



Planning and Regulatory Services Committee

Tuesday, 25 February 2020

SUPPLEMENTARY AGENDA

The undernoted reports have been added to the Agenda for the meeting of the **Planning and Regulatory Services Committee** to be held at **Council Chambers, Council Office, High Street, Elgin, IV30 1BX** on **Tuesday, 25 February 2020** at **09:30**.

BUSINESS

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| 9a) Planning Application 19/01085/APP | 3 - 124 |
| Report by Appointed Officer | |
| 9b) Planning Application 19/00260/PPP | 125 - 190 |
| Report by Appointed Officer | |
| 9c) Planning Application 20/00016/APP | 191 - 222 |
| Report by Appointed Officer | |
| 9d) 19/00156/S36 | 223 - 312 |
| Report by Depute Chief Executive (Economy, Environment and Finance) | |

Additional information submitted further to the initial EIA report relating to alternative proposed development consisting of erect 23 wind turbines of which 15 turbines of an overall height from base to tip not exceeding 149.9m and the remaining 8 turbines of an overall height from base to tip not exceeding 175m. Associated infrastructure includes external transformer housing, crane pads, turbine foundations, access tracks, 2 substations, underground electricity cables and anemometry mast at Rothes III Windfarm, Moray

9e) Planning Performance Framework 2018-19

**313 -
374**

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

WARD 05_17

19/01085/APP
9th October 2019

Application under Section 42 to vary conditions 1-12, 14-16, 18, 20, 21, 23-25, 31, 32, 37, 38, 40, 41, 43-51, 53-58, 60- 62 and 65 of planning consent 17/00834/PPP to enable the development of different parts of the approved development within Area 1 through the phased submission of information relating to each phase for which development is sought and its necessary infrastructure. Elgin R11 Findrassie/Myreside Site And I8 Newfield Findrassie Elgin Moray for Pitgaveny Farms

Comments:

- A SITE VISIT has been carried out.
- Application is major development as defined under the Hierarchy Regulations 2009 for a development with more than 50 houses, and the site area exceeds 2ha.
- Advertised for neighbour notification purposes - notification not possible because no premises situated on land to which notification can be sent.
- One representation received.
- Application 20/00183/S75 under consideration to modify existing agreement regarding planning obligations for Mixed Use Development at R11 Findrassie, Elgin, to apply to development pursuant to the current permission (17/00834/PPP) and this latest application (19/01085/APP).

Procedure:

- Delegated authority to Head of Economic Growth and Development to issue decision subject to no further representations being received following expiry of neighbour notification period; and
- Application 20/00183/S75 to modify existing agreement regarding planning obligations for Mixed Use Development at R11 Findrassie, Elgin to be determined and thereafter, await receipt of formal acknowledgement for recording of modified agreement prior to issue of planning permission.

Recommendation **Grant Planning Permission – subject to the following**

1. completion of modified legal agreement regarding planning obligations and adoption of “appropriate assessment” (Appendix 2) prior to issue; and
2. the following conditions:

Conditions/Reasons

- 1 The approval hereby granted is for planning permission in principle which includes approval of the accompanying phasing plan (Findrassie Masterplan - Area 1: phasing plan (March 2020)) for the whole site. Prior to the commencement of each phase of the development approval of matters specified in conditions including the siting, design and external appearance of all building(s)/structure(s), the means of access thereto, route(s) to school(s) including walking and cycling infrastructure required to be delivered with each phase, drainage and landscaping within that phase as identified in the approved phasing plan shall be obtained from the Council, as Planning Authority. Thereafter the development shall be brought forward in phases in accordance with the approved phasing plan, unless otherwise agreed in writing by the Council as Planning Authority.

Reason: In order to ensure that the matters specified can be fully considered prior to the commencement of development.

- 2 The planning permission in principle hereby granted for the proposed development shall be carried out only in accordance with the approved phasing Plan permitted by Condition 1 and details including detailed drawings (and other supporting information) which shall previously have been submitted to and approved by the Council, as Planning Authority in line with the matters specified for that phase of development. These drawings shall show the matters specified in Conditions 3 - 7 below.

