

•h) Proposals must avoid areas at risk of coastal erosion and coastal change.

DP2 HOUSING.

a) Proposals for development on all designated and windfall housing sites must include a design statement and supporting information regarding the comprehensive layout and development of the whole site, addressing infrastructure, access for pedestrians, cyclists, public transport and service vehicles, landscaping, drainage, affordable and accessible housing and other matters identified by the planning authority, unless otherwise indicated in the site designation.

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

b) Piecemeal/ individual plot development proposals

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

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

c) Housing density

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

d) Affordable Housing

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

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

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

Further detail on the implementation of this policy is provided in the Policy Guidance note on page 44.

e) Housing Mix and Tenure Integration

Proposals for 4 or more housing units must provide a mix of house types, tenures and sizes to meet local needs as identified in the Housing Need and Demand Assessment and Local Housing Strategy.

Proposals must demonstrate tenure integration and meet the following criteria;

- Architectural style and external finishes must ensure that homes are tenure blind.

- The spatial mix must ensure communities are integrated to share school catchment areas, open spaces, play areas, sports areas, bus stops and other community facilities.

f) Accessible Housing

Housing proposals of 10 or more units will be required to provide 10% of the private sector units to wheelchair accessible standard, with all of the accessible units to be in single storey form. Flexibility may be applied on sites where topography would be particularly challenging for wheelchair users.

Further detail on the implementation of this policy is provided in the Policy Guidance note on page 44.

EP7 FORESTRY, WOODLANDS AND TREES.

a) Forestry.

Proposals which support the economic, social and environmental objectives and projects identified in the Moray Forestry and Woodlands Strategy will be supported where they meet the requirements of all other relevant Local Development Plan policies. The Council will consult Forestry Commission Scotland on proposals which are considered to adversely affect commercial forests.

b) Woodlands.

In support of the Scottish Government's Control of Woodland Removal Policy, development which involves permanent woodland removal will only be permitted where it would achieve significant and clearly defined additional public benefits and where removal will not result in unacceptable adverse effects on the amenity, landscape, biodiversity, economic or recreational value of the woodland or prejudice the management of the woodland.

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

Woodlands identified in the Ancient Woodland Inventory are important not just for the trees, but for the soil structure, flora and fauna that rely on such woodlands. Ancient woodland ecosystems have been created over hundreds of years and are irreplaceable.

Woodland removal within native woodlands identified as a feature of sites protected under Policy EP1 or woodland identified in the Ancient Woodland Inventory will not be supported.

c) Trees and Tree Preservation Orders.

Development proposals must to retain existing healthy, mature trees and incorporate them within the proposal. Where mature trees exist on or bordering a development site, a tree survey and tree protection and mitigation plan must be provided with planning applications if the trees (or their roots) have the potential to be affected by development and construction activity. Proposals must identify a safeguarding distance to ensure construction works, including access and drainage arrangements, will not damage or interfere with the root systems in the short or longer term.

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

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

EP12 MANAGEMENT AND ENHANCEMENT OF THE WATER ENVIRONMENT.

a) Flooding.

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

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

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

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

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

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

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

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

a) In areas of little to no risk (less than 0.1%), there will be no general constraint to development.

b) Areas oflow to medium risk (0.1% to 0.5%) will be considered suitable for most development. A flood risk assessment may be required at the upper end of the probability range i.e. (close to 0.5%) and for essential civil infrastructure and the most vulnerable uses. Water resistant materials and construction may be required. Areas within this risk category will generally not be suitable for civil infrastructure. Where civil infrastructure must be located in these areas or is being substantially extended, it should be designed to be capable of remaining operational and accessible during flooding events.

c) Areas of medium to high risk (0.5% or above) may be suitable for:

- Residential, institutional, commercial and industrial development within built up areas provided that flood protection measures to the appropriate standard already exist and are maintained, are under construction, or are a planned measure in a current flood management plan;

- Essential infrastructure within built up areas, designed and constructed to remain operational during floods and not impede water flow;

- Some recreational, sport, amenity and nature conservation uses, provided appropriate evacuation procedures are in place, and

- Employment related accommodation e.g. caretakers or operational staff.

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

- Civil infrastructure and most valnerable uses.

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

- New caravan and camping sites.

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

acceptable as they are unsustainable in the long term due to sea level rise and coastal change.

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

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

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

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

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

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

c) Water Environment

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

The report must consider existing and potential impacts up and downstream of the development particularly in respect of potential flooding. The Council operates a

presumption against the culverting of watercourses and any unnecessary engineering works in the water environment.

A buffer strip of at least 6 metres between any new development and all water features is required and should be proportional to the bank width and functional river corridor (see table on page 104). This must achieve the minimum width within the specified range as a standard, however, the actual required width within the range should be calculated on a case by case basis by an appropriately qualified individual. These must be designed to link with blue and green networks, including appropriate native riparian vegetation and can contribute to open space requirements.

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

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

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

R2 Ferrylea 22.2 ha 380 units

- Phases 1 and 2 of development has commenced with 249 units consented.
- A masterplan is required, incorporating land at West Park Croft, showing connections between all areas, proposed landscaping, the required affordable and accessible housing and required buffer to the gas pipeline.
- Lowering of density onto the rural edge required.
- Pocket park within south eastern part of site required.
- Transport Assessment required.
- Junction improvements required within Forres, scale to be determined through the Transport Assessment.
- Widening of Mannachie Road along frontage of site to 6m and provision of a 3m wide cycle path to the west side connecting to the north and completing

any missing sections between the site and the existing network to the north required.

- Contribution required towards path widening along Mannachie Road to 3m wide from development to core path FR22 (including provision for a crossing).

- Widening of Mannachie Road to 5.5m from Link Road access, south to access to West Park Croft and safeguarding for future widening within site boundary beyond this is required.

- Assessment for additional bus stop infrastructure within the frontage of the development must be considered as part of the overall R2/R4/R6 bus stop infrastructure provision and accessibility to bus stops.

- A developer contribution towards public transport will be sought.

- Path links must be provided to the woodland to the south of the site, and north into adjacent housing at Mannachie Brae.

- Flood Risk Assessment (FRA) required.

- Drainage Impact Assessment (DIA) required.

- Phase 1 Habitat Survey required.

- Archaeological targeted evaluation (10%) of known features and monitored topsoil strip of all remaining areas required.

REPORT TO: **PLANNING AND REGULATORY SERVICES COMMITTEE ON 25 FEBRUARY 2020**

SUBJECT: **PERFORMANCE REPORT (ECONOMIC GROWTH AND DEVELOPMENT) – HALF YEAR TO SEPTEMBER 2019**

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

1. REASON FOR REPORT

1.1 To inform the Committee of the performance of the service for the period from 1 April 2019 to 30 September 2019.

1.2 This report is submitted to Committee in terms of Section III (A) (4) and (E) (19) of the Council's Scheme of Administration relating to contributing to public performance reporting and the development and monitoring of the Council's Performance Management Framework.

2. RECOMMENDATION

2.1 It is recommended that Committee:

(i) scrutinises performance of the Performance Indicators, Service Plan priorities and Complaints to the end of September 2019;

(ii) welcomes good performance; and

(iii) notes the actions being taken to improve performance where required.

3. BACKGROUND

3.1 At a meeting of the Moray Council on 07 August 2019, a revised Performance Management Framework was approved (para 5 of the minute refers). A key part of this framework covers the Managing, Delivering and Reporting of Performance. This was intended to increase focus on priority areas and reduce the detailed narrative around lower priority indicators in order to ensure that debate, scrutiny and challenge was directed at the areas of strategic importance to the council rather than routine operational

performance. Whilst the latter is clearly deserving of scrutiny if trends develop, consideration at committee should focus on the ability to deliver priorities in the LOIP, Corporate Plan and Service Plan. This half yearly performance report allows for agreed Performance Indicators, Service Plan priorities and Complaints data for Economic Growth and Development, to be monitored by committee as outlined in this section of the framework.

4. SUMMARY OF PERFORMANCE

Performance Indicators

4.1 A list of all performance indicators reported to this committee is provided in **APPENDIX 1**. This list includes targets and data for both the last three years and last five quarters. The table below summarises this performance at the end of quarter 2.

Service	No. of Indicators	Green Performing Well	Amber Close Monitoring	Red Action Required	Annual/ Data Unknown	Data Only/ LGBF
Building Standards	6	3	0	0	0	3
Development Management	9	1	0	0	0	8
Economic Development	6	0	0	0	2	4
Environmental Health	9	1	0	0	7	1
Planning and Development	6	0	0	0	6	0
Trading Standards	9	0	0	0	8	1
Transportation Planning	1	1	0	0	0	0
Total no of indicators	**46**	**6**	**0**	**0**	**23**	**17**
Indicators with data available against target at end of Quarter 2	**6**	**100%**	**0%**	**0%**		

4.2 Of the 6 local indicators due to report data against target at the end of September 2019, all are performing well.

Service Plan

Number of Actions	Completed - Expected by end quarter 2	Completed - Actual by end quarter 2	Cancelled	Overdue at end quarter 2
15	1	1	0	0

4.3 At a meeting of this Committee on 10 December 2019, approval was given for the Economic Growth and Development Service Plan covering the period 2019-2021 (para 9 of the draft minute refers).

4.4 Of the 15 actions included in the plan, only one was due to be completed by the end of quarter 2 2019/20; the finalising of outstanding tasks from the latest Food Standards Scotland (FSS) Audit. These tasks were completed and the audit signed off successfully as of August 2019.

Complaints

4.5 During the half year to the end of September 2019, Economic Growth and Development received 15 complaints. During the same period, 12 complaints were closed. Of these closed complaints, 4 were closed as frontline while 8 were closed as investigative. All 4 frontline complaints and 6 of the investigative complaints were not upheld. 1 investigative complaint was partially upheld while 1 was upheld. 60% of all complaints closed were dealt with within target timescales.

5. PERFORMANCE ANALYSIS

Local Government Benchmarking Framework

5.1 The Improvement Service has recently published the Local Government Benchmarking Framework Performance Indicators for 2018/19. **APPENDIX 2** provides details of those relating to Economic Growth and Development. Items included that relate to Economic Development fall within the remit of the Economic Development and Infrastructure committee however they have been included for information.

Performance Indicators - Areas of Good Performance

Building Standards

5.2 All three performance indicators for Building Standards, with data against target, continued to perform well during the first half of 2019/20. Of note is the average number of days taken to respond to amended plans (ENVDV046b), which currently has a target of 15 days. In quarter 1, the average was recorded as 5 days, in quarter 2 this fell to just 4.

5.3 The data only performance indicator, % of CCNPs (Construction Compliance and Notification Plans fully achieved for completion certificates (ENVDV-BS-KP02) has also recorded a significant improvement during the first half of 2019/20 increasing from 29% in quarter 1 to 53% in quarter 2.

Development Management

5.4 As stated in previous reports, data for Development Management is reported 1 quarter behind in line with Scottish Government Reporting. Looking at quarter 1, the number of local planning applications determined in less than 2 months (ENVDV262) has increased by 40% compared to Q4 2018/19.

Economic Development

5.5 In the first half of 2019/20, Business Gateway have dealt with 430 enquiries and held 9 start-up workshops in Moray. A total of 98 business start-ups have been helped; 28 (40%) more than compared to the same period in 2018/19. As a result, a total of 142 FTE jobs have either been retained or created in the area.

Environmental Health

5.6 For the third consecutive quarter, the percentage of responses for low-priority pest control services which met the national target (ENVDV087) has been reported above the 90% target; 96% in quarter 1 rising to 97% in quarter 2.

Transportation

5.7 Despite the department covering a vacant post during quarter 2, the % of planning applications returned to the planning department within target times has remained above the 80% target at 86.7%.

6. Proposed Changes to Performance Indicators in 2019/20

6.1 As per paragraph 4.1 above, **Appendix 1** provides a list of all performance indicators currently reported to this Committee for Economic Growth and Development Services. As part of the revised Performance Framework and the increased focus on delivering priority areas, it is proposed that outcome measures included in the current Service Plan are reported as a section within this Performance Report. **Appendix 1** details these outcome measures.

7. SUMMARY OF IMPLICATIONS

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

Performance measurement is used to ensure the efficient and sustainable delivery of services to meet the Council's priorities in both the Corporate Plan and the LOIP.

(b) Policy and Legal

The Council has a statutory requirement to publish a range of information that will demonstrate that it is securing best value and assist in comparing performance both over time and between authorities where appropriate.

(c) Financial Implications

None.

(d) Risk Implications

None.

(e) Staffing Implications

None.

(f) Property

None.

(g) Equalities/Socio Economic Impact

An Equality Impact Assessment is not needed because the report is to inform the Committee on performance.

(h) Consultations

The Depute Chief Executive (Economy, Environment and Finance), the Head of Economic Growth and Development, the Development Management and Building Standards Manager, the Legal Services Manager, the Environmental Health and Trading Standards Manager, the Strategic Planning and Development Manager, the Economic Growth and Regeneration Manager, the Equal Opportunities Officer and Lissa Rowan (Committee Services Officer) have been consulted with any comments received incorporated into this report.

7. CONCLUSION

7.1 At the end of September 2019, all Economic Growth and Development Services performance indicators, with data to report against target, have shown good performance. The Service Plan for 2019/21 has been approved with work ongoing to deliver the agreed actions.

Author of Report: Suzanne Wilson
Background Papers: Held by Suzanne Wilson, Research & Information Officer
Ref:

2019/20 Economic Growth & Development Services Performance Indicators

Economic Growth & Development Services - Service Plan 2019-21
Outcome Measures

Cat	Suggested change	Code & Name	Target	2017/18	2018/19	2019/20	Q2 2018/19	Q3 2018/19	Q4 2018/19	Q1 2019/20	Q2 2019/20	Latest Note	Status
				Value	Value	Value	Value	Value	Value	Value	Value		
Local	New	Action 4(a) Pursue the Cultural Quarter project and other Moray Growth Deal projects led by the council Outcome – Increase the level of 16-29 year olds living and working in Moray. Population stats show an improvement.	Increase				Not measured for Quarters						
Local	New	Action 4(b) Progress Moray Skills Investment Plan resulting in better employment, skills and earnings. Outcome – Reduction in the number of people earning less than the living wage.	Decrease				Not measured for Quarters						
Local	New	Action 5(c) Progress the 2020 Local Development Plan to ensure Economic Growth that encourages biodiversity Outcome – Number of planning approvals compliant with policies relating to quality, biodiversity and open space	Increase				Not measured for Quarters						
Local	New	Action 5(d) Review the way we engage with our customers to ensure the service us more effective and drive service improvement. Outcome – Increase customer satisfaction rates.	Increase				Not measured for Quarters						

Cat	Suggested change	Code & Name	Target	2017/18	2018/19	2019/20	Q2 2018/19	Q3 2018/19	Q4 2018/19	Q1 2019/20	Q2 2019/20	Latest Note	Status
				Value	Value	Value	Value	Value	Value	Value	Value		
Local	New	Action 5(g) Complete and adopt the Food Growing Strategy and improve participation in local food growth. Outcome – Increase number of food growing areas.	Increase				Not measured for Quarters						
Local	New	Action 5(h) New Private Water Supply Team with dedicated areas to increase sampling and meet legislative targets. Outcome - % meeting programmed work.	Increase				Not measured for Quarters						
Local	New	Action 5(k) Progress the delivery of the Elgin Town Centre masterplan to ensure a vibrant sustainable Town Centre. Outcome – Increase pedestrian footfall in the town centre.	Increase				Not measured for Quarters						
Local	New	Action 5(l) Support Town Centre activities through the delivery of the Town Centre Capital Fund to improve town centre investment. Outcome –% of fund successfully invested.	Increase									Baseline figures to be confirmed.	
Local	New	Action 5(m) Review the cap on developer obligations. Outcome – Greater proportion of Developer Obligations are secured.	Increase										

Strategy Building Standards
Managed By Clark, Willie

Code	PI Code	Short Name	Current Target	2017/18	2018/19	2019/20	Q2 2018/19	Q3 2018/19	Q4 2018/19	Q1 2019/20	Q2 2019/20	Latest Note	Traffic Light Icon
				Value	Value	Value	Value	Value	Value	Value	Value		
Nat(b)	ENVDV-BS-KPO1(A)	Average time per Building Warrant (Working Days)		86	68		74	63	67	70	77		
Nat(b)	ENVDV-BS-KPO1(B)	Percentage of Building Warrant and amendment first reports (including Building Warrant or amendment issued without a first report) issued within 20 working days	95%	87%	98.5%		98.5%	98.7%	99.5%	98%	98.68%		
Nat(b)	ENVDV-BS-KPO1(C)	BS - Percentage of Building Warrants and amendments issued within 10 days of receipt of satisfactory information	90%		93.4%		97.4%	100%	99.1%	95%	97%		
Nat(b)	ENVDV-BS-KPO2	BS - % of CCNPs (Construction Compliance and Notification plans) fully achieved for "accepted" (by relevant person and verifier) completion certificates			27%		29.5%	31.4%	28.5%	29%	53%		
Local	ENVDV046a	BS - Number of amended plans responded to		1,414	1,284	600	322	292	302	290	310		
Local(b)	ENVDV046b	BS - Average number of days taken to respond to amended plans	15	7.5	5.5		6.9	4.6	3.8	5	4		

Strategy Development Management
Managed By Smith, Beverly

Code	PI Code	Short Name	Current Target	2017/18 Value	2018/19 Value	2019/20 Value	Q2 2018/19 Value	Q3 2018/19 Value	Q4 2018/19 Value	Q1 2019/20 Value	Q2 2019/20 Value	Latest Note	Traffic Light Icon
Nat(b)	ENVDV252	Enforcement Activity. Number of cases taken up		294	282		73	57	68	65		Reported 1 quarter behind in line with Scottish Government reporting.	
Nat(b)	ENVDV262	Number of Local Planning Application determined in less than 2 months		650	524		133	128	111	155		As above.	
Nat(b)	ENVDV263	Number of Local Planning Application determined in more than 2 months		56	70		9	30	26	27		As above.	
Nat(b)	SDS2ai	Number of Major Planning applications determined		9	8		2	3	3	4		As above.	
Nat(b)	SDS2aii	Average time (weeks) taken to determine Major Planning Applications (with processing agreements)		12.2			N/A	17	N/A	N/A		As above.	
Nat(b)	SDS2aiii	Average time (weeks) taken to determine Major Planning Applications (without processing agreements)		18.6			8	13.5	12.7	23.8		As above.	
Nat(b)	SDS2b	Average time (weeks) to deal with local planning applications	10.4	6.1			6.1	7.1	8	7.4		As above.	
Nat(b)	SECON02	Cost of Planning & Building Standards per Planning Application	£4439	£3584	£4627		Not measured for Quarters					**Provisional LGBF Data 2018/19** **Moray** - Cost (£) of Planning & Building Standards per Planning Application – **£4,627** (Rank 18th) Comparator Benchmarking: E. Ayrshire – £6,786 East Lothian – £2,988 Fife – £3,613 N. Ayrshire – £3,480 Perth & Kinross – £3,814 S. Ayrshire – £7,615 Stirling – £4,867 **Scotland – £4,439**	

Nat(b)	SECON03	Average Time Per Commercial Planning Application	9.09	6.52	6.68		Not measured for Quarters	**Provisional LGBF Data 2018/19** **Moray** - Average time per business and industry planning application (weeks) (2018/19) = 6.68 (Rank 2) Comparator Benchmarking: E. Ayrshire – 9.24 East Lothian – 10.85 Fife – 9.62 N. Ayrshire – 6.7 Perth & Kinross – 7.68 S. Ayrshire –6.49 Stirling – 11.23 **Scotland - 9.09**	

Strategy Economic Development
Managed By Millburn, Reni

Code	PI Code	Short Name	Current Target	2017/18	2018/19	2019/20	Q2 2018/19	Q3 2018/19	Q4 2018/19	Q1 2019/20	Q2 2019/20	Latest Note	Traffic Light Icon
				Value	Value	Value	Value	Value	Value	Value	Value		
Local	ENVDV266	Number of new Business start-ups through the Business Gateway		128	132		34	26	36	41	57		
Local	ENVDV267	Business Gateway 3 year survival rate (based on 100% sampling)		86%	87%		Not measured for Quarters						
Local	ENVDV268	External funding leverage (against every £ from Council)		£2.66	£2.29		Not measured for Quarters						

Nat (b)	CLS03	Cost per museum visit		£2.30	£2.46		Not measured for Quarters	**Provisional LGBF Data 2018/19** **Moray** - Cost per museum visit (2018/19) = £2.46 (Rank 9th) (Net expenditure - museums & galleries £109,000 / 44,337 no. of museum visits = £2.46 per visit) Comparator Benchmarking: East Ayrshire - £1.71 East Lothian - £1.73 Fife - £1.92 North Ayrshire - £0.39 Perth & Kinross - £4.16 South Ayrshire - £6.14 Stirling - £3.42 **Scotland - £3.48**	
Nat (b)	CLS05c	Percentage of adults satisfied with museum and galleries		49.67%	58.1%		Not measured for Quarters	**Provisional LGBF Data 2018/19** **Moray** - % adults satisfied with museums and galleries (2018/19) = 58.1% (Rank 23rd) Comparator Benchmarking: East Ayrshire - 75.8% East Lothian - 61.0% Fife - 63.6% North Ayrshire - 65.7% Perth & Kinross - 76.6% South Ayrshire - 78.1% Stirling - 66.8% **Scotland - 69.3%**	
Nat (b)	SECON05	No of business gateway start-ups per 10,000 population	16.7	13.36	12.56		Not measured for Quarters	**Provisional LGBF Data 2018/19** **Moray** - No. of business gateway start-ups per 10,000 population (2018/19) = 12.56 (Rank 30) Comparator Benchmarking: E. Ayrshire – 19.29 East Lothian – 18.53 Fife – 14.84 N. Ayrshire – 21.66 Perth & Kinross – 16.72 S. Ayrshire – 20.97 Stirling – 22.79 Scotland - 16.7	

Strategy Environmental Health
Managed By Sievewright, Karen

Code	PI Code	Short Name	Current Target	2017/18	2018/19	2019/20	Q2 2018/19	Q3 2018/19	Q4 2018/19	Q1 2019/20	Q2 2019/20	Latest Note	Traffic Light Icon
				Value	Value	Value	Value	Value	Value	Value	Value		
Nat(b)	ENVDV215b	Cost of Environmental Health Services per 1,000 population.		£14,732	£14,489		Not measured for Quarters					**Provisional LGBF Data 2018/19** **Moray** - Cost of Environmental Health Services per 1,000 population (2018/19) = £14,489 (Rank 20) (Gross Cost Environmental Health £1,411,000 / Mid Year population estimate 95,520 = £14,489) Comparator Benchmarking: East Ayrshire - £10,366 (Rank 7) East Lothian - £10,946 (Rank 9) Fife – £13,536 (Rank 16) N. Ayrshire – £9,676 (Rank 5) Perth & Kinross – £14,052 (Rank 19) S. Ayrshire – £13,603 (Rank 17) Stirling – £12,700 (Rank 15) **Scotland - £14,994**	
Local	ENVDV078a	EH - Health & Safety - percentage of high-risk (12 months) premises inspected within time during quarter	100%	N/A	N/A		N/A	N/A	N/A	N/A	N/A	Data not available at this time. A new code of practice is now in place and work is ongoing in relation to amending the current risk assessment and monitoring reports process.	
Local(b)	ENVDV086	EH - Percentage of responses for high-priority pest control services which met the national target	95%	N/A	N/A		N/A	N/A	N/A	N/A	N/A	No high priority pest jobs	
Local(b)	ENVDV087	EH - Percentage of responses for low-priority pest control services which met the national target	90%	86.4%	88%		88%	87.5%	98%	96%	97%		

Strategy Environmental Health (Food Safety)
Managed By Sievewright, Karen

Code	PI Code	Short Name	Current Target	2017/18	2018/19	2019/20	Q2 2018/19	Q3 2018/19	Q4 2018/19	Q1 2019/20	Q2 2019/20	Latest Note	Traffic Light Icon
				Value	Value	Value	Value	Value	Value	Value	Value		
Local	ENVDV069a	EH - Food Safety - percentage of category A (6 month) premises inspected within time during quarter	100%	91.7%			100%	100%	50%	50%	N/A	Data not available at this time. A new code of practice is now in place and work is ongoing in relation to amending the current risk assessment and monitoring reports process.	
Local	ENVDV070a	EH - Food Safety - percentage of category B (12 months) premises inspected within time during quarter	100%	87.1%			100%	100%	94%	65%	N/A	As above.	
Local	ENVDV259a	EH - Food Safety - percentage of category C (18 months) premises inspected within time during quarter		82.5%			95.7%	95%	69%	44%	N/A	As above.	
Local(b)	ENVDV410a	EH - Food Safety - percentage of category D (24 months) premises inspected within time during quarter		87.5%			66.67%	31.3%	54%	87%	N/A	As above.	
Local	ENVDV070c	EH - Food Safety - percentage of registered food premises which are broadly compliant with food law (of all rated premises)	80%	88.8%	92%	92%	88.3%	89.4%	92%	92%	N/A	As above.	

Strategy Planning and Development
Managed By Templeton, Gary

Code	PI Code	Short Name	Current Target	2017/18	2018/19	2019/20	Q2 2018/19	Q3 2018/19	Q4 2018/19	Q1 2019/20	Q2 2019/20	Latest Note	Traffic Light Icon
				Value	Value	Value	Value	Value	Value	Value	Value		
Local	ENVDV247	P&D - Age of Local Development plan (requirement less than 5 years)	Yes	Yes	Yes		Not measured for Quarters					LDP2015 was adopted 31st July 2015, so target replacement date is 30th July 2020. Currently on target to achieve this.	
Local	ENVDV248	P&D - The effective Housing Land Provision is greater than a 5 year supply	Yes	Yes	Yes		Not measured for Quarters					2019 Housing Land Audit (draft) indicates that there is a 7.8 year effective land supply.	
Local	ENVDV250	P&D - Vacancy rate of retail floor space	10%	N/A	10.85%	N/A	Not measured for Quarters					Town Centre Health Checks are carried out every 2 years- Last carried out in Summer of 2018 and will be updated in the summer of 2020.	
Local	ENVDV264	Annual monitoring statement of the Local Development Plan is published	Yes	Yes	No		Not measured for Quarters					No monitoring statement prepared during Plan "preparation" year. 2019 Statement will be reported to P&R Committee in Q4 2019.	
Local	ENVDV265	Area of Employment (Marketable/Effective) Land available (hectares)		80.27 ha	79.84 ha		Not measured for Quarters						
Local	ENVDV265a	Area of Immediately Available/ Serviced Employment Land (hectares)		17.95 ha	39.15 ha		Not measured for Quarters						

Strategy Trading Standards
Managed By Allan, Muriel

Code	PI Code	Short Name	Current Target	2017/18	2018/19	2019/20	Q2 2018/19	Q3 2018/19	Q4 2018/19	Q1 2019/20	Q2 2019/20	Latest Note	Traffic Light Icon
				Value	Value	Value	Value	Value	Value	Value	Value		
Local	ENVDV201	Percentage of clients who were 'very satisfied' or 'fairly satisfied' with the consumer complaint service.	95%	95%	93%		Not measured for Quarters						
Nat(b)	ENVDV215a	Cost of Trading Standards, Money Advice and Citizen Advice per 1,000 population.		£5,220	£4,837		Not measured for Quarters					**Provisional LGBF Data 2018/19** **Moray** - Cost of Trading Standards, Money Advice and Citizen Advice per 1,000 population = £4,837 (Rank 15th) (Gross Cost Trading Standards £462,000 / Mid Year Population estimate 95,520 = £4,837) Comparator Benchmarking: E. Ayrshire – £4,604 (Rank 11) East Lothian – £1,304 (Rank 1) Fife – £7,494 (Rank 21) N. Ayrshire – £2,595 (Rank 3) Perth & Kinross – £3,444 (Rank 7) S. Ayrshire – £6,939 (Rank 20) Stirling – £10,463 (Rank 28) **Scotland - £5,890**	
Local	ENVDV216	Percentage of Welfare Benefits clients who were 'very satisfied' or 'fairly satisfied' with service received		97%	100%		Not measured for Quarters						
Local	ENVDV217	Welfare Benefits clients – estimated benefit gain (£000s)		£1,049	£931		£168	£170	£254	N/A	N/A	As of 01 April 2019, this service has moved to revenues and is no longer reported.	
Local	ENVDV218b	Welfare Benefit clients – percentage of clients with successful appeals	75%	80%	85%		91%	100%	76%	N/A	N/A	As above.	
Local	ENVDV253	Number of Reports to the Procurator Fiscal		6	9		4	3	1	4	1		

Local	ENVDV254	Estimated increase in the Council's collection of Rent and Council Tax money from Money Advice Clients		£72,642	£76,787		Not measured for Quarters		
Local	ENVDV255	Percentage of Money Advice clients who agreed that 'The service helped to sort out their debt problem'.		98%	100%		Not measured for Quarters		
Local	ENVDV300	Percentage of Money Advice clients who were 'very satisfied' or 'fairly satisfied' with service received.	95%	100%	100%		Not measured for Quarters		

Strategy Transportation Planning
Managed By Moss, Nicola

Code	PI Code	Short Name	Current Target	2017/18	2018/19	2019/20	Q2 2018/19	Q3 2018/19	Q4 2018/19	Q1 2019/20	Q2 2019/20	Latest Note	Traffic Light Icon
				Value	Value	Value	Value	Value	Value	Value	Value		
Local	Envdr252	Percentage of Planning Applications returned to the Planning Department within target time	80%	86.3%	91.8%		92.4%	90.8%	92.8%	89.6%	86.7%	150/173 reduction in performance due to vacant post during September	

LGBF Indicator	2017/18	2018/19	Value Change 2017/18-2018/19	Performance against comparators	Rank Change 2017/18-2018/19	Comment
Development Management						
Cost of planning & building standards per planning application	£3,584	£4,627	£1,043	Moray = £4,627 (Rank 18th where 1 is the lowest) Comparators: E. Ayrshire – £6,786 (Rank 27) East Lothian – £2,988 (Rank 4) Fife – £3,613 (Rank 9) N. Ayrshire – £3,480 (Rank 6) Perth & Kinross – £3,814 (Rank 20) S. Ayrshire – £7,615 (Rank 29) Stirling – £4,867 (Rank 22) **Scotland - £4,439**	Fall of 7 places from 11th in 2017/18	This indicator uses gross cost of development management, building standards and planning policy so costs are not directly related to the workload associated with planning applications. Costs in Moray have increased by £1,043 (29%) since 2017/18. At the same time, the Scottish average has increased by £385 (9%). Against comparator authorities, Moray is one of 5 noting an increase this year, the highest of which was South Ayrshire rising from £2,877 in 2017/18 to £7,615 in 2018/19.
Average time per commercial planning application (weeks)	6.52	6.68	0.16	Moray = 6.68 (Rank 2nd where 1 is the lowest) Comparators: E. Ayrshire – 9.24 (Rank 20) East Lothian – 10.85 (Rank 26) Fife – 9.62 (Rank 21) N. Ayrshire – 6.7 (Rank 3) Perth & Kinross –7.68 (Rank 7) S. Ayrshire – 6.49 (Rank 1) Stirling – 11.23 (Rank 28) **Scotland - 9.09**	No change in ranking	Performance depends on the complexity of each individual case and the type of applications received. Nationally the average time has fallen from 9.34 weeks in 2017/18 to 9.09.

LGBF Indicator	2017/18	2018/19	Value Change 2017/18-2018/19	Performance against comparators	Rank Change 2017/18-2018/19	Comment
Economic Development						
Cost per museum visit	£2.30	£2.46	£0.16	Moray = £2.46 (Rank 9th where 1 is the lowest) Comparators: E. Ayrshire – £1.71 (Rank 5) East Lothian – £1.73 (Rank 6) Fife – £1.92 (Rank 8) N. Ayrshire – £0.39 (Rank 3) Perth & Kinross – £4.16 (Rank 19) S. Ayrshire – £6.14 (Rank 22) Stirling – £3.42 (Rank 14) **Scotland - £3.48**	Fall of 1 place from 8th in 2017/18	Against comparator authorities, Moray is one of 5 recording an increase this year; although it is the smallest rise at 7%. Nationally the costs have fallen by 1% from £3.52 to £3.48. In Moray, this indicator relates to visits to the Falconer Museum in Forres with the rise attributed to the increase in inflation including wage costs etc.
Percentage of adults satisfied with museum and galleries	49.7%	58.1%	8.4%	Moray = 58.1% (Rank 23rd where 1 is the highest) Comparators: E. Ayrshire –75.8% (Rank 9) East Lothian – 61.0% (Rank 21) Fife – 63.6% (Rank 18) N. Ayrshire – 65.7% (Rank17) Perth & Kinross – 76.6% (Rank 7) S. Ayrshire – 78.1% (Rank 5) Stirling – 66.8% (Rank 14) **Scotland - 69.3%**	Increase of 7 places from 30th in 2017/18	Against comparator authorities, Moray continues to have the lowest satisfaction rate however this year Moray has recorded the largest improvement this year.
No of business gateway start-ups per 10,000 population	13.36	12.53	-0.83	Moray = 12.56 (Rank 30th where 1 is the highest) Comparators: E. Ayrshire – 19.29 (Rank 14) East Lothian – 18.53 (Rank 16) Fife – 14.84 (Rank 27) N. Ayrshire – 21.66 (Rank 8) Perth & Kinross – 16.72 (Rank 21) S. Ayrshire – 20.97 (Rank 11) Stirling – 22.79 (Rank 7) **Scotland - 16.7**	Fall of 4 places from 26th in 2017/18 -	Moray has a lower percentage of business start-ups than other areas however unemployment is also very low which can affect start up rates. Nationally rates have declined from 16.83 in 2017/18 to 16.70 this year.

LGBF Indicator	2017/18	2018/19	Value Change 2017/18-2018/19	Performance against comparators	Rank Change 2017/18-2018/19	Comment
Economic Development						
Investment of Economic Development & Tourism per 1,000 population	£51,629	£22,582	-£29,047	Moray = £22,582 (Rank 32nd where 1 is the highest) Comparators: E. Ayrshire – £88,017 (Rank 12) East Lothian – £51,045 (Rank 25) Fife – £42,623 (Rank 26) N. Ayrshire – £117,295 (Rank 8) Perth & Kinross – £57,201 (Rank 20) S. Ayrshire – £55,780 (Rank 21) Stirling – £54,256 (Rank 22) **Scotland - £102,086**	Fall of 13 places from 19th in 2017/18	This measure is driven largely by one off capital investments which will take place at different times across the country. The Growth Deal will drive this measure up in the coming years.
Town Vacancy Rates - % of units vacant	9.93%	6.87%	-3.06%	Moray = 6.87% (Rank 8th where 1 is the lowest) Comparators: E. Ayrshire – 11.67% (Rank 21) East Lothian – 8.39% (Rank 11) Fife – 17.63% (Rank 29) N. Ayrshire – 9.99% (Rank 15) Perth & Kinross – 7.95% (Rank 10) S. Ayrshire – 18.29 (Rank 31) Stirling – 4.28 (Rank 4) **Scotland - 10%**	Rise of 4 places from 12th in 2017/18	The role of Town Centres nationally continues to evolve. The implementation of the Town Centre Masterplans along with Town Centre Regeneration funding has helped Moray's town centre performance against this measure. Across Scotland, the % of vacant units has fallen by 1.49% from 11.49% recorded in 2017/18.
Immediately available land as a % of total land allocated for employment purposes	22.36%	49.04%	26.68%	Moray =49.04% (Rank 13th where 1 is the highest) Comparators: E. Ayrshire – 16.75% (Rank 25) East Lothian – 7.30 (Rank 28) Fife –4.57% (Rank 32) N. Ayrshire –63.03% (Rank 8) Perth & Kinross – 25.66% (Rank 22) S. Ayrshire –53.22% (Rank 11) Stirling – 37.34% (Rank 21) **Scotland - 37.38%**	Rise of 9 places from 22nd in 2017/18	The large increase in 2018/19 relates to the release of land to the East of Elgin at Barmuckity within the new Elgin Business Park, currently the largest under construction in the North of Scotland.

LGBF Indicator	2017/18	2018/19	Value Change 2017/18-2018/19	Performance against comparators	Rank Change 2017/18-2018/19	Comment
Economic Development						
The gender pay gap (%)	6.25%	7.58%	1.06%	Moray = 7.58% (Rank 28th where 1 is the lowest) Comparators: E. Ayrshire – 5.04% (Rank 20) East Lothian – -3.59% (Rank 1) Fife – 1.93% (Rank 11) N. Ayrshire – 2.81% (Rank 13) Perth & Kinross – 0.67% (Rank 7) S. Ayrshire – 3.75% (Rank 16) Stirling – -0.074% (Rank 4) **Scotland - 3.96%**	Fall of 2 places from 26th in 2017/18	This figure is possibly for FT and PT. In terms of FT employment the gender pay gap is lower and Moray has a mid-table rank against other local authorities. When PT is added, there is strong evidence that Moray has a high number of comparably low paid part time positions that are predominantly filled by women.
% unemployed people assisted into work from council operated / funded employability programmes	8.72%	3.44%	-5.28%	Moray = 3.44% (Rank 29th where 1 is the highest) Comparators: E. Ayrshire – 10.97% (Rank 17) East Lothian – 5.65% (Rank 25) Fife – 13.62% (Rank 14) N. Ayrshire – 16.97% (Rank 11) Perth & Kinross – 23.35% (Rank 6) S. Ayrshire – 7.00% (Rank 21) Stirling – 14.94% (Rank 12) **Scotland - 12.59%**	Fall of 9 places from 20th in 2017/18	Phase 1 of the Employability Programme of the EU Social Fund ran between Feb 2017 and March 2019 with Moray Council overseeing the project with 2 partner agencies. During this time, the focus has been on assisting those furthest from the labour market. The unemployment rate in Moray remains low.
% of procurement spend spent on local enterprises	25.16%	23.91%	-1.25%	Moray =23.91% (Rank 20th where 1 is the highest) Comparators: E. Ayrshire – 17.72% (Rank 25) East Lothian – 19.37% (Rank 23) Fife – 35.50% (Rank 8) N. Ayrshire – 17.43% (Rank 27) Perth & Kinross –20.35% (Rank 22) S. Ayrshire –26.60% (Rank 19) Stirling –17.66% (Rank 26) **Scotland - 28.71%**	Fall of 3 places from 17th in 2017/18	Work with Business Gateway to link business with procurement opportunities has continued. Comparing across regions is made difficult due to the different scale and makeup of regional economies. Nationally, the % spent in Scotland has increased from 27.4% last year to 28.71% in 2018/19.

LGBF Indicator	2017/18	2018/19	Value Change 2017/18-2018/19	Performance against comparators	Rank Change 2017/18-2018/19	Comment
Economic Development						
% of people earning less than the living wage	24.7%	27.4%	2.70%	Moray = 27.40% (Rank 26th where 1 is the lowest) Comparators: E. Ayrshire – 26.20% (Rank 23) East Lothian – 20.80% (Rank 12) Fife – 20.80% (Rank 13) N. Ayrshire – 24.30% (Rank 19) Perth & Kinross – 20.40% (Rank 10) S. Ayrshire – 22.60% (Rank 17) Stirling –21.60% (Rank 15) **Scotland - 19.40%**	No change in ranking	Performance in this measure is largely due to having a higher number of low skilled jobs and a low median wage compared nationally. With productivity and wage growth not keeping pace with inflation in Moray the increases at UK level will push more people in employment below this threshold. Nationally the % has increased by 1% from 18.4% in 2017/18.
% of properties receiving superfast broadband	83.01%	83.2%	0.19%	Moray = 83.2% (Rank 24th where 1 is the highest) Comparators: E. Ayrshire – 94.4% (Rank 14) East Lothian – 88.9% (Rank 20) Fife – 95.00% (Rank 12) N. Ayrshire – 93.7% (Rank 16) Perth & Kinross – 83.2% (Rank 25) S. Ayrshire –92.8% (Rank 18) Stirling – 87.0% (Rank 21) **Scotland - 92.01%**	Fall of 1 place from 23rd in 2017/18	These figures are driven by the Scottish Government Digital Superfast Broadband programme. The aim of this project is to have 95% of projects nationally connected to speeds of >24mbps. Due to the rural and more difficult nature of Moray it is likely that we will have a disproportionate amount of the 5% nationally not covered. Nationally the % has increased from 91.13% in 2017/18 to 92.01% in 2018/19.

LGBF Indicator	2017/18	2018/19	Value Change 2017/18-2018/19	Performance against comparators	Rank Change 2017/18-2018/19	Comment
Environmental Health						
Cost of Environmental Health Services per 1,000 population	£14,732	£14,489	-£243	Moray = £14,489 (Rank 20th where 1 is the lowest) Comparators: E. Ayrshire – £10,366 (Rank 7) East Lothian – £10,946 (Rank 9) Fife – £13,536 (Rank 16) N. Ayrshire – £9,676 (Rank 5) Perth & Kinross – £14,052 (Rank 19) S. Ayrshire – £13,603 (Rank 17) Stirling – £12,700 (Rank 15) **Scotland - £14,994**	No change in ranking	Costs have fallen this year by £243 (2%), this compares to the Scottish average which has declined by £502 (3.2%). Within the comparator authorities, Moray is one of three recording a decline this year, the highest of which is East Ayrshire where costs have fallen 17% compared to last year.
Trading Standards						
Cost of Trading Standards, Money Advice and Citizen Advice per 1,000 population.	£5,220	£4,837	-£383	Moray = £4,837 (Rank 15th where 1 is the lowest) Comparators: E. Ayrshire – £4,604 (Rank 11) East Lothian – £1,304 (Rank 1) Fife – £7,494 (Rank 21) N. Ayrshire – £2,595 (Rank 3) Perth & Kinross – £3,444 (Rank 7) S. Ayrshire – £6,939 (Rank 20) Stirling – £10,463 (Rank 28) **Scotland - £5,890**	No change in ranking	In Moray, costs have fallen by £383 (7%). At the same time, the Scottish Average has remained the same at £5,890. Against comparator authorities, Moray is one of four recording a decline this year, the highest of which was North Ayrshire where costs fell 27%.

REPORT TO: **PLANNING & REGULATORY SERVICES COMMITTEE ON 25 FEBRUARY 2020**

SUBJECT: **THE PLANNING ACT (SCOTLAND) 2019**

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

1. REASON FOR REPORT

1.1 This report asks Committee to note the duties and requirements contained in the Planning (Scotland) Act 2019 and the timescales for bringing forward regulations and additional guidance.

1.2 This report is submitted to Committee in terms of Section III (3) (1) of the Council's Scheme of Administration relating to exercising the statutory functions of the Council as Planning Authority under the Planning Act.

2. RECOMMENDATION

2.1 It is recommended that the Committee agrees:

(i) to note the requirements of the Planning (Scotland) Act 2019;
(ii) to note that responses have been submitted to the Scottish Government in relation to both consultations on Planning Performance & Fees – 2019 and Reviewing & Extending Permitted Development Rights;
(iii) that further reports are submitted to this Committee when regulations and further guidance are published; and
(iv) that further reports are submitted to the Community Engagement Group and Community Planning Partnership when further information regarding Local Place Plans is published.

3. BACKGROUND

3.1 An independent panel was appointed to carry out a review of Scotland's planning system in 2015 and concluded that while the main structure of the system was not broken, the planning system could be improved to meet its full potential. The improvements identified would require a strong commitment to

change practices and culture within the profession. The key drivers for the review were:

- Deliver more good quality homes
- Improve the experience and influence of communities
- Effective development planning leading positive change
- More proactive management of development
- Strong leadership coupled with management of skills, resources and performance.

3.2 The review identified 6 outcomes to guide planning reform;

- Strong and flexible development plans
- The delivery of more high quality homes
- An infrastructure first approach to planning and development
- Efficient and transparent development management
- Stronger leadership, smarter resourcing and sharing of skills
- Collaboration rather than conflict- inclusion and empowerment

3.3 The Scottish Government agreed with the panel assessment and the Planning (Scotland) Act 2019 received Royal Assent on 25th July 2019. The implementation of the Act is now underway and some of its provisions are now in force. The Scottish Government Transforming Planning in Practice programme (see **Appendix 1**) involves the development of further regulations and guidance to implement the provisions of the Act. The Scottish Government is now working through a detailed work programme to implement the Act alongside a suite of other actions to complete the transformation of Scotland's planning system in practice.

3.4 The Scottish Government has moved quickly to bring forward detailed proposals for substantial changes to the planning fees structure with the aim of having early clarity around costs and resources with the new fee arrangements to be in place by mid-2020. The consultation on Planning Performance and Fees closed on 14 February 2020 and a response has been submitted welcoming the proposed increases across the full range of planning applications. The new fee regime would allow for discretionary charging and discounts, extends the range of services for which fees can be charged, allows for a surcharge to be imposed on retrospective applications and makes it possible for authorities to charge a higher fee for a premium service. Fee increases will be closely linked to performance ensuring a good quality service and good quality outcomes.

3.5 Under the wider planning reform programme the other work stream that has also been brought forward is the Scottish Government's proposed programme for Reviewing & Extending Permitted Development Rights (PDR) in Scotland. The consultation on the programme closed on 28 January 2020 and a response has been put back highlighting any areas of concern. The early elements of this programme will include priority being given to changes to hill tracks, changes to help address climate change (for example, micro-renewable technologies), measures to support digital connectivity and measures to support delivery of affordable homes in rural areas. It is anticipated that these changes will assist in streamlining some aspects of the

planning system that currently require to be the subject of a full planning application.

3.6 At the strategic level, a Call for Ideas to inform National Planning Framework (NPF) 4 has been published with a deadline for commenting by the end of March. NPF4 will have an enhanced role under the new legislation, forming part of the Development Plan and will include development policies. This is the subject of a separate report to this Committee.

4. PROPOSAL

4.1 A summary of the main proposals set out in the new Act is in **Appendix 2**. Some aspects of the new Act have already been embedded into the emerging Moray Local Development Plan 2020 or have been part of this Council's approach for some time and some duties have already been introduced. However, there are a lot of new duties, some of which could have significant staff resource implications for the Council across a number of services and these are identified in **Appendix 2** and highlighted below;

- NPF4- the next (fourth) NPF will set out the long term spatial strategy for Scotland to 2050, will incorporate Scottish Planning Policy and will have enhanced status as part of the statutory development plan. A Call for Ideas has been published and is the subject of a separate report to this Committee. It is important that the Council fully engages in this process to ensure Moray's interests are represented. NPF4 is expected to be published in draft Q3 2020.

- Regional spatial strategies- The Act removes the requirement for strategic development plans in the four largest city regions and introduces a requirement for all authorities, working together as they see fit, to prepare regional spatial strategies which set out development priorities at a strategic level. The NPF and local development plans must have regard to the regional spatial strategy. Statutory guidance is anticipated by Q4 2021.

- Evidence Report/ Gatecheck- The Act makes significant changes to the local development plan process, aiming to make them more effective, with greater community engagement and more focussed on delivery. Main Issues Reports are no longer required, with a new Evidence report and Gatecheck process introduced, along with additional engagement requirements. The Act also removes provisions regarding statutory supplementary guidance and moves local development plans to a 10 year cycle from the current 5 year cycle. Guidance relating to local development plans is expected to be published in Q4 2021.

- Community Engagement and Participation of Children and Young People- improving community involvement in the planning system has been a key aim from the outset of the planning review. Guidance is expected to be published by Q1 2021 and will include changes to pre-application consultation with local communities in relation to major developments.

- Local Place Plans- the Act introduces a requirement for planning authorities to publish an invitation to prepare local place plans with a date by which they must be prepared in order for them to be taken account of in preparing the local development plan. Information is also to be published on support available for preparing local place plans. A review of the effectiveness of local place plans will be carried out 7 years after the Bill was given Royal Assent.

- Masterplan Consent Areas- these could be a proactive delivery tool to promote development by granting up front consents for planned development, removing a lot of risk for developers/ investors. A number of pilot exercises are underway and these will inform regulations which will be in place by Q4 2021.

- Land value capture uplift- the Scottish Government remains very interested in the concept of capturing land value uplift and using that to fund infrastructure. The Scottish Government propose to bring forward a package of proposals that will identify how local authorities can effectively assemble land, tackle problem properties and capture land value uplifts. It is not anticipated that the Government will legislate on this issue in the current Parliament, but will engage with local authorities, the Scottish Land Commission, the Scottish Futures Trust and industry representatives to explore all options.

- Development Management Commencement Regulations 2019 - these came into effect on 1 December 2019 and 1 March 2020. Further regulations or guidance will be put in place by Q1 2021 covering duration of planning permission and completion notices by Q1 2021. The regulations of immediate interest are summarised below:

  - **Section 42** – Increases in the levels of fines for Enforcement and also introduces a requirement for the courts to take account of financial benefit when setting fines. Maximum level of fines increased from £20,000 to £50,000. This is intended to help ensure that the fine is set at a level that is a genuine deterrent.
  - **Section 25** – Noise sensitive developments (Agent of Change Principle) inserts a new section to protect existing activities that create significant noise.
  - **Section 23** – Notification of all major planning applications to all Councillors, MSP's and MP.
  - **Section 27** – Removal of requirement for full Council decision on applications requiring a Pre-Determination hearing.
  - **Section 30** – Statement on accordance with development plan to be clearly included in decision notices.
  - **Section 26** – Introduce requirements for certain large developments to include Changing Place Toilets to align with Building Standards Technical Guidance.

- Enforcement Charter – the requirement for enforcement charters to include a statement on the authority's monitoring of compliance with planning permission for major developments will be brought forward by Q1 2021 together with guidance on monitoring.

- Short Term Lets - the Act will allow local authorities to designate short term let control areas, within which the use of a dwellinghouse for short term letting is deemed to involve a material change of use, and therefore always needs planning permission. Regulations are aimed to be in place by Q4 2020.

- Delegation Schemes & Local Reviews - any changes needed to regulations will be considered and aim to be laid in Q3 2021. Further guidance to be issued.

5. NEXT STEPS

5.1 Many parts of the Act will be implemented by the Scottish Ministers making regulations or issuing guidance. These will be reported to Committee as they are published, along with details of the Council's proposed response to the National Planning Framework 4. In terms of Local Place Plans, it is proposed that in addition to reporting regulations/ guidance to this Committee, that reports are also submitted to the Community Engagement Group and Community Planning Partnership.

5.2 The Scottish Government expect to implement most of the Act by early 2021, except where there are specific reasons for a later timescale.

5.3 **Appendix 1** is an extract from the Scottish Government "Transforming Planning in Practice-Post-Bill Work Programme" September 2019.

6. SUMMARY OF IMPLICATIONS

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

The planning system plays an important role in planning for and mitigating the effects of climate change as well as supporting the delivery of the Council's aspirations for economic development, providing land for private and affordable housing, safeguarding the environment, planning for infrastructure, delivering quality placemaking and promoting opportunities for health.

Community engagement is a key part of the local development plan and this is strengthened in the proposals emerging from the Act.

(b) Policy and Legal

The proposals set out in the Act are legislative requirements for the Council to implement.

(c) Financial implications

The financial implications for the Council are difficult to determine at this time and will be the subject of a future report, covering both staffing implications and the need for a budget to support delivery of the Moray Local Development Plan 2020.

(d) Risk Implications
There is a risk that if the new duties are not properly resourced and fully implemented then the aspiration to transform the current planning system will not be fully realised.

(e) Staffing Implications
Staffing implications are difficult to assess until all regulations and guidance have been published on all the new duties. However, it is clear that it will be challenging to meet the requirements, particularly those summarised in paragraph 4.1 within the current staffing levels across a number of sections in the Council and without a budget.

A further report on the staffing implications for Strategic Planning and Development, Development Management, Transportation, Legal and the Community Support Unit will be presented to a future meeting of this Committee when the full implications of the Act are known.

(f) Property
None.

(g) Equalities/Socio Economic Impact
No Equality Impact Assessment is required for this report. An Assessment will be undertaken when new Local Development Plan regulations are published.

(h) Consultations
The Depute Chief Executive (Economy, Environment and Finance), the Head of Economic Growth and Development, the Legal Services Manager, the Senior Engineer Transport Development, the Community Support Manager, the Acting Housing Strategy and Development 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. The Planning (Scotland) Act 2019 received Royal Assent on 25 July 2019 introducing a number of significant changes to Scotland's Planning system.

7.2. This report highlights the main changes, particularly new duties which are likely to have significant resource implications for the Council.

7.3 Further reports will be reported to this Committee when additional regulations and guidance are published and the full implications of the new duties contained within the Act are known.

Authors of Report:	Gary Templeton, Strategic Planning and Development Manager and Beverly Smith, Development Management and Buildings Standards Manager
Background Papers:	
Ref:	

Appendix 1

PLACES, PEOPLE AND PLANNING: TRANSFORMING PLANNING IN PRACTICE – POST-BILL WORK PROGRAMME

	2019 Q4	2020 Q1	2020 Q2	2020 Q3	2020 Q4	2021 Q1	2021 Q2	2021 Q3	2021 Q4	2022 Q1	
NPF4											
Development Planning – regional spatial strategies and local development plans											
Amendment of NPF and LDP											→
Report on housing for older people and disabled people – commencement											
Community engagement, including local place plans, mediation and pre-application consultation											
Masterplan consent areas											
Short-term lets control areas											
Development Management:											
Duration of planning permission and completion notices											
Repeat applications											
Planning obligations – publication, and arrangements for modification or discharge											
Development management regulations – music venues, listed building consent											
Health assessments: national and major development											
Schemes of delegation / local reviews											
Commencement of issues relating to the Scottish Ministers, & forestry strategies											
Commencement of issues affecting planning authorities											

	2019 Q4	2020 Q1	2020 Q2	2020 Q3	2020 Q4	2021 Q1	2021 Q2	2021 Q3	2021 Q4	2022 Q1	
Agent of change principle											
Changing places toilets											
Compensation on revocation of development orders - regulations											
Fees											
Performance:											
Planning Improvement co-ordinator – regulations & appointment											
Performance: reporting regulations											
Elected member training											
Chief planning officer: guidance on role and qualifications											
Enforcement:											
Increased fines											
Charging orders											
Enforcement charters to include statement on compliance monitoring											

Section of Act	Requirements	Implications for Moray Council	Recommended Action
Purpose of Planning	The purpose of planning is to manage the development and use of land in the long term public interest. Anything which; a) contributes to sustainable development, or b) achieves the national outcomes (within the meaning of Part 1 of the Community Empowerment (Scotland) Act 2015.)	This provides a focus for decision making and a more proactive approach to address issues "in the long term public interest", including planning for climate change, redevelopment of vacant/ derelict sites.	LDP Action Programme already takes a more proactive approach. Closer alignment between Community Planning and spatial planning is required and closer alignment between Climate Change planning and spatial planning
National Planning Framework	National Planning Framework will set out a spatial plan for Scotland, which will set out the Scottish Ministers policies and proposals for the development and use of land. NPF4 will include Scottish Planning Policy and will remove the need for LDP's to set out national policy. NPF4 will form part of the Development Plan which each authority should determine proposals against and will introduce greater consistency of policies. Supplementary Guidance is removed and planning authorities are required to produce more place based plans. New sections will be added, including; • targets for the use of land in different areas of Scotland for housing • an assessment of the likely impact of each proposed national development's lifecycle greenhouse gas emissions on achieving national greenhouse gas emissions reduction targets.. The outcomes are; • meeting the housing needs of people living in	Nationally set targets for housing delivery could cause concern, if significantly different to current development levels and existing Housing Need and Demand Assessment. However, the Local Development Plan identifies a generous supply of land for housing and a LONG term reserve supply. The Local Development Plan also includes Policy DP2 which requires provision of accessible housing and Policy PP1 Placemaking which sets out health and wellbeing policy	Officers are currently working on a joined up climate change spatial framework, identifying opportunities for food production, renewable energy and woodland expansion. LDP2020 has moved towards a more place based approach, reducing the amount of Supplementary Guidance and policies. Under the new legislation, the Council will have the opportunity to introduce its own local planning policies where justified and care will be required to ensure the

	Scotland including, in particular, the housing needs of older people and disabled people. • Improving the health and wellbeing of people living in Scotland • Increasing the population of rural areas of Scotland • Improving equality and eliminating discrimination • Meeting any targets relating to the reduction of emissions of greenhouse gases, within the meaning of the Climate Change (Scotland) Act 2009 Securing positive effects for biodiversity.	requirements have been included throughout the Local Development Plan. Policies support rural housing and employment opportunities in the right place and to the right design. The Council are currently preparing a Climate Change Strategy to be reported to Council in March 2020. The Local Development Plan includes a standalone policy on safeguarding and promoting biodiversity.	aspirations for better quality outcomes in our LDP2020 policies are not lost or diluted. Closer links between Climate Change and Local Development Plan. Closer links between Moray Economic Strategy LDP, which will happen as a result of changes to staffing structures. Consultation on content of NPF4 anticipated Q1 2020, with formal consultation on a draft in Q3 2020. An initial Call for Ideas has been launched which is subject to a separate report to this Committee.
Open Space Strategy	Prepare and publish an open space strategy setting out a strategic framework for green infrastructure in the district including open spaces and green networks. Note: Scottish Ministers **may** make provision about how planning authorities conduct audits and assess current and future requirements.	There is no specific detail on the scope of an open space strategy i.e. size of open spaces assessed, size of settlements etc. The current strategy does not cover the whole of Moray and there could be a resource implication if this	Need to keep up to date with any guidance on assessment methodology that is published and potential impact on the Open Space Strategy refresh. There is no explicit reference to the Open

		has to be undertaken across other settlements. There is the possibility of additional requirements relating to the assessment methodology being set by Scottish Ministers but no detail on what this would entail.	Space Strategy forming part of the evidence report, but it would be useful for the survey work to inform the environmental evidence base. In terms of a strategic approach to green infrastructure this could be linked to any work on compensatory planting or potential plans for increasing woodland cover across Moray to address the Climate Change emergency.
Housing Needs, including older people and disabled people	The Act requires the LDP to take account of the housing needs of the population of the area, including, in particular, the needs of persons undertaking higher education, older people and disabled people.	The Council already has innovative policies for Accessible Housing provision which addressed two aspects of this requirement. A better understanding of the housing needs of people in higher education is required and further discussion with Moray College/ UHI would assist.	Further discussion with Moray College/ UHI re student accommodation, especially to support any related projects arising from the Moray Growth Deal.
Regional Spatial Strategies	Planning authorities individually or acting jointly are to prepare and adopt a regional spatial strategy, which is a long term spatial strategy in respect of the strategic development of an area. It should specify the need for	The Scottish Government has suggested that Moray, Highland and Cairngorms National Park jointly prepare	Ongoing discussion on this matter.

	strategic development, the outcomes that strategic development will contribute, priorities for delivery and proposed locations for strategic development. A draft should be published along with a statement inviting representations. Copies should be sent to key agencies and other interested parties. In amending the NPF, Scottish Ministers must have regard to any adopted regional spatial strategies. Similarly, planning authorities must do likewise when preparing local development plans. A regional spatial strategy must be adopted as soon as reasonably practical after section 5 of the Act comes into force and it must be kept under review and replaced as required, but must be reviewed within 10 years of adoption. Scottish Ministers may direct a planning authority or two or more such authorities to prepare and adopt a strategy. Scottish Ministers may issue guidance in relation to preparing and adopting a regional spatial strategy	a regional spatial strategy. However, Moray has planning, economic and transportation issues and partnerships to east/ west and south. Further discussion between authorities is required. If the strategies are intended to be prepared based upon City/ Region deals, then Moray would prepare its own regional spatial strategy. While Moray shares similarities with Highland and Cairngorms, there are also common issues with Aberdeenshire and other rural planning authorities. This is new, additional work and cannot be resourced within current staffing levels.	
LDP Evidence Report	Prepare an evidence report before preparing a local development plan that must be approved by the planning authority prior to submission. This will be assessed by Scottish Ministers to assess whether the report contains sufficient information to enable the planning authority to prepare a local development plan. Scottish Ministers **may** make regulations relating to costs of	The evidence requirements reflect the changing and widening role of future local development plans, to give a greater focus on infrastructure planning and ensure effective and wider engagement as well as a	Replacing the Main Issues Report stage of Plan preparation is welcomed. The Gatecheck provides an opportunity to agree baseline evidence prior to moving to plan preparation.

	assessment of evidence, procedures etc. Content: Seek views of key agencies, children and young people, others persons as prescribed and the public at large. Set out view on all matters specified in section 15(5) relating to form and content of local development plans (e.g. housing land supply, education infrastructure, population demographics, infrastructure capacity). Summary of actions to support and promote the construction and adaptation of housing for older/disabled people. Accommodation needs of Gypsies and Travellers and analysis of the extent to which the action has helped to address those needs. How communities have been invited to prepare local place plans and the assistance provided to local communities to prepare local place plans. Statement on steps taken to seek views of disabled persons, Gypsies and Travellers and children and young people and community councils and how their views have been taken into account within the report. If, having completed the assessment the appointed person is satisfied that the evidence report contains sufficient information to enable the planning authority to prepare a local development plan, the person is to notify the Scottish	strong evidence base. While Moray Council's record of preparing monitoring and evidence such as housing and employment land audits, some authorities do not and will find this new requirement even more challenging. Moray Council was a pilot for the Gatecheck process in partnership with the Scottish Government and a DPEA Reporter. There was discussion around LDPs being submitted without Strategic Flood Risk Assessments but there is no explicit requirement within the evidence report to provide one. There is a clear ambition to strengthen links to health and prevention planning. To prepare the evidence report the Council will need to work closely with key agencies and internal services such as HES, SEPA, Housing, HIE, Flood Team, Education and Transport. This relies upon good	The benefits of this approach include: a more transparent approach; a focus on delivering positive outcomes; encouraging buy-in and stakeholder scrutiny; clarity about agreement or areas of dispute; potential simplification of the examination process. Need to give early consideration to how to collate some of the new requirements, specifically some of the data around education needs and understanding the intention of statements like "the desirability of allocating land for the purposes of resettlement" The evidence report requires closer links to the LOIP and delivery of the Council's corporate priorities and elevating the status of the plan as a key delivery mechanism requiring appropriate resourcing.

	Ministers and the authority accordingly. In any other case the appointed person is to prepare a report "the assessment report" setting out the reasons for not being so satisfied and recommendations for improving the evidence report.	communication and relationships which currently exist in Moray, although there are still improvements to be made linking with some partners and encouraging longer term strategic planning. There is no reference to a sign off from key agencies which is seen as an important element of building consensus and a shared vision for the LDP. There is an emphasis on engaging with traditionally hard to reach stakeholders with reference to Gypsies and Travellers and disabled persons. There is reference to collating information that previously may not have been considered as part of the LDP preparation including the health of the population, identification of rural areas that are in substantial decline in population, desirability of maintaining an appropriate number of cultural venues	The Evidence Report must be in a format that is engaging and easy to understand for target audiences including community councils and young people and avoid dry, technical jargon. Additionally how do we make this meaningful engagement? Need to have more detail on the relationship between the Evidence Report and local place plans especially if there is a focus on local place plans as an integral part of engagement. There is a need for a strategic overview to understand how all these elements of local place plans, engagement and evidence gathering come together to create a process that is realistic and achievable. There is an emphasis on front loading the system

		(live music venues). This has potential resource implications in terms of creating and maintaining the evidence base. It is unclear who is going to meet administrative costs of assessment of evidence report. Does this mean the Council will incur costs? There is a significant amount of information being gathered how long would an assessment take? There is no information on thresholds i.e. minimum requirements. From a public point of view this could be seen as a laborious process and if it is about statistics such as dry housing land numbers what is the benefit. Need to think creatively about engagement. The preparation of an evidence report is clearly linked to other requirements set out within the Act e.g.	which has resource implications. There is also reliance on working closely with other key agencies and internal Council services so involving them at the start and committing them to timescales is required. This needs buy in from some agencies such as Scottish Water. There is little information on consultation on the evidence report prior to submission. Need to consider how this would work as the reference within the Act is only to seeking views of. This needs to be clarified so we are not stuck in an endless loop of disagreement. There is a danger that this initial process could be resource intensive and time consuming and have little benefit in terms of reducing the Examination process. 12 month timeline desirable but does this include the Scottish Ministers

		youth engagement and local place plans. This raises issues of how all these elements will successfully merge together. It is important that this doesn't become a tick box exercise as the pilot project demonstrated it could be an excellent opportunity to demonstrate how planning can be an enabler and to embed the infrastructure first approach from the very early stages of plan preparation. While this may be a significant resource burden for some planning authorities, it is intended to replace the Main Issues Report stage and much of the information required is already collated in Moray, meaning that it will require additional staff resources, but this duty itself is not considered to be overly onerous.	assessment? Need to consider monitoring and tracking evidence base. There is a distinct lack of reference to tying this up with SEA requirements and is there potential for this to be explored? Although the Gatecheck replaces the current Main Issues Report stage, it potentially requires even more resources to gather evidence and consult as widely as envisaged in the Act.
Participation of	Promote and facilitate participation of children and young	A youth engagement strategy	Youth engagement strategy

Children and Young people	people under 25, in first instance by means of contact with schools, youth councils and youth parliament representatives across their district. Arrangements for youth engagement must be published and kept up to date.	is currently being developed. There is nothing particularly onerous within this section of the Act that cannot be incorporated into the strategy. There are however linkages with other strands primarily local place plans and effective community engagement guidance. This however is unlikely to impact on the timescale for the engagement strategy currently being developed.	has to demonstrate identified representatives have been engaged. Take account of need to engage children and young people in preparation of evidence report. Identify the opportunities resulting from local place plans going forward into the preparation of the next LDP? Remain aware of potential implications of the effective community engagement guidance, which **may** be issued by Scottish Ministers. Prepare monitoring framework to capture key information and demonstrate impact.
Effective Community Engagement/ Local Place Plans	Before preparing a local development plan, a planning authority is to publish an invitation to local communities in their district to prepare local place plans in accordance with schedule 19. The planning authority will provide information on the manner in which and date by which such local place plans are to be prepared in order to be taken into account in the preparation of the local development plan and details of the assistance available for local	It is unclear the specific role of the planning authority in this process. Supporting preparation of local place plans could be particularly onerous for the Council and it also unclear exactly what status local place plans will	The staffing implications of this requirement will need to be carefully considered, primarily for the Community Support Unit and Strategic Planning and Development Services as it is likely they will be

	communities to prepare local place plans. Within 7 years of the Bill for the Planning (Scotland) Act 2019 received Royal Assent Scottish Ministers will carry out a review of local place plans and present to the Scottish Parliament.	have in being "taken into account" in the local development plan. Planning authorities are currently unclear on the role and function of local place plans and what they will cover.	required to support communities in preparing local place plans. Further reports as details emerge on the purpose and content of local place plans will be reported to this Committee, the Community Engagement Group and Community Planning Partnership.
Play sufficiency assessment	Assess the sufficiency of play opportunities in the area for children in preparing an evidence report. Scottish Ministers must by regulations make provisions about form and content, persons to be consulted and publication.	This is an additional piece of work for the evidence report. Information is vague and therefore it is difficult to assess resource implications at this stage. What is sufficiency? Is it beyond having a number of play areas, within a certain distance of communities, but also about different types of play experiences, bouldering climbing, opportunities for making dens etc. Need further information relating to the form and content of the assessment, consultation arrangements and publication of assessment.	Consider best means of collating data. The LDP2020 Delivery Programme will incorporate this requirement into a revised Open Space Strategy which will also consider researching and devising a methodology for securing developer obligations towards open space, play facility, sports and recreation and core path provision and improvements. Investigate what data is currently held by Lands and Parks. Consider how play sufficiency links into QA

			process and placemaking generally.
Examination of housing land	Where an Appointed Person completes an examination of a proposed Local Development Plan (LDP) and is unsatisfied the amount of land allocated for housing is sufficient to meet the targets, they may issue a notice requiring the Planning Authority to prepare another proposed LDP. A notice is issued stating that the proposed LDP is unsatisfactory due to its failure to address the identified housing needs and the reason for the Appointed Person coming to that conclusion. On receiving a notice, the Planning Authority may not take any further action in respect of the proposed LDP and must prepare another proposed LDP. Evidence report(s) prepared as part of the unsatisfactory proposed LDP may be reused.	Council currently does a lot of evidence gathering as part of the preparation of the LDP and was the pilot for the 'Gatecheck'. New requirement has the potential to have big implications for Council. It therefore encourages the Council to frontload the process via 'Gatecheck' to avoid having to redo the whole LDP process. The current requirement for Council to prepare a Housing Need and Demand Assessment could be replaced if regional housing targets are set. However, Moray has a generous housing land supply and a LONG term reserve which is controlled through the annual housing land audit process. This is a model of good practice which other authorities could follow if it was embedded into NPF4. The Council	Continue to frontload evidence gathering as part of the preparation of the LDP by identifying long-term sites for housing and maintaining an updated HLA. Ensure strong representation to published guidance on Gatechecks and Evidence Report.

		therefore needs to continue identifying long-term sites suitable for housing. Maintaining an updated Housing Land Audit (HLA) will provide evidence base for required land to meet targets. The scenario of a Local Development Plan not providing sufficient housing land however, suggests a failing in the Evidence Report and Gatecheck process. If the Evidence Report highlights how much housing land is required and that has been “signed off” by Scottish Ministers and Homes for Scotland, then the planning authority should be clear as to how much land is to be identified in the Plan for housing. During the Gatecheck process, there was discussion around the need for a two stage Gatecheck and perhaps this scenario highlights the need for that, with a second check prior to publishing the Proposed Plan, ensuing	

		compliance with the outcomes of the first check Evidence Report. A scenario of having to "redo" a Proposed Plan after Examination would be at odds with the aspiration to streamline the planning system.	
List of persons seeking land for self- build	Planning Authority to prepare and maintain a list of persons who have registered an interest with Authority with the intention of acquiring land in their area for self-build housing, List to be published in manner considered appropriate by Authority (i.e. online). Currently being piloted and guidance on maintaining lists expected by Q4 2020. Local Development Plans to have regard to published lists.	New duty. Potential to be linked to a more proactive housing project being developed by officers to unlock constrained sites and provide a mix of affordable housing and self- build plots.	No action at this time. Guidance on maintaining lists to be published by Q4 2020.
Development Plan Schemes	Planning authority is to seek views on the Participation Statement to accompany the Development Plan Scheme.	This is an additional, albeit, limited consultation step added to the Development Plan Scheme.	This has some, albeit, very limited staffing implications.
Delivery Programmes	Delivery programme to be prepared, replacing the current Action Programme, taking account of the views of key agencies and such persons who may be prescribed. Delivery programme should set out how an authority proposes to implement the plan, which will be set out in Regulations. The Delivery Programme should be adopted and published within 3 months of the plan being constituted. Programme must be kept under review and updated as or when required. Copies should be sent to Scottish Ministers and placed in libraries.	The Action Plan being published with the Local Development Plan 2020 already has a strong delivery focus and will act as a focus for future monitoring. Some clarity over desired outcomes could be set out to make future monitoring sharper.	Review LDP2020 Action Programme and clarify desired outcomes for each action. Report Action Programme to P&RS Committee summer 2020. Use Action Programme as the basis for future monitoring.

Amendment of LDP	A planning authority may, at any time, amend a local development plan, or may be directed to do so by Scottish Ministers. In preparing an amendment a planning authority should take into account; • The NPF • Any local outcomes improvement plan • Any registered local place plan Regulations will be published about the procedures to be followed, consultation to be undertaken, when amendments are to take effect and publication of amended plan.	This appears to re-introduce the "alterations" approach which previous legislation supported, allowing an update of aspects of a local development plan, without reviewing the whole plan. This could be used to address issues such as housing and employment land supply or take account of unforeseen circumstances. This will also assist the new 10 year Plan cycle, although planning authorities consider it unlikely that there will be 10 years between each Plan.	This power is welcomed. No action at this time until procedures and regulations are consulted on.
Masterplan Consent areas	Masterplan consent areas are being introduced to provide consent in advance for specified types of development, in carefully defined circumstances, in a particular area. This aims to provide certainty and reduce risk for developers. A number of pilots are currently being undertaken using the Simplified Planning Zone mechanism. These will be used to provide the details to design the procedures and regulations for Masterplan Consent Areas. It is expected that these will be in place by Q4 2021. As such, the Act as it stands is currently very vague. A scheme will consist of a map, a written statement and illustrations. Conditions, limitations, and exceptions can also be added. Each Planning Authority must every 5 years	The Council currently allocates LONG sites which has the requirement for a masterplan through the LDP process. Discussion papers on Masterplan Consent Areas discussed how their preparation could be aligned with the LDP process and would therefore be consulted upon as part of this process. Topic papers discussed the need for engagement with	No action at this time until the procedures and regulations are produced in Q4 2021.

	consider whether it would be desirable to consider introducing schemes. Before introducing a scheme a consultation on possible proposals must be undertaken. Scottish ministers are to prescribe the regulation requirements regarding the consultation process.	local communities. It was discussed that if they were to be introduced outwith a plan cycle then charrette like activities could be undertaken on specific sites which could have potential resource implications. However, without the details and limited case studies it is currently hard to determine what the implications for introducing masterplan consent areas would be at this stage. The implication of masterplan consent areas is that there will be significant upfront work. No detail has been provided as to how this up front work would be funded. The implementation of a consent area would likely require significant work from local authorities to prepare and implement and a major disadvantage would be the loss of planning application fees in the process.	

Notification of Major Planning Applications to all Councillor's, MSP and MP	The regulations were laid on 8 November 2019 and came into force on 20 December 2019 and apply to all Major Planning Applications received by the authority on or after 1 March 2020.	Formal notification to be set up to cover all major applications and to be kept updated for all Councillors. MSP and MP.	Officers are in the process of setting up standard formal notification procedures to be implemented from 1 March 2020.
Noise Sensitive Developments - Agent of Change Principle	The regulations commence this provision for all applications received by the authority on or after 20 December 2019 and applies to applications for planning permission for "noise sensitive developments" where residents are likely to be affected by significant noise from existing activity in the vicinity.	Introduces a requirement for Noise sensitive developments to be take particular account of whether the new development includes sufficient measures to "mitigate, minimise or manage" the effect of noise between the development and any cultural venues or facilities, dwellings or businesses in the vicinity. Any review of LDP to take this into this principle into account.	Officers are working with Environmental Health Officers to ensure this principle is addressed in consultation responses.
Level of Fines – Enforcement Notices	The maximum level of fines to be increased and will apply to notices served on or after 20 December 2019.	The increased level of fines and the provision for courts to take into account any financial benefit gained from the offence will hopefully be	Officers have updated standard templates to be used for serving notices.

		a deterrent to anyone carrying out unauthorised development.	
Short-term lets	The Act will allow local authorities to designate short term let control areas, within which the use of a dwellinghouse for short term letting is deemed to involve a material change of use, and therefore always needs planning permission.	Scottish Government aim to have regulations of short term letting in place by Q4 of 2020.	No Action required until regulations and guidance issued. Consideration to be given as to whether to designate short term let control areas. Separate committee report to be prepared.
Pre-consultation for major planning applications	The Scottish Ministers must make regulations about pre-consultation in particular to allow them to make provision about the content of the report developers must produce following their consultation.	Wait for regulations to be laid and guidance.	Officers have attended a Scottish Government workshop on the implications of changes to pre-application consultation. No further action at present.
Changing Places Toilets	Regulations are being prepared to bring forward the requirements for certain large developments to include Changing Places Toilets.	Officers will agree with Building Standards templates for consultation to ensure alignment with Building Standard legislation. Any review of LDP to take this into account as policy.	No action at this time. Procedures to be updated once regulations are in force.

Specific reference to Biodiversity	Introduces specific reference to biodiversity and net positive effects on biodiversity in the power to make regulations on environmental impact assessment.	The current 2017 regulations already require the consideration of impacts on biodiversity and there are no plans for these regulations to be updated. LDP policies cover this provision.	Officers to be aware of 2017 regulations and requirements of LDP policies with specific reference to biodiversity.
Call-in Planning Applications	Ministers to lay a statement in the Scottish parliament setting out the circumstances in which they consider it would be appropriate to call-in planning applications.	Await guidance and regulations on call-in of planning applications.	No action to be taken at present.
Pre-determination hearing Requirements	Removes the requirement for full Council to make decisions on applications where there has been a pre-determination hearing.	Pre-determination hearing procedures to be amended.	Officers are preparing a separate report to planning committee and standing orders will need to be amended. To be implemented from 1 March 2020.
Duration of Planning permission and completion notices	Regulations and guidance to be in place by Q1 2021. The Act changes the arrangements for setting the duration of planning permission and for challenging a notice requiring development to be completed.	Standard templates to be updated for issuing decision notices and guidance to be produced for Officers.	No action required. Await regulations and guidance.
Similar applications & Significant Change in relation to declining to determine 'repeat' applications.	Regulations and guidance to be issued by Q1 20201. Extending the time period in which authorities can decline to determine an application from 2 to 5 years.	Templates to be reviewed following to receipt of guidance.	No action required until regulations and guidance issued.

Planning Fees Review	The Act expands the powers to make regulations about fees. In particular, it allows for discretionary charging and discounts, extends the range of services for which fees can be charged, allows for a surcharge to be imposed for retrospective applications, and makes it possible for authorities to charge a higher fee for a premium service.	New fee regulations to be introduced in Q2 of 2020.	Officers returned consultation on Planning Performance & Fees – 2019. Await new regulations.
Charging Orders	The Act introduces provision for charging orders, allowing planning authorities to place a charge on the property to recover the costs of taking direct action to implement the requirements of an enforcement notice. Regulations are required to set out the forms for registering and discharging charging orders.	These will be provided by Q4 2020, together with guidance for local authorities on the new powers.	No action required until guidance issued.
Enforcement Charters	The Act introduces provision for charging orders, allowing planning authorities to place a charge on the property to recover the costs of taking direct action to implement the requirements of an enforcement notice.	Regulations are required to set out the forms for registering and discharging charging orders. These will be provided by Q4 2020, together with guidance for local authorities on the new powers.	The Enforcement Charter has been reviewed and priority recommended to be given to dealing with monitoring conditions on major planning applications.
Decision Notices and statement on whether or not development is in accordance with the development plan and their reasons for taking that view.	The change will apply to all decision notices issued after 1 March 2020 regardless of when the decision is made.	Decision notices templates to be reviewed to ensure the statement on accordance with the development plan is clear, alongside any other reasons for the decision.	Officers are reviewing decision notice templates to be implemented by 1 March 2020.
Notice of applications for listed building consent.	Powers to make regulations about giving notice of applications for listed building consent. This would allow similar notification requirements to be imposed for listed building consent as for planning applications.	Await regulations and guidance. Resource implications on extending notification to listed building	No action required.

		applications.	
Assessment of health effects	The Scottish Ministers must by regulations make provision about the consideration to be given, before planning permission for a national development or a major development is granted, to the likely health effects of the proposed development.	The Local Development Plan 2020 includes a number of innovative policies aiming to ensure new developments support the aspirations of public health reform. These policies are embedded in the Council's Quality Audit process which means that health effects will be considered as part of that process, with developments required to achieve a green rating on health and well-being. There is also scope to consult with NHS Grampian health practitioners on individual applications to ensure this legislative requirement is met. It is important that this doesn't become just a tick box exercise involving a health impact assessment checklist.	Council officers have met with NHS Grampian to consider their role in supporting the planning authority in this duty. There is scope for NHS Grampian staff to participate in the Council's Quality Auditing process for larger planning applications (e.g. 50 or more units) and in proposals located within areas of deprivation. NHS Grampian has also offered to host training for Council planning officers to assist with implementing public health issues through the planning system. Officers to set up separate consultation arrangements with nominated contacts once guidance has ben published.
Toilet facilities	The LDP is to include a statement of the planning authorities policies and proposals as to the provision of public toilets.	This would be a new requirement. Decisions relating to the provision and maintenance of public toilets	No action at this time.

		are currently taken by elected members.	
Planning Obligations- publication/ annual reporting/ modification and discharge	After the end of each financial year (beg 1 April), Local Authority (LA) to prepare and publish a report with the number of planning obligations • Entered into in that year • Entered into a previous year and not yet expired • Entered into a previous year and not yet complied with The report is to set out which development they relate to and the name of the person who entered into the agreement. *Modification and discharge* Any modification or discharge must be by agreement in writing between the planning authority and the person/persons who are liable for paying the obligations. If LA propose to discharge or modify the agreement in a way that is not being sought in the application, they must obtain the applicant`s consent. If that includes putting or increasing a burden on any non-applicant, the LA must obtain that person`s consent. LA to give notice of their decision to any non-applicants as well as the applicant against whom the planning obligation is enforceable. LA to publish agreement and notice of determination relating to modification or discharge in such a manner as they consider sufficient to ensure that it is brought to the attention of the residents of the area to which the relevant planning obligation relates.	This could be included within the Annual Monitoring Report, which is already prepared by the Section and reported to Committee. Modifications and discharge applications are already considered by agreement in writing between the planning authority and the applicant and by obtaining the consent of persons who are liable. The legal agreements and modifications are published on the Planning Portal. Modifications/Discharge could be part of the Annual Report for further publishing.	No action at this time until guidance is published for consultation (Q2 2020).

Promotion and use of mediation	Scottish Ministers may issue guidance in relation to the use and promotion of mediation for a variety of planning matters including the preparation of local development plans and the evidence report. This guidance will be published within two years of the Act gaining Royal Assent. No details or procedures as to how this this will be done at this stage.	The Council's role in this process is not yet clear. Local Authorities will be consulted on any future guidance.	No action required until guidance is published for consultation.
Annual report on performance	As soon as reasonably practicable after the end of each financial year, Planning Authorities are to prepare a report on performance of their functions during that year. Acknowledgement that if seeking higher fees, there is a need for new approach to improving performance and services. Stronger focus on customers' experiences, quality of outcomes and an improved peer review amongst areas being considered. High Level Group on Planning Performance currently looking at defining how performance should be measured.	Currently done through the Planning Performance Framework (PPF). Outcomes have been identified to monitor and assess the performance of proposed policies. These will help ensure that development is meeting the purpose of the policies. A Quality Audit 2 has been developed and will be adopted along with the Local Development Plan 2020. Development will be monitored before/after to ensure high quality, safe places that promote good health. Feedback forms are provided as part of any consultation and/or exhibition run by the	No action at this time. Regulations on annual reporting of performance to be published by Q4 2020.

		Service. Responses are reviewed and any required changes implemented ahead of the next event.	
National Planning improvement co-ordinator	Scottish Ministers may appoint a person to monitor Planning Authorities' performance of their functions and provide advice to Planning Authorities and others on improving their performance. Intend appointing an Improvement Co-ordinator by Q2 2020. Opportunity to make further provision about appointment and functions of the Co-ordinator, but Scottish Ministers do not intend on expanding these at this time. Co-ordinator will become a member of the High Level Group on Planning Performance.	New (national) duty. Impact on Council will be dependent on outcome of performance reviews.	No action. Scottish Ministers intend on appointing a Co-ordinator by Q2 2020.
Chief Planning Officer	Each planning authority must have a Chief Planning Officer, a person with appropriate qualifications and experience. Supporting improved performance and enhance the ability of planning to support outcomes across the authority, the role will be to advise the authority of functions conferred by planning Acts and any other enactment where it relates to development.	New duty, but impact not fully clear until guidance is published by Scottish Ministers (Q4 2020). Most elements likely to be currently done by Head of Economic Growth & Development and Monitoring Officer.	Await guidance on role, qualifications and experience from Scottish Ministers (Q4 2020).
Forestry and Woodland Strategy	Planning Authority to prepare and publish a Forestry and Woodland Strategy, identifying woodlands of high nature conservation value and set out policies and proposals as to:- • The development of forestry/woodlands; • Protection and enhancement of woodlands; • Resilience to climate change of woodlands; and • The expansion of woodlands to provide multiple	Already done, in line with existing guidance. Strategy adopted in January 2018. Discussions to be progressed with Scottish Forestry to oversee the	No action required.

	benefits. Must consult Scottish Ministers, organisations with an interest and any such persons as considered appropriate. Ability for two or more Planning Authorities to jointly prepare a Strategy.	implementation of the Strategy. Consideration to be given to how Strategy can link with the Food Growing Strategy.	
Infrastructure Levy	Although the Land value uplift capture is continuing to be explored by the Scottish Government before exploring new approaches such as the infrastructure levy. A package of proposals that address how local authorities can effectively assemble land, tackle problem properties and capture land value uplifts will be developed. However it is not expected that these issues will be legislated in this Parliament. *Infrastructure levy* is a levy payable to the Local Authority (LA) in respect of development wholly or partly within the LA area and is used by the LA to fund/contribute towards infrastructure projects. Scottish Ministers may issue guidance to LA on how they are to discharge the infrastructure levy functions and how the income should be spent. Infrastructure includes: • Communications, transport, drainage, sewerage and flood-defence systems • Systems for the supply of water and energy • Green and blue infrastructure • Educational and medical facilities • Facilities and other places for recreation Infrastructure project definition: to provide, maintain, improve or replace infrastructure	Further information to be published by the Scottish Government about options to capture land value uplift.	No action required.

	Infrastructure levy regulations may set out who, when, kind of developments and the amount payable. *Relief* Might be a provision to grant relief from paying the levy where: • S75 has been entered into • LA considers the liability of paying the levy would cause duplication in any form *Local exemptions/discounts* LA might have the power to waive or reduce the levy within their areas or set conditions on the exercise of any power conferred. *Collection/enforcement* The regulations might have a provision about: • collecting the amounts and penalties imposed • enable LA to confer powers of entry for the purpose of investigating liability for the levy and powers to seize things found during the investigation • make it an offense to evade or reduce liability to pay the levy by withholding information, providing misleading/false information, otherwise obstructing the investigation of liability for the levy and causing another person to do any of those things. *Financial penalty* The regulations may allow or require LAs to charge financial penalty if the levy is not paid within the specified timescales. Penalty might be a specified amount or calculated as a proportioned of the payable levy or both.		

	Stopping development The regulations may empower LA to stop development until the levy or any financial penalty has been paid fully and prescribe the consequences of not stopping development when directed to do so. The regulations might make it an offence not to stop development when directed. *Remission/Repayment* Might be a provision for remission or repayment of the whole or part of the payable amount and financial penalty. *Appeals* Regulations may: • establish a process for appealing against decisions that the levy is payable and what the amount is • appeal will be made to the Scottish Ministers or appointed person by them • Set rules about the conduct of the appeal • Prescribe fees and provision allowing expenses to be awarded *Accounting requirements* Account LAs to keep with the exercise of their functions under the levy regulations and their expenditure of levy income. *Expenditure of levy* The regulations may make a provision about the particular purposes for which LA may apply the levy income. *Use of planning and development powers* Regulations may make a provision about how any of the		

	following powers may or may not be exercised: • S75 • S53 of the Roads (Scotland) Act 1984 • Any other power relating to planning or development This provision is only made if the Scottish Ministers consider it necessary for the purpose of enhancing the effectiveness of the levy or preventing/restricting powers other than the power to charge the levy where it is felt that the levy would be more appropriate. *Maximum penalties* • For a summary-only offence Fine not exceeding level 5 of the standard scale or Term of imprisonment not exceeding 12 months or Both • For either-way offence Fine, which doesn't exceed the statutory maximum or Term of imprisonment not exceeding 12 months or 2 years on conviction on indictment or both.		

REPORT TO: **PLANNING & REGULATORY SERVICES COMMITTEE ON 25 FEBRUARY 2020**

SUBJECT: **NATIONAL PLANNING FRAMEWORK 4**

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

1. REASON FOR REPORT

1.1 This report asks Committee to note and agree the Council's response to the National Planning Framework (NPF) 4 Call for Ideas which has been published with a deadline for commenting of 31 March 2020.

1.2 This report is submitted to Committee in terms of Section E (1) of the Council's Scheme of Administration relating to exercising the statutory functions of the Council as Planning Authority under the Planning Act.

2. RECOMMENDATION

2.1 It is recommended that the Committee agrees:

(i) to note the publication of the Call for Ideas to inform National Planning Framework 4;

(ii) to agree the response set out in Appendix 1 be submitted to the Scottish Government; and

(iii) an event is held late March 2020 to inform the development of a Regional Spatial Strategy for Moray.

3. BACKGROUND

3.1 The NPF is a long term spatial plan for Scotland that sets out where development and infrastructure is needed to support sustainable and inclusive growth. Scottish Government has started early work and engagement on the preparation of NPF4, publishing a Call for Ideas running until 31 March 2020. This is being supported through a series of events and exhibitions throughout the country.

3.2 The Scottish Government is seeking views from stakeholders as to what Scotland will look like in 2050 and the changes needed to get us there. NPF4 will replace NPF3 and incorporate Scottish Planning Policy (SPP) and will form part of the Development Plan in terms of decision-making.

4. PROPOSAL

4.1 NPF4 is expected to look very different to NPF3 with a longer time horizon, more regional coverage and more alignment between wider programmes and strategies such as infrastructure and economic investment. NPF4 will respond to the shift to inclusive growth, improve health and well-being of people, improve equalities and eliminate discrimination, provide a spatial planning response to the global climate change emergency, provide a renewed focus on rural development including rural depopulation, give a stronger steer on housing delivery and diversification including the setting of targets on land for housing.

4.2 NPF4 will take into account Regional Spatial Strategies (RSS) which will be prepared by local authorities. Scottish Government has published suggested groupings of planning authorities to work together on RSS and it was proposed that Moray was grouped with Highland Council and Cairngorms National Park Authority. However, it is understood that the two national park authorities intend to work together and that Highland are beginning to explore an RSS for Highland alone. Initial discussions with Scottish Government suggested that planning authorities may wish to work together based on City/ Growth Deal regions, however, it would appear that an RSS for Moray will need to be prepared, which will then be included within NPF4.

4.3 To assist planning authorities, the Scottish Government has offered a grant of £5,000 to each planning authority to assist with the development of RSS and it is suggested that this be used to fund a participative event in late March 2020 to inform the RSS.

4.4 Comments in response to the Call for Ideas have been invited on any aspect, with 5 issues highlighted in particular;

- What development will we need to address climate change?
- How can planning best support our quality of life, health and wellbeing in the future?
- What does planning need to do to enable development and investment in our economy to benefit everyone?
- How can planning improve, protect and strengthen the special character of our places?
- What infrastructure do we need to plan and build to realise our long term aspirations?

4.5 The Council's proposed response is set out in **Appendix 1** which aims to support the underlying aims of streamlining the planning system.

4.6 Key points set out in the response are;

- The potential for the Local Development Plan and its Delivery Programme to co-ordinate and plan for future infrastructure requirements. However, if the planning system is to have a greater enabling and delivery role, then a co-ordinated infrastructure Plan needs to be supported financially with infrastructure funding devolved to planning authorities or community planning partners. If it remains nationally controlled, for each authority to bid into, then the aspiration for an infrastructure first approach will be lost.

- NPF4 will include policies, with the intention of making local development plans more place focussed. It is imperative that policies within NPF4 are detailed enough to enable planning authorities to deliver quality placemaking, inclusive growth, healthy places and address the challenges of climate change, public health reform and our ageing population. Vaguely worded national statements have no value within NPF4 and will result in planning authorities having to develop detailed policies.

- NPF4 should take a national approach to planning for food production, energy production and woodland expansion. The proposed RSS approach must be carefully managed to ensure that regional approaches do not end up at odds with this suggestion.

  A national land use strategy recognising the value of prime agricultural land, identifying and delivering woodland expansion opportunities and identifying specific areas for large scale onshore wind turbines is required. Currently these three main land uses are planned for with some, but limited, overlap. The process for onshore wind in particular needs to be completely revised. Currently Reporters decisions can undermine locally developed spatial frameworks and policy guidance and the whole section 36 consenting processing sitting within the Energy Consents Units is at odds with the planning process. Key energy production “points” should be identified within NPF4, not search areas and not areas with the greatest potential. The current SPP spatial framework for onshore wind energy results in approximately 40% of Moray being identified as likely to be most appropriate for onshore wind farms over 35 metres to tip height, which is meaningless and provides no certainty to developers, planning authorities or most importantly communities.

- NPF4 must push the boundaries of the planning system and tie in with the much wider agenda and provide the framework for change. However, change needs resources and aspirations will not be delivered unless resources are provided for delivery and infrastructure planning across multiple disciplines.

5. NEXT STEPS

5.1 It is proposed to host and organise a workshop towards the end of March to explore what an RSS would consist of for Moray. Participants would include internal and external representatives from disciplines including transport,

health, economic development, environmental organisations and community representatives.

5.2 Scottish Government is organising a workshop event on 1 April 2020, seeking each regional grouping to provide an update on their work to date and to outline their initial outputs at that stage. Scottish Government has requested that indicative RSS be made available by the end of June 2020 to help inform preparation of the draft NPF4 which will be laid before Parliament for consultation around September 2020. A final version will be laid before Parliament in 2021.

6. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))
The planning system plays an important role in planning for and mitigating the effects of climate change as well as supporting the delivery of the Council's aspirations for economic development, providing land for private and affordable housing, safeguarding the environment, planning for infrastructure, delivering quality placemaking and promoting opportunities for health.

(b) Policy and Legal
NPF4 will have an enhanced status as part of the statutory development plan.

(c) Financial implications
Scottish Government has offered each planning authority a grant of up to £5,000 towards informing the preparation of indicative RSS.

(d) Risk Implications
There is a risk that if the Council does not prepare an RSS then it will not be included within NPF4. Inclusion may raise the profile and assist with delivery of the RSS.

(e) Staffing Implications
Preparing an indicative RSS within the timescales envisaged by Scottish Government will be extremely challenging given other commitments and current staffing levels. Preparation will require input from a number of internal services, including planning, transportation and economic development and a wide range of external stakeholders.

(f) Property
None.

(g) Equalities/Socio Economic Impact
None at this stage.

(h) Consultations
The Depute Chief Executive (Economy, Environment and Finance), the Head of Economic Growth and Development, the Legal Services Manager, the Senior Engineer Transport Development, the Acting

Housing Strategy and Development 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. Scottish Government is in the early stages of preparing NPF4 which will replace NPF3 and Scottish Planning Policy. NPF4 will set out a long term spatial framework for Scotland to deliver the aspirations of the Scottish Government.

7.2. Early engagement is being undertaken to help inform and shape NPF4 and a Call for Ideas has been issued with a number of set questions for the Council to respond to.

7.3 NPF4 will include RSS, with funding support provided by the Scottish Government to assist with their preparation. The timescales for preparation are extremely short and will be challenging to meet.

Authors of Report: Gary Templeton, Strategic Planning and Development Manager

Background Papers:
Ref:

Appendix 1

What development will we need to address climate change?	Planning system has a key role to play and must be properly resourced and empowered through NPF4 to deliver the government's aspirations for inclusive growth and decarbonisation. NPF4 and the Local Development Plan have a key role to play in setting the framework for change and responding to our future challenges. NPF4 and delivery focussed local development plans have a key role to play in safeguarding our environment, reducing the local and global environmental impact of our consumption and production and planning and co-ordinating future infrastructure requirements. However, to achieve the aspiration of a delivery focussed planning system, policies and aspirations must be matched with the financial resources to deliver and these must be available at a regional/planning authority level. Nationally controlled infrastructure and climate change adaptation funding is at the other end of the spectrum from the envisaged infrastructure first approach which the planning system is being empowered to deliver through the Planning (Scotland) Act 2019. Development to address climate change will need to ensure; • Low carbon buildings • Active travel and low carbon transport • Safeguarding and promoting biodiversity and green/blue networks • Renewable energy opportunities are maximised • Food supply security, safeguarding prime agricultural land and encouraging grow your own • Flood prevention and managing surface water • Safeguarding from coastal erosion and rising sea levels • Large scale woodland expansion Significant progress is now required to address the climate change emergency and this will require fundamental changes in the way we plan and deliver development. Fundamental change will require buy in from a wide range of stakeholders, including developers and Homes for Scotland. In the current system, planning authorities have to enforce policies on good placemaking, healthy living and biodiversity upon some developers, rather than it forming the baseline for the development industry. Funding is required to ensure local authorities can lead by example in how new and existing buildings meet climate changes challenges. Onshore wind energy planning and consenting needs a complete

	overhaul. The current approach where each planning authority prepares spatial frameworks identifying areas with the greatest potential and then wind energy companies submit section 36 applications which invariably are subject to lengthy public local inquiries is fundamentally flawed and needs to change. The current spatial framework prepared in conformity with SPP results in a meaningless framework which is not fit for purpose. A system where a national review is undertaken to identify the best locations for onshore wind in terms of minimising environmental impacts and maximising energy efficiency should be introduced. This may result in perhaps a dozen locations for onshore wind farms and should have the status of agreed in principle and a review of the current section 36 process carried out in tandem. A similar approach could be taken towards solar farms and other technologies, properly planned to meet needs, rather than the current ad hoc approach to energy infrastructure planning. Large scale woodland expansion should also be promoted and funded, recognising the value of woodlands in capturing carbon. This should be undertaken as part of an overall land use plan for Scotland recognising the best areas for renewable energy, woodland, food production and other uses. While Moray currently has approximately a third of its land area under woodland cover, there is scope for this to be significantly increased, as evidenced in the Woodland and Forestry Strategy. Sustainable design and construction will have a key role in how we adapt to changing weather extremes including much warmer summers. Properties will have to maximise use of renewable technologies and be zero carbon. A much stronger commitment is required to use of vacant/derelict and brownfield sites being developed before greenfield. Funding is required to achieve this and also to bring empty homes back into use. Developments must safeguard and expand our green and blue infrastructure, safeguard and promote biodiversity. Development which connects into existing and creates new active travel connections, recognising the carbon reduction, health and cost savings of changing modes of travel. Policies to ensure fibre to the premises are required, recognising this may reduce travel and taking a different approach to how we do business, as well as ensuring businesses across Scotland are on a level playing field. Electric vehicle charging points at all new buildings, in car parks and other opportunities to look ahead to the fundamental changes in transport.

	More frequent and significantly cheaper public transport services are required, particularly in rural areas, where the cost and frequency act as barriers. Energy provision to replace gas for both households and business and require renewable energy infrastructure on all new buildings. The role of energy from hydrogen, energy storage and district heating systems needs to be set out in NPF4. Policies on Zero waste to be set out in NPF4, minimising waste, avoiding landfill and leaving only limited amounts to be treated. Policies to safeguard, protect and enhance biodiversity maximising the variety of native species and habitats.
How can planning best support our quality of life, health and wellbeing in the future?	The homes we need must be carbon neutral, well connected digitally and must have excellent public and active travel connections. Unsustainable patterns of development need to change, while respecting the aim of repopulating fragile rural areas. Policies are required to ensure housing supply meets housing demand in the private sector. Moray Council 's accessible housing policy is considered to be a good example of planning for our ageing population, otherwise additional pressure is placed on the Council house waiting list. Affordable homes, home ownership and self- build opportunities, space to grow your own food, quality open spaces providing recreational opportunities of passive and active and promoting biodiversity must all be delivered through strong, clear policies in NPF4. Greater respect for the importance of prime agricultural land is required to safeguard our food supply network. At the moment prime agricultural land is trumped by the needs of settlement expansion. In the longer term this will have even greater importance as we are encouraged to grow our own food. Good placemaking and the relationship between spatial planning and healthcare planning must be subject to strong policies in NPF4. Moray Council's Policy PP1 Placemaking is considered a good example of such an approach, accompanied by the Quality Audit process, which could be embedded in NPF4. Ensuring an infrastructure first approach is taken must be set out in NPF4 with the financial resources to deliver. Infrastructure providers are currently playing catch up due to lack of investment. Policies are required to safeguard communities from coastal erosion and flooding.

	Affordable rural housing in a range of tenures and rural employment opportunities need to be encouraged. Affordable housing provision should be planned and not able to trump all other policies and the strategy of the local development plan. Land is often not the barrier to delivery, rather financial resources. Policies to deliver real tenure integration and improve everyone's life chances should be set out in NPF4. Planning for intergenerational living should be set out in policy, reflecting the findings of the Mobility, Mood, Place project carried out by Edinburgh university. Land values do not currently allow for the quality of development required to provide for public health, wellbeing and quality of life and leads to characterless development that meets a housing need rather than placemaking.
What does planning need to do to enable development and investment in our economy to benefit everyone?	The planning system has to continue to develop its role as an enabler of development, working with landowners, developers and agents to assemble sites and bring them forward for development and attract investment. Closer working with economic development services and other agencies, with available funding is required to deliver land for employment purposes. If local authorities had the funding, a more proactive approach to land assembly could be taken along with an infrastructure first approach to have development ready sites. This could include use of compulsory purchase or similar powers. Masterplan consent areas offer potential to explore this further and to create a simpler planning system for developers. Moray's economy in 2050 is anticipated to be one with very strong representation from the armed forces at RAF Lossiemouth and Kinloss Barracks, a strong food and drink sector, with the continued growth of aerospace, life sciences and food production. Planning authorities need a range of sites to be provided for new businesses, expansion of existing businesses and opportunities for live/ work developments. High tech and automated systems are likely to change the way we deliver services and how businesses operate. The planning system can assist with reducing inequalities, fuel poverty and help to stimulate green jobs and skills development if land and development values reflect the need for placemaking and quality in development provision.
How can planning improve,	The planning system already aims to improve, protect and

protect and strengthen the special character of our places?	strengthen the special character of our places. Taking onshore wind energy as an example, the spatial framework currently required by Scottish Planning Policy excludes Special Landscape Areas from "no go zones" for large scale wind farms. That is completely at odds with the question now being asked in this Call for Ideas. Spatial frameworks/ policies which include protection for the special character of our areas are therefore required and a recognition that special character often extends beyond environmental designations. Blue and green infrastructure should be planned as part of good placemaking. It is important also to recognise that the planning system should be creating new places with special character, the listed buildings and conservation areas of the future and places of character for people to live and work, not car dependent suburbs. Town centres will continue to evolve, with more specialist independent retailers, more living in the town centres and more social opportunities. There needs to be a greater focus on overcoming constraints on brownfield vacant and derelict sites, additional funding is needed to bring these forward and support the role of planning as an enabler.
What infrastructure do we need to plan and build to realise our long term aspirations?	Transportation- need road systems which are fit for future purpose, safe and promote active travel opportunities. The A96 dualling project will bring significant economic benefits to Moray, reducing journey times, improving safety, reducing carbon emissions within town centres and providing new active travel connections. However, it is vital that the dualling project is supported by the infrastructure to make it fit for purpose for the future of electric vehicles and that active travel benefits are fully realised. Public transport needs significant investment to reduce the volume of traffic, alongside a programme of behavioural change. In rural areas such as Moray public transport costs do not make it an attractive alternative to the motor car and a significant change is required. Active travel networks need significant funding. In rural areas routes to work are often unsafe, convoluted and not a realistic alternative. On-going behaviour change is required to encourage active travel. An infrastructure first approach is required with funding devolved to planning authorities or community planning partnerships to implement a regional infrastructure plan. The Local Development Plan should act as the catalyst for co-ordinating and planning for longer term infrastructure requirements. The Moray Local Development Plan 2020 makes an initial start at this, identifying new requirements for schools, health centres and transport

	network improvements. However, this could be expanded to include digital upgrades, Scottish Water network improvements and so on. Greater use of existing resources could be made through energy storage and repowering of existing developments. Significant investment is needed in our digital infrastructure, especially for businesses. Ultra- fast broadband Is required to keep businesses in Moray, attract new businesses and avoid displacement. Digital infrastructure should provide a level playing field across Scotland and not disadvantage rural areas. Digital health opportunities should be maximised. Current practices which see patients in Moray making a 4+ hour round trip to Aberdeen for a 10 minute appointment must be addressed. New train stations or re-opening closed stations could be considered along with measures to get as much freight off the roads as possible, getting goods to market as efficiently as possible. Networks of electric charging points, fibre to the premises and carbon free/conscious places must be provided. In the short term an extension of the gas grid in Moray for commercial purposes is required as Moray does not have access to low cost fuels. The gas network would allow users in Moray access to a future decarbonised gas supply. NPF4 should provide support for the effective generation of hydrogen through renewable electricity. The first demonstration project to inject hydrogen into a gas grid is now operational in the UK. Other opportunities for local hydrogen generation should be identified, making better use of excess renewable energy generated. Achieving the Scottish Government target of 50% of the energy for Scotland's heat, transport and electricity consumption to be supplied from renewable sources by 2030 will require a more streamlined approach as set out above. District heating is currently seen as too complicated and not cost effective. NPF4 should give greater momentum to the potential for district heating systems. The move to net zero carbon and investment in infrastructure to support it needs to consider how this impacts on rural Scotland to ensure inclusive economic growth, a shift in investment strategy to support cities in achieving low carbon objectives cannot be at the expense of rural populations and business.

REPORT TO: **PLANNING AND REGULATORY SERVICES COMMITTEE ON 25 FEBRUARY 2020**

SUBJECT: **DEVELOPMENT PLAN SCHEME 2020 - MORAY LOCAL DEVELOPMENT PLAN 2020**

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

1. REASON FOR REPORT

1.1 This report asks the Committee to consider the current timetable for the preparation of the Local Development Plan (LDP) 2020 and to agree that the Development Plan Scheme (DPS) 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 agrees the Development Plan Scheme 2020 for the Moray Local Development Plan 2020, 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 2019 DPS was approved at the meeting of this Committee on 29 January 2019 (para 10 of minute refers).

4. PROPOSALS

4.1 The DPS for 2020 is set out in **Appendix 1** and is intended to be a project management tool to ensure that the LDP is replaced within the statutory 5

year period. The Moray LDP 2015 was approved on 31 July 2015 and the end "target" date is to ensure that the new LDP is adopted by 31 July 2020.

4.2 The progress of the LDP is on track with the Proposed Plan submitted for Examination ahead of schedule when compared with key milestones set out in the 2019 DPS, summarised in the table below;

2018/19 Development Plan Scheme targets	**Actual**
Main Issues Report engagement January to March 2018	Achieved, consultation between January and March 2018.
Report representations to Main Issues Report (MIR) - September 2018	Report submitted to special meeting of this Committee on 25 September (para 3 of minute refers) - completed
Proposed Plan presented to Committee for approval - December 2018.	Report was to be submitted to special meeting of this Committee on 5 December, however this target was not met and the Committee was rescheduled to 18 December.
Prepare Schedule 4's and report objections to Committee- April to August 2019.	Report was approved at a special meeting of this Committee on 25 June 2019.
Submit Proposed Plan for Examination- August 2019.	Plan was submitted at the end of June 2019
Adoption July 2020	Examination is currently in progress, anticipated to be complete end March 2020, then the Plan adopted by end July 2020.

4.3 The above programme has been achieved with extensive public engagement at MIR stage, with officers taking part in a pilot Gatecheck as part of the proposed new planning legislation, with more place specific detail included in the Proposed Plan and with an initial Action/Delivery Plan.

4.4 The LDP process has five main stages and the Plan is currently at stage 4 (Examination). All unresolved objections have been forwarded to Scottish Ministers with a request for an Examination to be carried out by an independent Reporter. Two Reporters have been appointed and the Examination process is progressing with a number of information requests of varying complexity submitted to the Council, which are being responded to as a priority to minimise delays. The Examination Report is anticipated to be published end March 2020 after which the findings of the Reporter will be advertised as modifications and reported back to this Committee for noting and to agree that the Council submit a "Notice of Intention to Adopt" to the Scottish Government. Members should note that the Reporter's findings are largely binding on the Council.

4.5 An updated Action/ Delivery Programme will support implementation of the Plan and this will be the subject of a future report to this Committee.

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 aspects of Moray 2026 including the delivery of affordable housing 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).

(b) Policy and Legal

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

(c) Financial implications

The cost for the Examination of the 2015 LDP was £50,763, significantly lower than the budget of £80,000. A one year budget pressure of £60,000 to cover the cost of Examination for the 2019-20 budget. An estimated cost of £50,000 has been received from the DPEA for the cost of the Examination.

(d) Risk Implications

If the LDP is not replaced within 5 years, this will be identified as a "red" outstanding action in the annual PPF and there will be a reputational risk. There is also a risk that there will be a shortage of effective housing and employment land with a knock on negative effect upon the local economy and delivery of community planning partners' objectives. The introduction of new policies supporting public health reform, climate change, biodiversity and other objectives will be delayed.

(e) Staffing Implications

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

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.

(f) Property

None.

(g) Equalities/Socio Economic Impact

There are no equalities issues arising from this report.

(h) Consultations

Corporate Director (Economic Development, Planning & Infrastructure), the Head of Development Services, the Legal Services Manager, the Equal Opportunities Officer, Lissa Rowan (Committee Services Officer), the Senior Engineer Transport Development, Paul Connor (Principal Accountant) and the Housing Strategy and Development Manager have been consulted and comments received have been incorporated into the report.

6. CONCLUSION

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

6.2 The 2020 DPS sets out the timetable for the preparation of the Moray LDP 2020 with the target date of approving the new LDP by July 2020.

Author of Report: Gary Templeton, Strategic Planning and Development Manager

Background Papers:

Ref:

PLANNING AND DEVELOPMENT SERVICES

DEVELOPMENT PLAN SCHEME

FEBRUARY 2020

moray council

Moray Local Development Plan Area

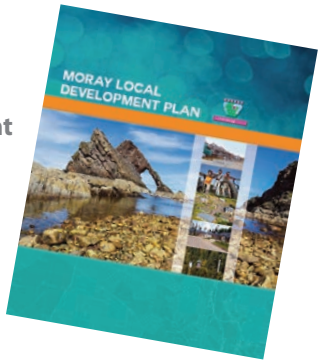
INTRODUCTION

The Planning etc (Scotland) Act 2006 introduced the requirement for planning authorities to prepare a Development Plan Scheme. The Scheme sets out the Council's proposed timetable for the review and preparation of its Development Plan and explains how it will engage with community, business and other interested parties.

The Development Plan Scheme is reviewed annually. This Scheme sets out the key milestones for the preparation of the Moray Local Development Plan 2020 and looks ahead to the next Local Development Plan.

Current Development Plan

The current Development Plan for Moray is the Moray Local Development Plan 2015 which was adopted on 31st July 2015.



Moray Local Development Plan 2020- Progress Update

Scottish Government Circular 6/2013 identifies that there are five key stages in preparing a Local Development Plan as shown on diagram 1 on page 5. The Circular suggests that it will normally take in the region of 31 months from beginning through to adoption of a new Local Development Plan.

Once adopted the LDP, along with supplementary planning guidance and other material considerations will provide the basis for determining planning applications. The LDP covers the administrative area of Moray excluding the Cairngorms National Park, which has its own LDP.

Under current legislation the replacement LDP should be adopted within 5 years to meet the Scottish Government target of a 5 year plan cycle.

Two Call for Sites exercises have been undertaken, with submissions subject to technical consultations as appropriate. Site checklists were completed and assessed by planning officers. A series of 5 Topic Papers, a State of the Environment Report and draft Strategic Environmental Assessment were prepared, along with the annual Monitoring Report to form the evidence base for the Main Issues report, which was approved for consultation at a special meeting of the Planning and Regulatory Services Committee on 15th December 2017.

Extensive engagement on the Main Issues Report was undertaken, with a series of presentations given to a variety of audiences, including Moray Federation of Village Halls, Community Planning Board, Community Planning Officers Group, NHS Grampian and Joint Community Councils. A series of drop in exhibitions were organised during the consultation exercise on the MIR, running from 8th January to 30th March 2018.

Elected members have been engaged early through their initial induction following the May 2017 local government elections, followed by;

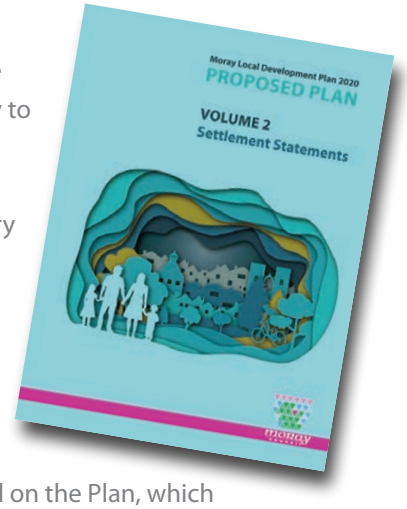
- a workshop for all members on 4th December 2017 which discussed the main land use planning issues facing Moray.
- A series of ward level briefings on both strategic and local planning issues in December 2017, prior to considering the Main Issues Report.
- A series of ward level briefings on local planning issues in September 2017 prior to considering responses to the Main Issues Report.
- A placemaking study tour in November 2018, visiting Tornagrain new town, the Housing Expo site in Inverness and Inverness College/ UHI campus.
- A members workshop on new policy approaches in November 2018.

Planning officers have worked with local primary and secondary schools as part of youth engagement during the Year of Young People 2018 and have created a platform for further engagement, which will be developed into an ongoing programme and embedded in other land use planning related work. The youth engagement included a short film made by Buckie High School pupils which won an award at the Scottish Awards for Quality in Planning 2018.

Neighbour notification was carried out at MIR stage, ensuring that people were advised as early as possible of potential development proposals in their local area. The MIR resulted in over 400 responses which broke down into over 1775 comments and these were reported to a special meeting of the Planning and Regulatory Services Committee on 25th September 2018.

During early 2018 the Council also participated in a pilot "Gatecheck" exercise with the Scottish Government to examine the evidence base for the Local Development Plan at an early stage, as part of the new emerging planning legislation.

The Proposed Plan was approved at a Special meeting of the Planning and Regulatory Services Committee on 18th December 2018. Officers delayed this report to take account of the dualling preferred option which was published on 4th December 2018.



Following consultation on the Proposed Plan during January to March 2019, objections were reported to a special meeting of the Planning and Regulatory Services Committee on 25th June 2019 and the Proposed Plan was submitted for Examination at the end of June 2019 to Scottish Ministers. A total of 366 representations were received on the Plan, which split into 630 comments. Unresolved representations were grouped into 14 schedules by area or topic. Two Reporters have been appointed and the Examination is programmed to be complete by the start of April 2020.

The LDP process is currently managed by the Strategic Planning and Development Manager, with progress reported and monitored through regular project meetings, reporting on the Service Plan, through the Planning Performance Framework, meetings with key stakeholders and through the LDP/ Infrastructure Delivery Group. The Development Plan Scheme sets out the key milestones which is supported by a detailed project plan.

The 5 key stages, progress to date and next steps are summarised in the table opposite.

EVIDENCE GATHERING Aug 2016 – May 2017 The Council gathers date and monitors the effectiveness of current policies and considers the need for additional housing and employment land. Section 16 of the Act requires planning authorities to publish a Monitoring Statement, which is one way of identifying the issues to be discussed in the Main Issues Report.	LDP process presentation to community representatives.	**Nov 2016**
	Issue 1st call for informal bids.	**Nov 2016**
	Issue 2nd call for bids	**March 2017**
MAIN ISSUES REPORT June 2017 – March 2018 Section 17 of the Act requires planning authorities to compile a Main Issues Report which should identify the authority's preferred options and consider reasonable alternatives where these are available. Extensive engagement takes place at the Main Issues Report stage.	Early engagement with elected members	**May - Nov 2017**
	Stakeholder session	**Sept 2017**
	Main Issues Report approved by Committee	**Dec 2017**
	Housing Need and Demand Assessment submitted to Centre for Housing Market Analysis	**Jan 2018**
	12 week public consultation	**Jan - Mar 2018**
	Neighbour notification	**Jan 2018**
	Series of drop in exhibitions throughout Moray	**Jan - Mar 2018**
	Workshop for community representatives	**Feb - Mar 2018**
PROPOSED PLAN April 2018 – July 2019 Having had regard to representations received on the Main Issues Report, section 18 of the Act requires the planning authority to prepare and publish a Proposed Plan, which addresses the spatial implications of economic, social and environmental change, identifies opportunities for development and sets out the authority's policies for the development and use of land. The Proposed Plan also includes an Action/ Delivery Programme.	Report representations to Main Issues Report.	**Sept 2018**
	Stakeholder and elected member workshops.	**Oct/Nov 2018**
	Proposed Plan presented to Committee for approval.	**December 2018**
	10 week public consultation.	**Jan-Mar 2019**
	Neighbour notification.	**Jan 2019**
	Series of drop in exhibitions.	**Jan - Mar 2019**
	Prepare Schedule 4's	**Apr - May 2019**
	Report objections to Committee.	**June 2019**

EXAMINATION July 2019 – Mar 2020 Unresolved representations to the Proposed Plan were forwarded to the Scottish Government with a request for a formal Examination by a Reporter(s) appointed by Scottish Ministers. The Reporter(s) will submit a report to the Council with recommendations which are largely binding on the authority.	Submit Proposed Plan for Examination.	**June 2019**
	Respond to Further Information Requests/ participate in hearings.	**August 2019 - March 2020**
ADOPTION Apr 2020 – Jun 2020 The Council is required to publish the modifications arising from the Reporter's report and within three months of receiving the Examination Report to send details of the modifications made and the Proposed Plan to the Scottish Ministers. 28 days after this, the authority may adopt the plan unless directed not to by the Scottish Ministers.	Publish Modifications and Plan as proposed to adopt	**April - May 2020**
	Notify people who made representations on the Proposed Plan that the Plan has been published in the form to be adopted	**April - May 2020**
	Report to Planning and Regulatory Services Committee	**May - June 2020**
	Send modifications, Examination Report and Plan to Scottish Ministers	**May - June 2020**
	Adopt Plan	**July 2020**

Background papers and further information is available at:
www.moray.gov.uk/moray_section/section_109845.html

In support of the Local Development Plan, the following additional consultations are planned during 2020;

- Additional Planning Guidance **May-June 2020**
- Elgin Town Centre Draft Masterplan **May - July 2020**
- Developer Obligations Draft Supplementary Guidance **January to mid February 2020**

Planning Act (Scotland) 2019

The new Planning Act introduces significant changes to the process and requirements for local development planning. The 5 year replacement cycle changes to 10 years and the Main Issues Report stage is replaced with a Gatecheck process requiring a strong evidence base and a greater focus on monitoring outcomes, delivery of the Local Development Plan and preparation of local place plans. Further information will be reported in future Development Plan Schemes as regulations and details are published.

However, as an early indication, work on replacing the 2020 Moray Local Development Plan will begin in 2023, however a new and more "outcome focussed" Monitoring Framework is being developed to support and inform the future Gatecheck requirement.

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 provide 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.

At the outset of the Local Development Plan process we will engage with community councils through the Joint Community Council network, explaining the process, the issues we are highlighting, how to engage and how Community Councils can help to raise awareness of the Plan.

Key agencies such as SEPA, Historic Environment Scotland, Scottish Natural Heritage, Forestry Commission, Transport Scotland, Highlands and Islands Enterprise, NHS Grampian and Scottish Water will be engaged throughout the process. The Council has an infrastructure Delivery Group which includes representation from Transport Scotland, NHS Grampian, Scottish Water and officers from the Council Housing, Transportation, Flood Team and Planning service. The Council propose to set up an Environment Group which will monitor environmental issues and inform annual Monitoring Reports.

The Council will continue to liaise with and consult with Homes for Scotland as an umbrella group and with its individual members.

Future Development Plan Schemes will set out the statutory and non-statutory engagement and consultation steps which are proposed, taking account of the new requirements set out in the Planning (Scotland) Act 2019.

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REPORT TO: **PLANNING & REGULATORY SERVICES COMMITTEE ON 25 FEBRUARY 2020**

SUBJECT: **COMPENSATORY PLANTING**

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

1. REASON FOR REPORT

1.1 To ask the Committee to note the responses to the consultation on compensatory planting, approve the list of suitable planting sites and note future arrangements for compensatory planting.

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 the Committee agrees:-

(i) the proposed responses provided to the comments received to the public consultation, as set out in APPENDIX 1;

(ii) the list of suitable compensatory planting sites, as set out in APPENDIX 2;

(iii) to delegate authority to the Head of Economic Growth & Development to update the list of compensatory planting sites with suitable sites, in consultation with the Chair & Depute Chair of this Committee and relevant Ward Members;

(iv) the priority system for implementation of compensatory planting funds, as set out in APPENDIX 3;

(v) to note that an additional policy guidance note on compensatory planting will be submitted to a future meeting of this Committee; and

(vi) to note that a training session will be arranged by Scottish Forestry for Elected Members and relevant services in respect of the Control of Woodland Removal Policy.

3. BACKGROUND

3.1 The Scottish Government's Control of Woodland Removal Policy (CWRP) provides policy direction for decisions on woodland removal in Scotland. Woodland removal is defined as the permanent removal of woodland for the purposes of conversion to another type of land use. The Policy states that woodland removal should only be permitted where it would achieve significant and clearly defined additional public benefits. Where woodland is removed in association with development, developers will generally be expected to provide compensatory planting.

3.2 Polices E4 *Trees and Development*, ER2 *Development in Woodlands* and Trees and Development Supplementary Guidance of the Moray Local Development Plan (MLDP) 2015 give protection to trees and woodlands as they contribute to the character of an area, provide important natural habitat areas and have a recreational value.

3.3 Where an application is consented which involves the felling of woodland, the applicant must provide compensatory planting elsewhere on the site of the development, off site in land within their ownership or provide a commuted payment. If a commuted payment is made, the Council has a Service Level Agreement (SLA) with the Woodland Trust to deliver the compensatory planting. The payment fee includes a 20 year replacement and maintenance allowance. The Council are currently reviewing the SLA.

3.4 To date, £26.6k has been received in payments for compensatory planting. Whilst this report is not about Council policies, a stronger approach towards a presumption against woodland removal will be introduced as a result of new policy in the emerging MLDP 2020 (currently at Examination) and it is not anticipated that the fund from commuted payments for compensatory planting will increase largely in the future.

4. CONSULTATION

4.1 At its' meeting on 26 March 2019, this Committee agreed a draft list of sites suitable for compensatory planting and for it to be issued for consultation (para 11 of the minute refers).

4.2 Following further discussions with the Council's Consultancy Section, the flood alleviation scheme sites at River Lossie (Elgin), Chanonry Industrial Estate (Elgin) and River Findhorn & Pilmuir (Forres) were removed from the list due to the potential impact on the flood retaining embankments.

4.3 In conjunction with the draft Food Growing Strategy, the draft list for compensatory planting sites was issued for an 8 week period with a closing date of 29 November 2019. The consultation was advertised through press

releases, direct mailing to consultees and community groups, social media and drop-in exhibitions in Buckie, Elgin and Forres.

5. REPRESENTATIONS

5.1 In response to the public consultation, comments were received from 24 members of the public, community groups and key consultees (Scottish Natural Heritage [SNH] and Elgin Community Council). **APPENDIX 1** summarises all the representations and sets out the Council's response.

5.2 The main issues arising from consultation were:-

- Support for all sites identified;
- Calls for an increase in tree planting, by the Council, over and above the provision of compensatory planting;
- Provision of fruit-bearing trees and hedgerow;
- Concerns about woodland removal for the purposes of development; and
- Impact on habitats and ecology.

5.3 From the 24 representations, 7 additional sites were identified for consideration. Following assessment, 6 of the sites were deemed to be unsuitable for the reasons set out in **APPENDIX 1**. Robertson Road Playing Fields, Lhanbryde was assessed as being suitable and has been included on the list.

6. NEXT STEPS

6.1 An additional site in Elgin was identified and assessed as suitable by Officers at Rear of Kennedy Place. To reflect a recent planning approval, the Mill of Buckie site has been removed. The final list of suitable sites and location plans are set out in **APPENDIX 2** for approval.

6.2 Should additional sites be identified in the future and assessed by Officers as suitable, the Committee is asked to delegate authority to the Head of Economic Growth & Development to update the list of compensatory planting sites, in consultation with the Chair & Depute Chair of this Committee and relevant Ward Members.

6.3 To assist with implementation, all sites on the list have been assessed and scored. Criteria have been developed to ensure a consistent approach to scoring, looking at areas including accessibility, place quality and biodiversity enhancement. Starting with the highest scoring, sites will be pursued for implementation of compensatory planting. A copy of the site assessments, in order of priority, is set out in **APPENDIX 3**

6.4 In consultation with Scottish Forestry, additional policy guidance is being developed as part of the emerging MLDP 2020 (currently at Examination). This will provide Council services and developers with guidance on interpreting the CWRP, assessing woodland removal and the provision of

compensatory planting. A training session hosted by Scottish Forestry on the CWRP will be arranged for Elected Members and relevant Council services.

7. 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 identifies the need to build a better future for children and young people in Moray by providing the healthiest start in life. Providing trees as a result of compensatory planting policies improves the local natural environment and biodiversity whilst also helping to promote healthier lives.

(b) Policy and Legal

The Scottish Government's CWRP and Policies E4 *Trees and Development*, ER2 *Development in Woodlands* and Trees and Development Supplementary Guidance of the MLDP 2015 prevents the permanent removal of woodland unless the impact on the woodland is clearly outweighed by social or economic benefits of national, regional and local importance, and if a programme of proportionate compensatory planting has been agreed with the Planning Authority.

Reflecting further guidance published in February 2019 in relation to the implementation of the CWRP, Policy EP7 *Forestry, Woodlands and Trees* of the emerging MLDP 2020 (currently at Examination) promotes a presumption against woodland removal and seeks to protect the amenity, landscape, biodiversity, economic and/or recreational value of Moray's trees and woodlands.

(c) Financial implications

The cost of planting and maintenance is covered for a 20 year period by the compensatory planting fee. The review of the SLA will aim to extend this to cover "whole life" costs.

(d) Risk Implications

None.

(e) Staffing Implications

Work on developing potential sites suitable for compensatory planting has been carried out within the existing staff workloads of the Strategic Planning & Development team.

(f) Property

A number of the sites identified in **APPENDIX 2** are Council owned. Where they are privately owned, discussions will be held with landowners.

(g) Equalities/Socio Economic Impact

No Equality Impact Assessment is required for this report.

(h) Consultations

Depute Chief Executive (Economy, Environment and Finance), the Head of Economic Growth & Development, the Legal Services Manager, the Lands, Parks & Countryside Officer, the Equal Opportunities Officer, Paul Connor (Principal Accountant) and Lissa Rowan (Committee Services Officer) have been consulted and are in agreement with the contents of the report/comments received have been incorporated into the report.

8. CONCLUSION

8.1 Where an application is consented which involves the felling of woodland, the applicant must provide compensatory planting to mitigate the effects of woodland removal.

8.2 Following an 8 week consultation period, the Committee is asked to approve a list of sites suitable for compensatory planting.

8.3 Delegated authority is sought for the Head of Economic Growth & Development to update the list of compensatory planting sites - where appropriate - with suitable sites, in consultation with the Chair & Depute Chair of this Committee and relevant Ward Members.

8.4 A policy guidance note on woodland removal and compensatory planting will be submitted to a future meeting of this Committee and a training session by Scottish Forestry will be arranged for Elected Members and relevant services in respect of the Control of Woodland Removal Policy.

8.5 Policy EP7 *Forestry, Woodlands and Trees* in the emerging MLDP 2020 introduces a stronger approach towards a presumption against woodland removal and seeks to protect the amenity, landscape, biodiversity, economic and/or recreational value of Moray's trees and woodlands.

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

Background Papers:
Ref:

APPENDIX 1 **Compensatory Planting Consultation Responses**

Online and Exhibition Responses

Response	Identified Site	Comment Summary	Additional Site Proposed	Response
001	Tininver Park (Dufftown)	Would be great to see more trees planted, as long as football pitch is unaffected. Ground is of a boggy nature and planting has not thrived in the past so might need some after care.	N/A	Any proposals for compensatory planting will be designed so as to not compromise existing uses. The comment on the condition of the ground is noted and specialist advice will be sought on appropriate tree species for the site. Maintenance of trees provided as compensatory planting is included in the establishment costs.
002	N/A	Proposes an additional site.	Moray Golf Course, Lossiemouth	Due to the proposed additional site's established use as a golf course, compensatory planting would have the potential to be at conflict with this and therefore the site is not considered suitable.
003	Land Adj. to Seafield Primary School (Elgin)	Seeking detail of what species, how many and exact locations of tree planting.	Bowling Green, Reidhaven St, Elgin	The details of planting will be determined as part of the design process. The selection of species and numbers of trees will be considered on a site-by-site basis. Due to the proposed additional site's established use as a bowling green, compensatory

				planting would conflict with this and therefore the site is not considered suitable.
004	Land Adj. to Seafield Primary School (Elgin)	Would provide a green space in town for children to explore nature.	N/A	The supportive comment for Land Adj. to Seafield Primary School (Elgin) is noted.
005	Millbuies Country Park (Fogwatt)	A wildlife haven.	N/A	The supportive comment for Millbuies Country Park (Fogwatt) is noted.
006	N/A	Proposes an additional site.	Land Adj. to A941, Elgin (Opposite Culzean Rd)	The proposed additional site is allocated as LONG2 in the proposed Moray Local Development Plan 2020 and therefore is not considered appropriate for compensatory planting. The site forms part of the Elgin South Masterplan and landscaping will form part of any future detailed planning application.
007	Train Station (Forres)	Support site and proposes an additional site.	Thornhill Road, Forres	Support for Train Station (Forres) is noted. The proposed additional site is approximately 0.06ha and has existing mature trees. Additional planting has the potential to impact on the amenity of this site and therefore is not considered suitable for compensatory planting.
008	N/A	Should be more than merely compensatory planting – campaign should embrace Moray wide tree	Rear of Sanquhar Drive, Forres	The Council is committed to promoting significant new tree and woodland planting across

		planting, including domestic gardens. Fruit trees do not grow large and wildlife would benefit.		Moray, in both urban and rural areas. This will be delivered though the policies of the emerging Moray Local Development Plan 2020 and other strategies such as Moray Woodland & Forestry Strategy and the Moray Food Growing Strategy. The details of planting, including species, will be determined as part of the design process. The species must be suited to the site and the objectives of management and be of a scale which compensates for the loss of environmental value. The proposed additional site is existing dense woodland. Compensatory planting has the potential to impact on the management of this woodland and therefore is not considered suitable for compensatory planting.
009	Tininver Park (Dufftown)	Dufftown and District Community Association (DDCA) in process of upgrading the park and should be contacted about future plans for tree planting in the park.	N/A	Tininver Park is owned by the Council. It is acknowledged that the DDCA is in the process of upgrading the park and any proposals for compensatory planting will not compromise the existing uses on the site.

010	Millbuies Country Park (Fogwatt)	Compensatory planting should be closer to planned developments so that residents can benefit from the "moved" trees.	N/A	As far as possible, and in accordance with the Control of Woodland Removal Policy, compensatory planting will take place on-site or in close proximity to the site.
011	Bogton Park (Forres)	Plant more trees.	N/A	The supportive comment for Bogton Park (Forres) is noted.
012	N/A	Would make sense for all areas to be planted up with edible trees and hedgerow, ideal for humans and wildlife alike, without the need for compensatory planting.	N/A	The Council are developing a Food Growing Strategy which aims to increase the number of food growing areas across Moray by identify land potentially suitable for food growing spaces including community orchards and fruit-bearing hedges.
013	Train Station (Forres)	Forres in Bloom has been working with Scotrail to establish a biodiversity garden.	N/A	The work of Forres in Bloom is noted. Compensatory planting on this site would co-exist and complement a biodiversity garden and officers will contact Forres in Bloom and Scotrail to discuss further.
014	Bogton Park and Train Station (Forres)	Excellent places for planting trees – absorbs some of the pollution from the A96 and acts as noise barriers as well as being beautiful. Council could add its own tree planting to the compensatory planting.	N/A	The supportive comment for Bogton Park and Train Station (Forres) is noted. The Council is committed to promoting significant new tree and woodland planting across Moray, in both urban and rural areas. This will be delivered though the policies of the emerging Moray Local

				Development Plan 2020 and other strategies such as Moray Woodland & Forestry Strategy and the Moray Food Growing Strategy.
015	Train Station (Forres)	Would be fantastic to plant around the station as it is soulless and very industrial looking. Edible fruit trees would be suitable.	N/A	The supportive comment for Train Station (Forres) is noted. The details of planting, including species, will be determined as part of the design process. The species must be suited to the site and the objectives of management and be of a scale which compensates for the loss of environmental value.
016	Bogton Park, Mannachie Park and Train Station (Forres)	Great idea.	N/A	The supportive comment for Bogton Park, Mannachie Park and Train Station (Forres) is noted.
017	Train Station (Forres)	A must – many trees.	N/A	The supportive comment for Train Station (Forres) is noted.
018	Mannachie Park (Forres)	Very good idea – the more trees, the merrier.	N/A	The supportive comment for Mannachie Park (Forres) is noted.
019	Blaven Court, Bogton Park, Califer Road, Mannachie Park and Train Station (Forres)	All proposed sites in Forres are good – sad that these sites are not planted with trees already. Encourage Council to plant as many trees as possible on top of the compensatory planting scheme.	N/A	The supportive comment for Blaven Court, Bogton Park, Califer Road, Mannachie Park and Train Station (Forres) is noted. The Council is committed to promoting significant new tree and woodland planting across

				Moray, in both urban and rural areas. This will be delivered though the policies of the emerging Moray Local Development Plan 2020 and other strategies such as Moray Woodland & Forestry Strategy and the Moray Food Growing Strategy.
020	Train Station (Forres)	Area needs enhanced, not necessarily a woodland but tree plants/shrubs.	N/A	The details of planting, including species, will be determined as part of the design process. The species must be suited to the site and the objectives of management and be of a scale which compensates for the loss of environmental value.
021	N/A	Proposes an additional site.	Playing Fields, Robertson Rd, Lhanbryde	The proposed additional site is of a suitable size and location. The site provides links to wider habitats and is considered suitable for compensatory planting.
022	N/A	Don't believe any trees should be felled or woodland disturbed to provide an area for these projects. Different insects and animals would be disturbed by tree felling. Build raised planting areas near schools etc.	Land Adj. to Cameron Cres, Buckie	Woodland removal will only be supported where it can be demonstrated that the impact on the woodland is clearly outweighed by social or economic benefits of national, regional and local importance, and if a programme of proportionate compensatory planting has been agreed with the Planning Authority.

				The proposed additional site is open space with mature trees within a high-density development. Additional planting has the potential to impact on the amenity of this site and therefore is not considered suitable for compensatory planting.

Consultee Responses

Consultee	Comment Summary	Response
Elgin Community Council	Concerns about approving housing development in woodland. At a time when there is a growing recognition of the climate emergency, it appears to be contradictory to support a policy which removes woodland that plays a vital role in maintaining air quality, sequestering and storing carbon. Although better than doing nothing, no amount of compensatory planting (in the short-medium term) can make up for what is lost. Many of the existing woodland have been woodlands continuously for centuries and forest soils have been largely undisturbed, allowing for a rich ecology to develop. Planting trees on non-woodland sites may compensate for some of the carbon sequestration that has been lost but cannot compensate for the loss of a complex habitat and ecology. New planting should be contiguous with existing woodland or be planted in a way that will provide linkages between woodland.	The Council's position on compensatory planting reflects the Scottish Government's Control of Woodland Removal Policy in that there is a strong presumption in favour of protecting Moray's woodland resources. The contribution of trees towards addressing the climate emergency is acknowledged and the Council are developing a Climate Change Strategy to meet their target of net-zero carbon emissions for Council activities by 2030. Policy EP7 in the emerging MLDP 2020 introduces a stronger approach towards a presumption against woodland removal and seeks to protect the amenity, landscape, biodiversity, economic and/or recreational value of Moray's trees and woodlands. Woodland removal will only be supported where it can be demonstrated that the impact on the woodland is clearly outweighed by social or economic benefits of national, regional and local importance, and if a programme of proportionate compensatory planting has been agreed with the Planning Authority. The importance of ancient woodland ecosystems is

	Planting woodland close to Seafield Primary School could provide an asset for environmental education and would a good thing to do even without compensatory planting.	acknowledged in the proposed Moray Local Development Plan 2020. Policy EP7 states that woodland removal within native woodlands identified as feature of sites protect under EP1 or woodland identified in the Ancient Woodland Inventory will not be supported. The supportive comment for Land Adj. to Seafield Primary School (Elgin) is noted.
Scottish Natural Heritage (SNH)	Sites identified are likely to benefit from tree planting. Sensitivities such as plant species which are of value to invertebrates and pollinators should be identified and protected (in particular the Former Railway Lines, Buckie). The 2 types of habitat – open habitat and woodland – can co-exist with considerate and imaginative planting plans. The use of amenity grass areas for planting will add biodiversity value to the parks identified but the choice of tree and planting style will determine the positives it can bring to local landscapes and people.	The comments regarding the protection of plant species are noted. As part of the design process, the Council will undertake an ecology assessment of the site and implement any recommendations into the design of compensatory planting. The details of planting, including species, will be determined as part of the design process. The species must be suited to the site and the objectives of management and be of a scale which compensates for the loss of environmental value.

Compensatory Planting Sites

Elgin HMA

- Land Adjacent to Seafield Primary School, Elgin
- Rear of Kennedy Place, Elgin *
- Millbuies Country Park, Fogwatt
- Robertson Road Playing Fields, Lhanbryde
- Sunbank East, Lossiemouth *

Forres HMA

- Blaven Court, Forres *
- Bogton Park, Forres
- Califer Road, Forres
- Forres Train Station *
- Mannachie Park, Forres

Buckie HMA

- Former Railway Lines, Buckie
- Land Adjacent to Gollachy Waste Site, Buckie
- Queen Street Gardens, Buckie

Speyside HMA

- Tininver Park, Dufftown

Specialist advice will be sought on the design of compensatory planting proposals on each site. This will determine the appropriate location(s) and tree species. Proposed planting will not impact upon public access or existing recreational uses and will promote biodiversity and connectivity.

* Subject to Landowner's approval

Land Adjacent To Seafield Primary School

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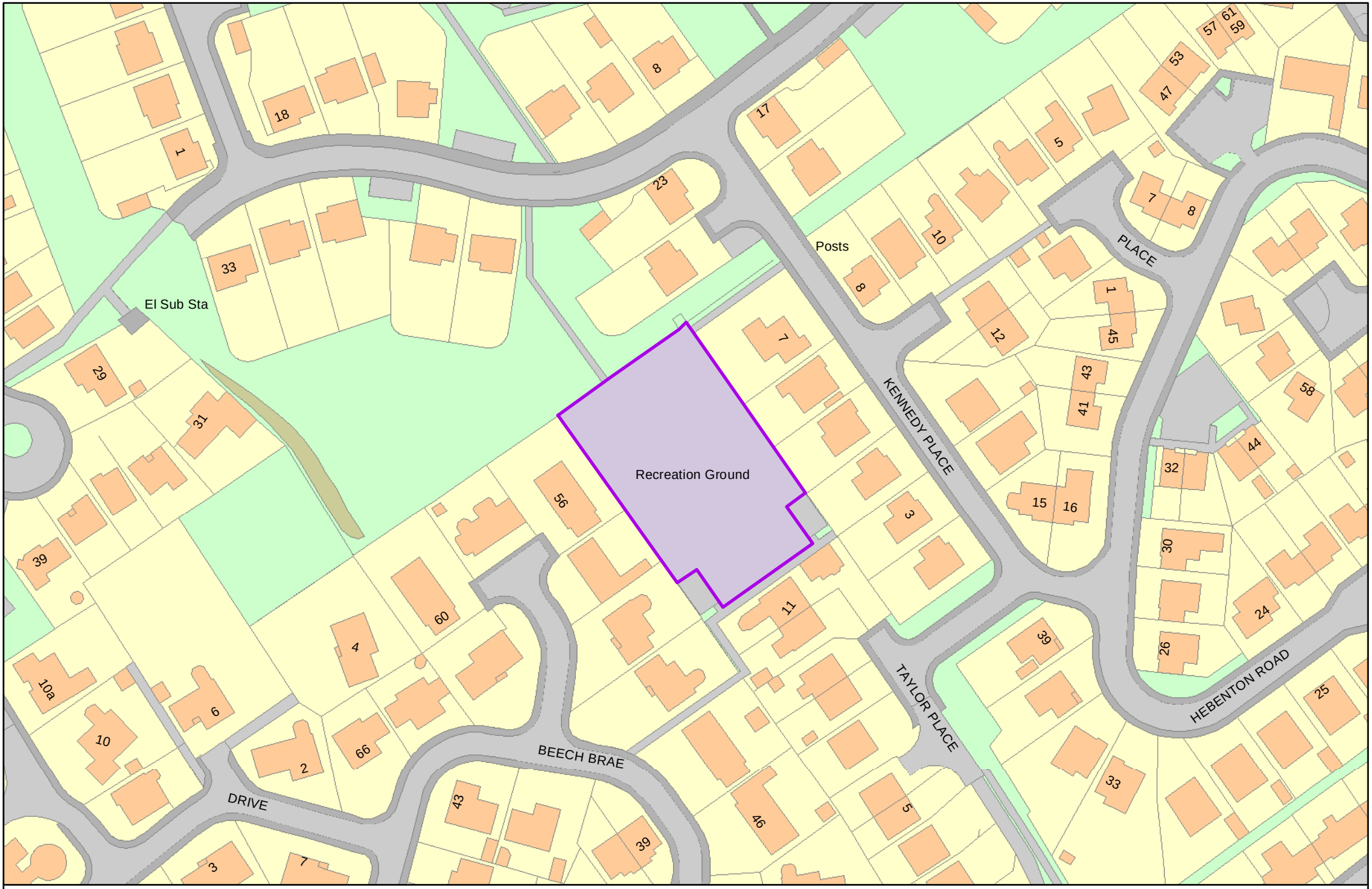

Rear Of Kennedy Place, Elgin

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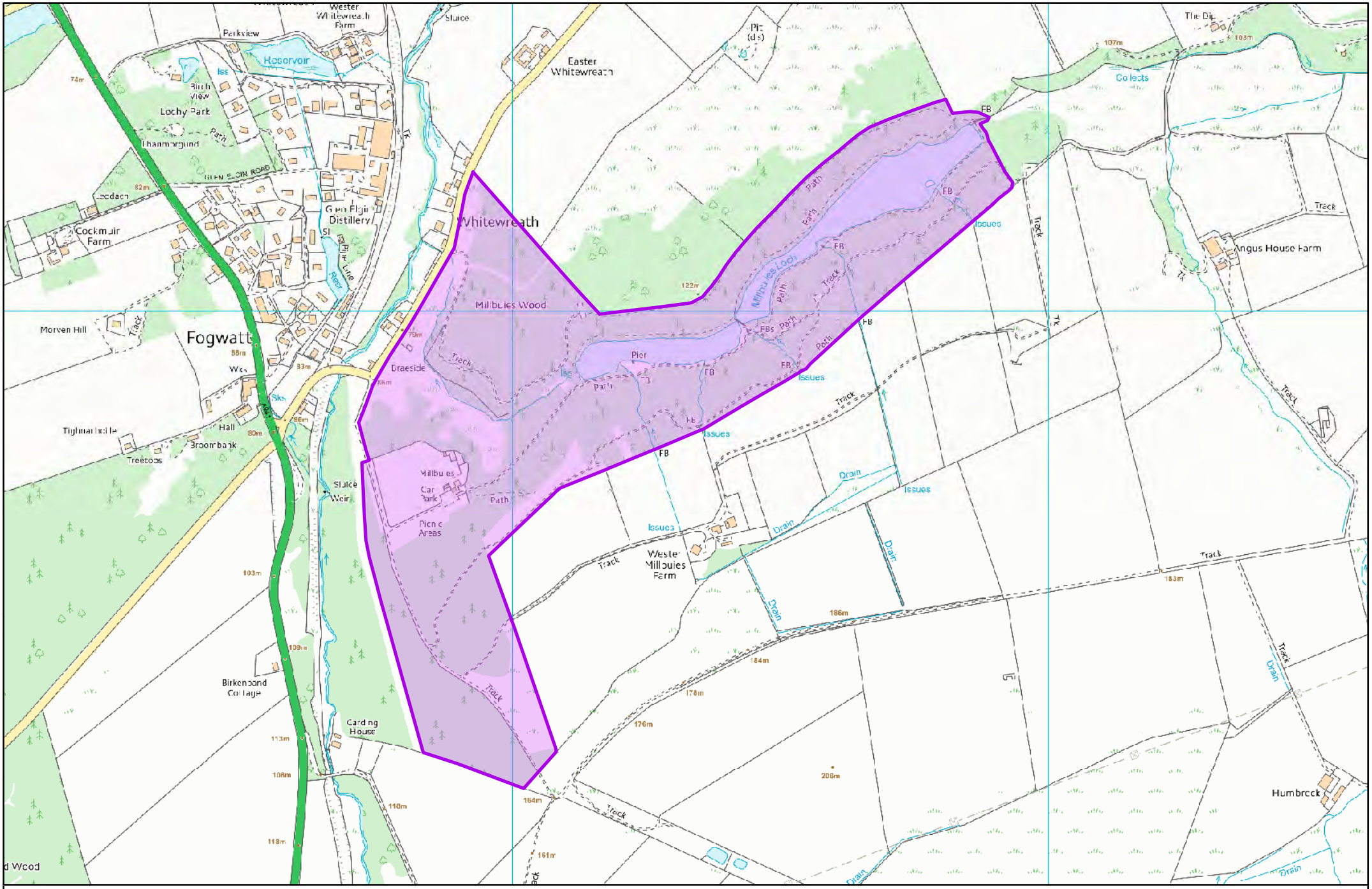

Milbuies Country Park

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Robertson Road Playing Fields, Lhanbryde

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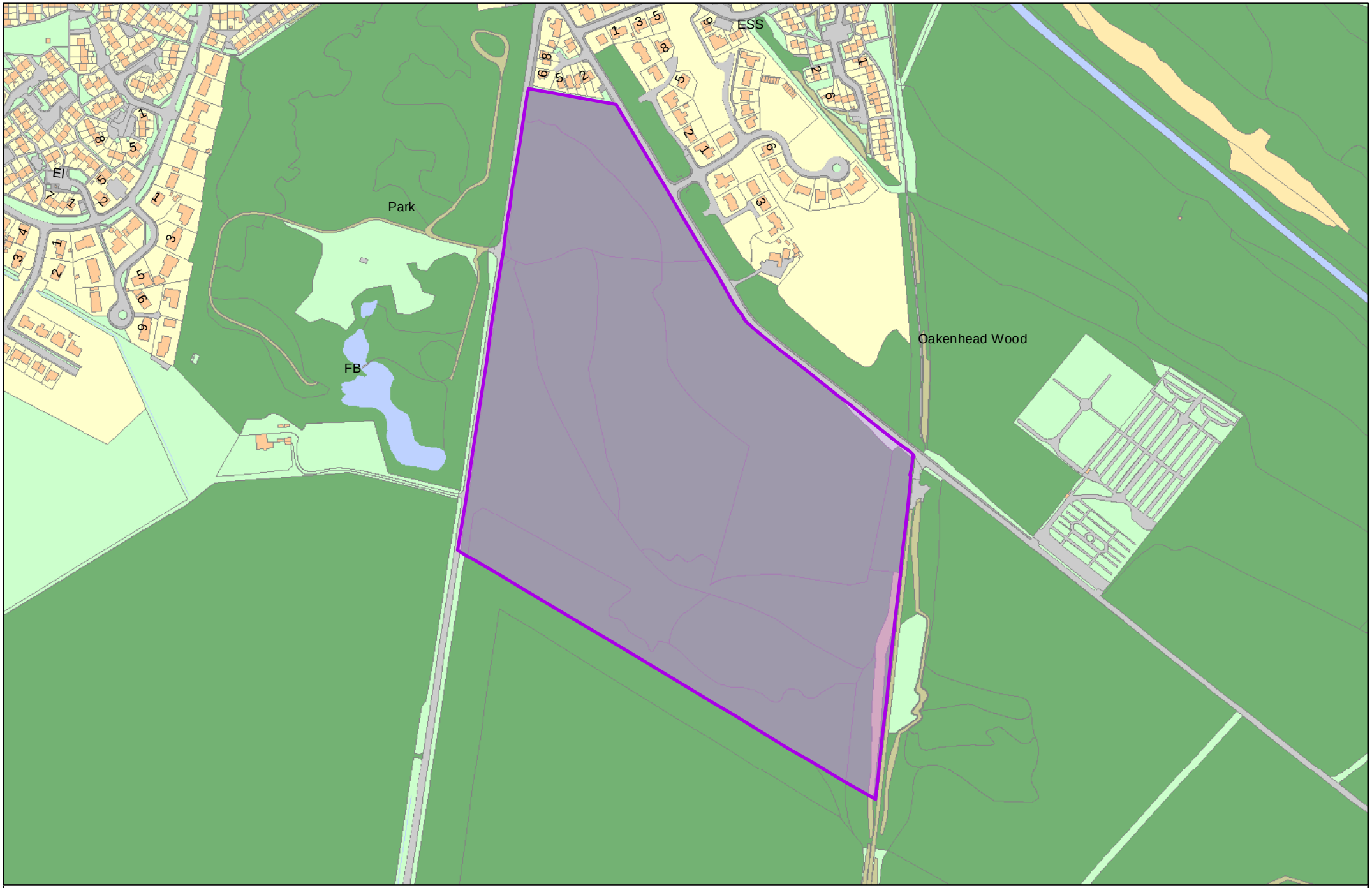

Sunbank East, Lossiemouth

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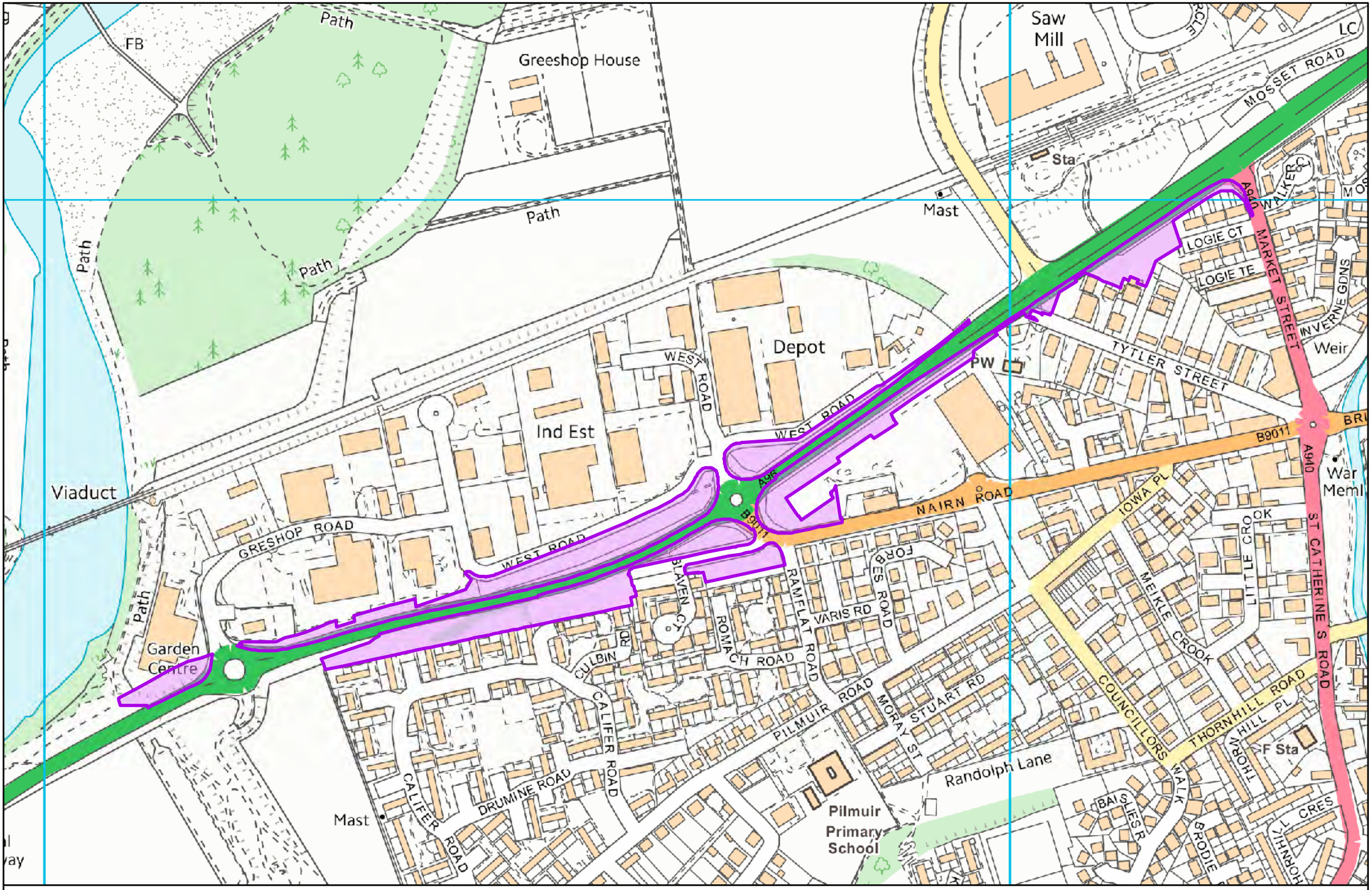

Blaven Court, Forres

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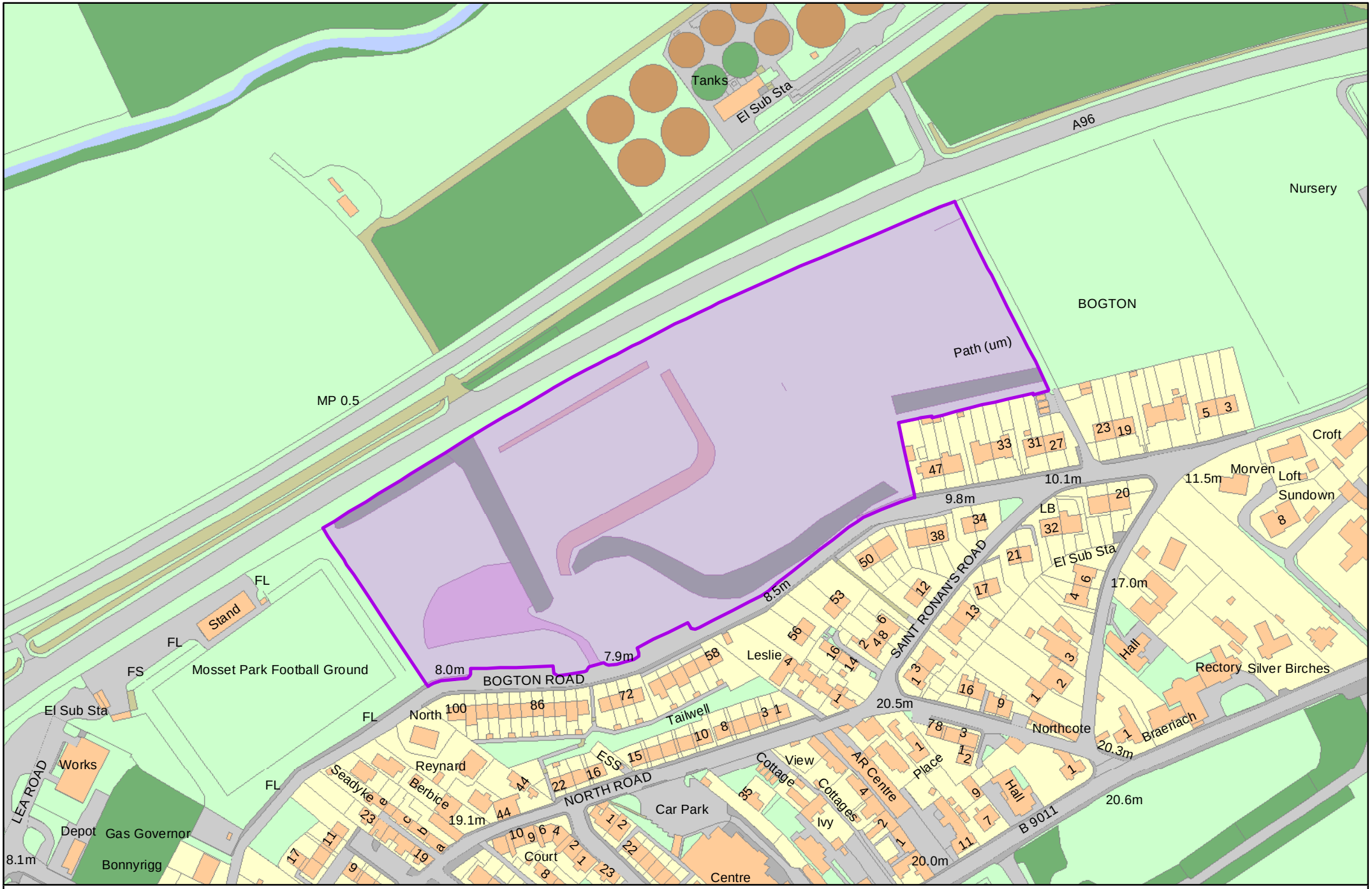

Bogton Park, Forres

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Califer Road, Forres

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Forres Railway Station

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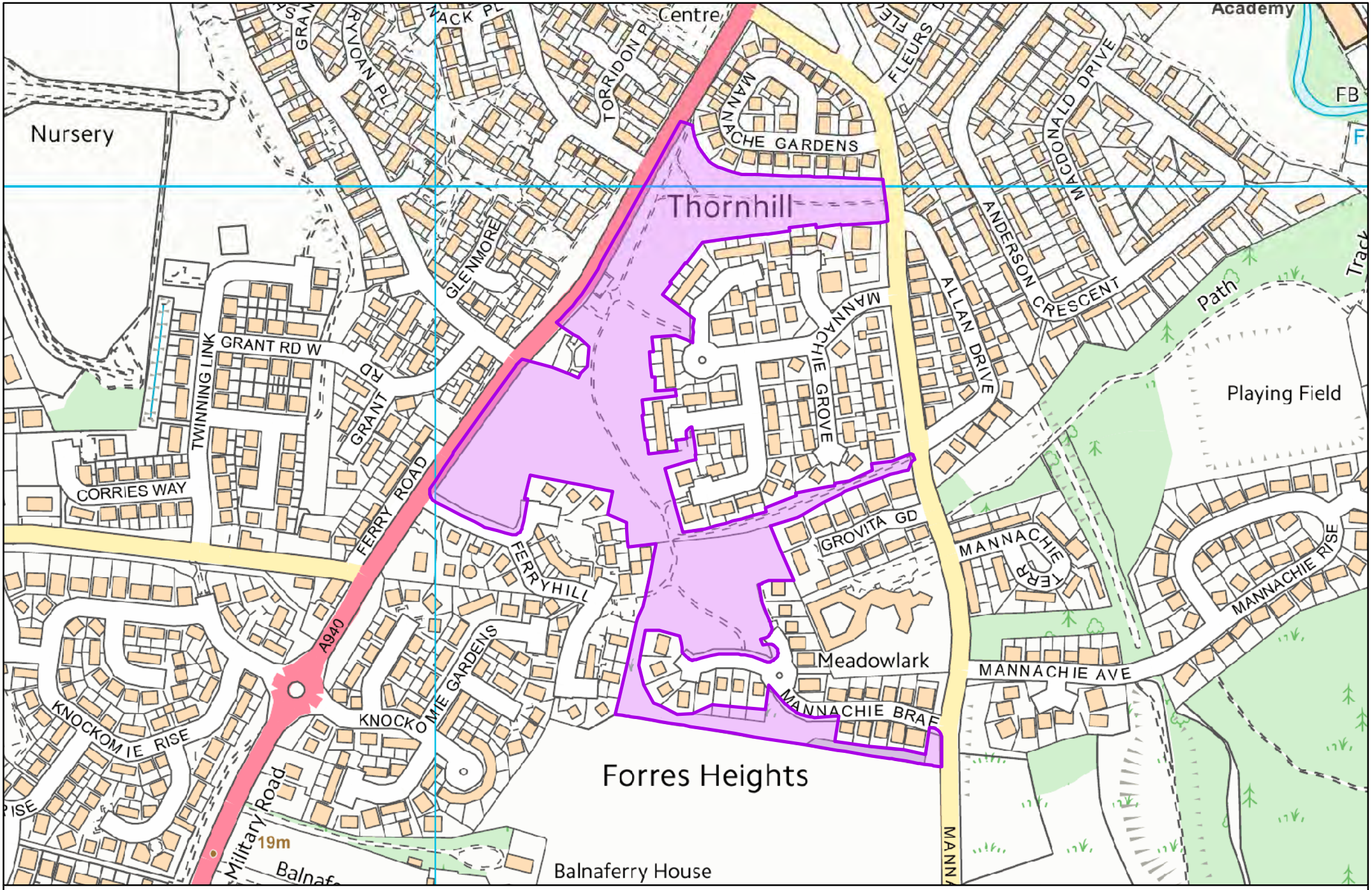

Mannachie Park, Forres

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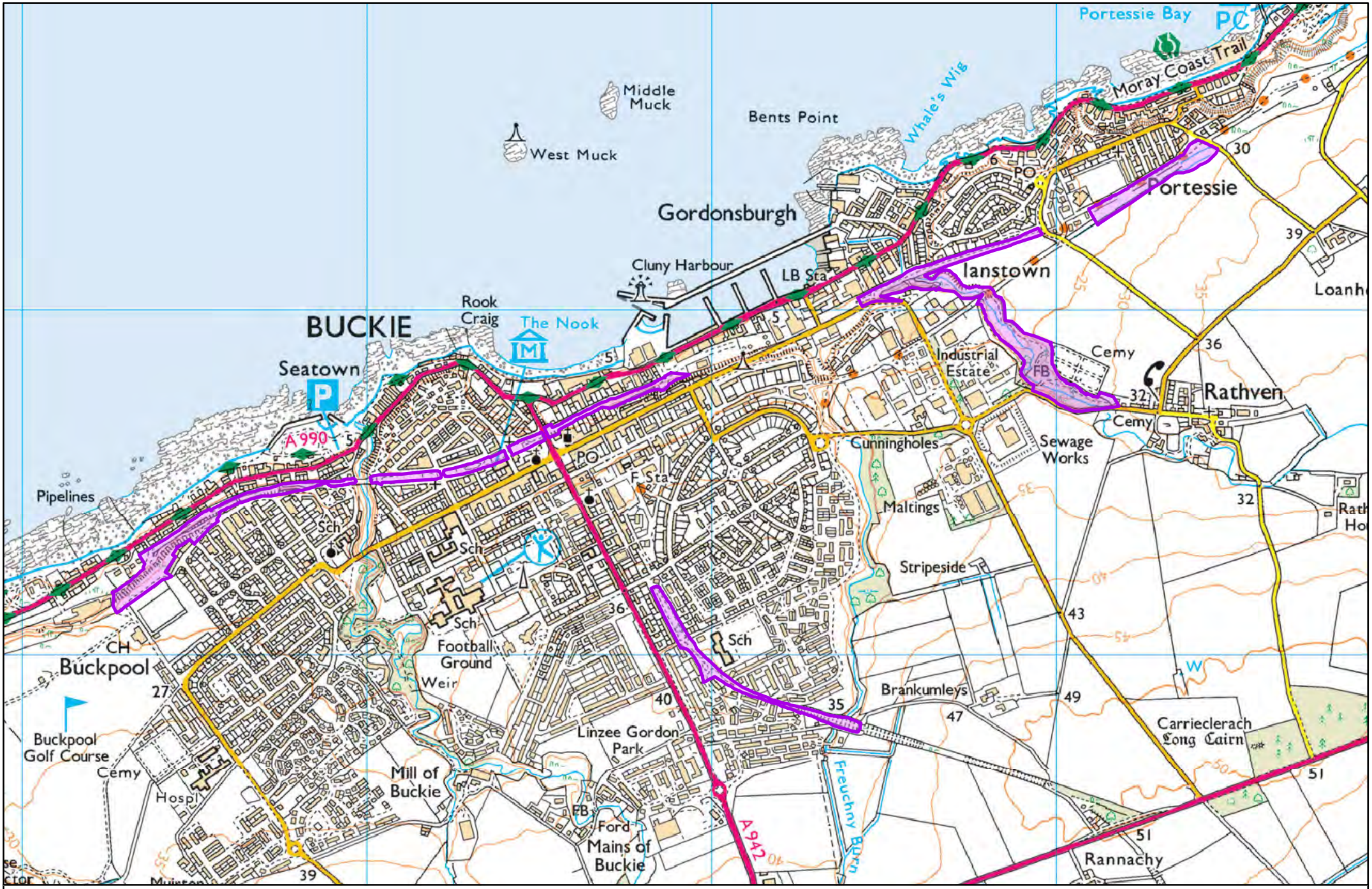

Former Railway Lines, Buckie

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Land Adjacent To Gollachy Waste Site, Buckie

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Queen Street Gardens, Buckie

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Tininver Park, Dufftown

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APPENDIX 3

Site Name	Size (ha)	Size / Configuration	Accessibility	Active Travel	Place Quality	Biodiversity Enhancement	Green Network Connections	Deliverability	Combined Total
Bogton Park, Forres	4.5	5	5	4	5	4	4	4	31
Queen Street Gardens, Buckie	0.3	4	4	4	4	4	5	5	30
Mannachie Park, Forres	5.7	5	5	3	4	4	4	4	29
Califer Road, Forres	0.3	4	5	3	5	5	2	4	28
Robertson Road Playing Fields, Lhanbryde	0.62	4	4	3	4	5	4	4	28
Forres Train Station	2.1	5	5	4	5	5	2	1	27
Land Adj. to Seafield Primary School, Elgin	3.4	3	5	4	3	4	4	4	27
Blaven Court, Forres	4.3	4	5	3	4	4	4	2	26
Rear of Kennedy Place, Elgin	0.3	3	5	3	5	5	3	2	26
Tininver Park, Dufftown	0.7	3	4	3	4	4	4	4	26
Former Railway Lines, Buckie	14.4	3	4	4	4	4	3	3	25
Land Adj. to Gollachy Waste Site, Buckie	3.4	4	1	1	5	5	5	4	25
Millbuies Country Park, Fogwatt	52.5	5	3	2	2	3	5	5	25
Sunbank East, Lossiemouth	19.5	5	2	2	5	4	5	2	25

REPORT TO: **PLANNING & REGULATORY SERVICES COMMITTEE ON 25 FEBRUARY 2020**

SUBJECT: **TREE PRESERVATION ORDER - MILTONHILL, KINLOSS**

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

1. REASON FOR REPORT

1.1 This report asks Committee to confirm the Tree Preservation Order (TPO) approved by this Committee on 8 October 2019 (para 25 of the minute refers) at Miltonhill, Kinloss, 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 confirm 'The Moray Council (Miltonhill, Kinloss) Tree Preservation Order (No 1) 2019' without modification.

3. BACKGROUND

3.1 Policy E4 *Trees and Development* of the Moray Local Development Plan 2015 supports the serving of a TPO on potentially vulnerable trees which are of significant amenity value to the community as a whole, or trees of significant biodiversity value.

3.2 A TPO encourages good woodland management and any works to the trees must be agreed by the Council. Any trees which are felled within a TPO must be replanted. In Moray, there are 38 TPOs.

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 give representations 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.

3.4 The serving of a TPO at Miltonhill, Kinloss was approved by this Committee at its meeting on 8 October 2019 (para 25 of the minute refers). A location map has been provided as **APPENDIX 1**.

4. PROPOSAL

4.1 After approval by Committee on 8 October 2019, the TPO was served on 20 November 2019, and advertised publically on 27 November, for a consultation period of 28 days - until 6 January 2020 - for representations to be received.

4.2 No representations were received and it is recommended that the Committee confirm the TPO without modification.

5. NEXT STEPS

5.1 If the Committee agree to confirm the TPO as set out in Section 2 of this report, the Council are required to register the TPO in the Land Register of Scotland.

5.2 In addition, notice will be given to the Scottish Forestry, interested persons and any person who made a representation. A copy of the TPO 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 identifies the need to build a better future for children and young people in Moray by providing the healthiest start in life. Serving TPOs protects 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.

(c) Financial implications
Land registry and advert costs will be met from existing Economic Growth & Development section budgets.

(d) Risk Implications

There is a risk that the trees at Miltonhill, Kinloss could be felled with a resultant significant loss of amenity if the TPO is not served.

(e) Staffing Implications
Serving of TPOs has staffing implications for Strategic Planning & Development and Legal Services.

(f) Property
None.

(g) Equalities/Socio Economic Impact
No Equality Impact Assessment is required for this report.

(h) Consultations
The Depute Chief Executive (Economy, Environment and Finance), the Head of Economic Growth and Development, the Legal Services Manager, the Equal Opportunities Officer and Lissa Rowan (Committee Services Officer) have been consulted and are in agreement with the contents of the report/comments received have been incorporated into the report.

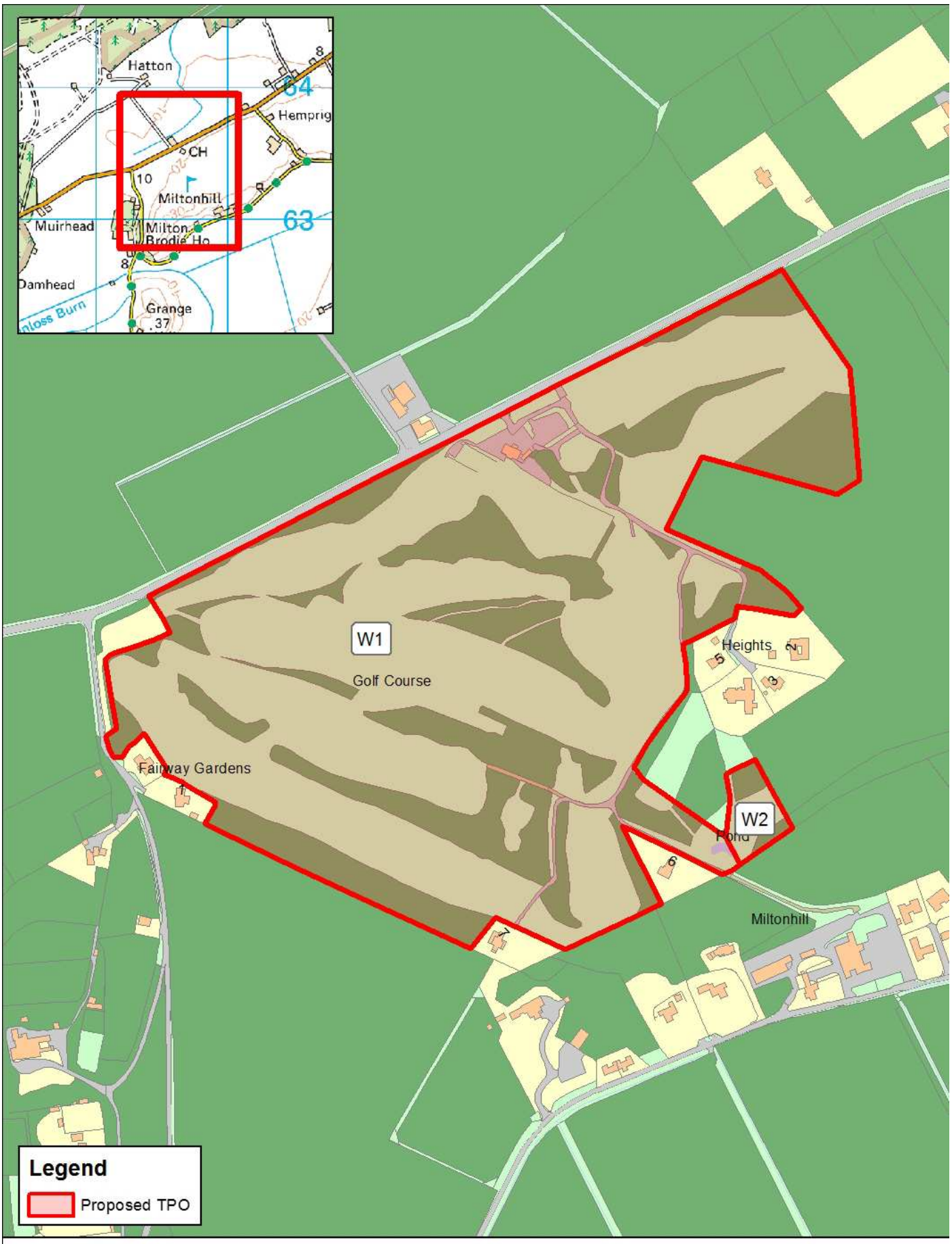
7. CONCLUSION

7.1 TPOs are formal orders attached to important, feature and character creating trees and woodlands to protect the amenity value they contribute to the local community.

7.2 Following consultation, no representations were received and the Committee is asked to confirm the TPO at Miltonhill, Kinloss with no modifications.

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

Background Papers:
Ref:



Moray Council

Miltonhill

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REPORT TO: **PLANNING & REGULATORY SERVICES COMMITTEE ON 25 FEBRUARY 2020**

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

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

1. REASON FOR REPORT

1.1 The purpose of this report is for Committee to review the Planning Enforcement Charter agreed by this Committee on 27 February 2018 and to provide an update on Planning Enforcement.

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 the 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 27 February 2018 (para 12 of the minute refers). The Planning Performance Framework (PPF) has 15 key markers that are reported annually to the Scottish Government and receive a red, amber or green rating. Key marker number 5 requires the Enforcement Charter to be reviewed every two years. Moray last received a green rating in its PPF feedback for 2017/18 and to obtain the same rating in 2020/21 there is a requirement to review its content and effectiveness.

4. CURRENT ENFORCEMENT POSITION

4.1 Planning Enforcement during 2019 was undertaken by a full time Planning Enforcement Officer and a full time Condition Compliance Officer. Supervision of Enforcement is undertaken by a Principal Planning Officer who monitors workload and advises on proposed actions along with input from the Development Management and Building Standards Manager as and when required.

4.2 Over the last 12 months (1 January 2019 – 31 December 2019), there have been 326 reports of alleged breach of planning control that have required investigation and or research. This is compared to a total of 312 over the same 12 month period (1 January 2018 – 31 December 2018). This is a 4.5% increase in numbers between the two years. However, the 2019 figures are 23% higher than when the Committee was last updated on Enforcement matters in February 2018. The increased monitoring of planning conditions has contributed to this increase in cases.

4.3 Out of the 326 enforcement cases opened in 2019, 282 cases have been closed and the average time taken to deal with these cases was 7.27 weeks. Complex cases and those involving appeals take considerably longer to bring to a conclusion. There are currently 4 pre-2019 cases which remain unresolved compared with a much higher backlog in previous years and this demonstrates that the back-log of cases continues to be reduced. Of the outstanding cases 3 relate to non-compliance with planning conditions and the fourth relates to the unauthorised installation of Upvc windows within a listed building.

4.4 In 2019, the following Notices were issued:

4 Enforcement Notices
1 Planning Contravention Notice
11 Section 272 Notices

4.5 There are currently 66 cases which are pending consideration 28 of which are 2020 cases. Of the 282 cases that have been resolved it will be for one of the following reasons:

i) through the submission of a retrospective application,
ii) the breach not requiring planning permission i.e. not constituting development,
iii) benefitting from being Permitted Development
iv) an assessment being made that is not expedient to pursue any formal enforcement action.

4.6 In 2019, 28 retrospective planning applications were submitted and determined as a direct result of enforcement investigations.

4.7 The target for resolving cases was set in 2014 at 75% of all enquires to be resolved within a period of 10 weeks up to the point of taking formal

enforcement action or no further action. During 2019 75.2% of all cases have been resolved within the 10 week target. There has been no consideration given to alter this target at the present time due to the increase in number of cases.

4.8 Both the Planning Enforcement Officer and the Condition Compliance Officer attended the Scottish Planning Enforcement Forum in December 2019 with items on the Agenda being relevant to the day to day enforcement duties including the changes coming in the Planning (Scotland) Act 2019. The Chair of the Enforcement Forum has been attending the Heads of Planning Development Management Sub-Committee meetings to assist with sharing good practice and shared ways of working.

5. ENFORCEMENT CHARTER

5.1 The Moray Planning Enforcement Charter (**Appendix 1)** has been reviewed and updated to make minor changes adding in relevant sections where appropriate for ease of understanding. The priorities have been changed to reflect the increased importance of ensuring conditions attached to major planning applications as set out in the Planning (Scotland) Act 2019. A more in depth reference has been added in to refer to High Hedges as ultimately the serving of such a notice is no different to any of the other planning enforcement powers available to the Council.

5.2 Other changes relevant to Enforcement introduced by the new Planning Act in December 2019 are an Increase in fines for persons convicted for non compliance with Planning Contravention Notices, Enforcement Notices, Stop Notices, Temporary Stop Notice and Breach of Condition Notices as set out below:

- The maximum penalty for non compliance with a Planning Contravention Notice has increased from £1,000 to £5,000
- The maximum penalty for non-compliance with an Enforcement Notice has increased from £20,000 to £50,000
- The maximum penalty for non-compliance with a Stop Notice has increased from £20,000 to £50,000
- The maximum penalty for non-compliance with a Temporary Stop Notice has increased from £20,000 to £50,000
- The maximum penalty for non-compliance with a Breach of Condition Notice has increased from £1,000 to £5,000

5.3 In determining the level of fine to be imposed the Court is in particular to have regard to any financial benefit which has accrued or appears likely to accrue to the convicted person in consequence of the activity which constituted the offence.

6. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))
The Enforcement Charter plays an important role in monitoring and enforcing breaches of planning control and is a key performance indicator in the Planning Performance Framework (PPF).

(b) Policy and Legal
No impact.

(c) Financial implications
There is no specific budget for enforcement and therefore the only implications are for existing staff costs.

(d) Risk Implications
None.

(e) Staffing Implications
None at the present time although changes to be introduced by the Planning (Scotland) Act 2019 may result in the consideration of additional resources.

(f) Property
No impact.

(g) Equalities/Socio Economic Impact
No impact.

(h) Consultations
Depute Chief Executive (Economy, Environment and Finance), the Head of Economic Growth & Development, the Legal Services Manager, Neal Macpherson (Principal Planning Officer), the Equal Opportunities Officer, the Strategic Planning and Development Manager and Lissa Rowan (Committee Services Officer) have been consulted and are in agreement with the contents of the report/comments received have been incorporated into the report.

7. CONCLUSION

7.1 Members are requested to note the annual report on enforcement and to agree the updated Planning Enforcement Charter.

Author of Report: Stuart Dale, Planning Officer (Enforcement)
Background Papers:
Ref:

ECONOMIC GROWTH & DEVELOPMENT

PLANNING ENFORCEMENT CHARTER

Planning Enforcement, Monitoring Planning Conditions, High Hedges & Advertisements

2020 - 2022

moray council

Version February 2020 (DRAFT 4.0)

Moray Council Planning Enforcement Charter

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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 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. 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 charter useful and you will 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 above.

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. In addition 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 planning permission the Council would normally seek a retrospective application to consider the proposal or development before considering formal enforcement action unless it was considered expedient to cease the breach of planning control to prevent further injury or harm to amenity, road safety etc.

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 complaints unless covered by a planning condition
- General land maintenance e.g. grass cutting

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 complaints 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 conditions for major development
- Demolition or alterations to Listed Buildings
- Unauthorised felling of trees - either in a Conservation Area, covered by a TPO or protected by planning condition

2

Priority 2

- Change of use of land and buildings
- Demolition or alterations to buildings in a Conservation Area
- Breaches of condition (local)
- Domestic (extensions, outbuildings, fences etc.)

3

Priority 3

- Display of Advertisements
- Untidy land

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 development has occurred**

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. These are not frequently used as other less formal means of doing so have proven to be effective.

Service Standards

Service Standard - Acknowledging enquiries

- We will acknowledge an initial telephone, written or email complaint 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 enquires

- 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 comment on 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 complaint 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

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.

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 then 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 complaints 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 it's 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 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.spso.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.hmso.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.

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.

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