Reason: As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

- 3 Plans, sections and elevations of all proposed residential and non-residential buildings including commercial buildings/structures (including plant and machinery and/or other apparatus) within the phase of development for which details are to be submitted for approval, together with the proposed method of conversion and external alteration of any existing building(s) (for example, proposals at Myreside Farm to form a local community hub) with details of the type and colour of all external materials and finishes shall be submitted in accordance with Condition 2 above.

Reason: As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

- 4 The proposed layout of each phase for which details are to be submitted for approval showing the exact location and siting of all buildings/structures to be provided within all boundaries of that phase(s), the means of access, areas for vehicle and other parking, off-site infrastructure requirements for walking and cycling route(s) to school(s), and the arrangements for the disposal of foul and surface water (i.e. a SUDS system or equivalent) shall be submitted in accordance with Condition 2 above.

Reason: As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

- 5 Details of the exact extent, type and finish of all other works including walls, fences and other means of enclosure and screening of each phase for which details are to be submitted for approval shall be submitted in accordance with Condition 2 above.

Reason: As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

- 6 Sections through each phase for which details are to be submitted for approval showing the development of that phase on its finished levels in relation to existing levels shall be submitted in accordance with Condition 2 above.

Reason: As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

- 7 Landscaping proposals for each phase for which details are to be submitted for approval showing any existing trees/shrubs/hedges to be retained or removed together with details of the arrangement to protect retained plantings and the type, position and number of all new planting to be undertaken together with detailed specifications for all hard-surfaced landscape materials shall be submitted in accordance with Condition 2 above.

Reason: As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

- 8 In pursuance of Condition 3 above, the required details for each phase for which details are to be submitted for approval shall:

- a) provide for all (if any) buildings/structures within that phase, including, but not limited to, residential dwellings and non-residential/commercial premises including such premises to be located within the ground floor of buildings to be located along primary roads and/or at access to the site of the A941 Lossiemouth Road, to be designed in accordance with the Design Codes and principles (including common and specific (fundamental and potential) requirements) for all Character Zones within which the development hereby approved will be located, as defined and identified within the approved Supplementary Guidance: Findrassie Masterplan;
- b) be accompanied by a Design Statement for that phase, to describe and demonstrate compliance with design and site layout place-making principles and the principles and Design Codes for development as included within the Findrassie Masterplan (in accordance with Policy PP3 Place-making of the Moray Local Development Plan 2015 and associated Supplementary Guidance: Urban Design and Supplementary Guidance: Findrassie Masterplan including any equivalent planning policy and/or supplementary guidance which supersedes or replaces the identified provisions of the development plan during the life-time of the permission hereby approved);

- c) include (in the cases of phases containing dwellinghouses) provision for a mix of residential housing types, sizes and tenures, and their integration with other uses within that and earlier approved phases of the development and with building designs, heights, streetscape, and palette of materials and colours to be used, etc. in accordance with the principles and Design Codes for development as included within the approved Supplementary Guidance: Findrassie Masterplan, etc.;
- d) provide (in the case of phases including dwellings) for 25% of the total number of dwellings within any application (house and flats/apartments, etc.) to be affordable housing, in accordance with details regarding the location, house mix and type, site layout arrangements, and timescale for the long- term management and delivery of such accommodation (in accordance with Policy H8 Affordable Housing of the Moray Local Development Plan 2015 and associated Supplementary Guidance: Urban Design and Supplementary Guidance: Findrassie Masterplan including any equivalent planning policy and/or supplementary guidance which supersedes or replaces the identified provisions of the development plan during the life-time of the permission hereby approved);
- e) provide (in the case of phases including dwellings) for 10% of the total number of private dwellings (house and flats/apartments, etc.) within each application to be provided as accessible housing and built to wheelchair accessible standards with at least 50% of the wheelchair accessible dwellings to be delivered as single-storey dwellings with no accommodation in the upper floor/roof space, in accordance with details regarding the location, house mix and type, site layout arrangements and timescale for the delivery of accessible housing (in accordance with Policy H9 Accessible Housing of the Moray Local Development Plan 2015 and associated Supplementary Guidance: Urban Design and Supplementary Guidance: Findrassie Masterplan (including any equivalent planning policy and/or supplementary guidance which supersedes or replaces the identified provisions of the development plan during the life-time of the permission hereby approved);
- f) include design specifications (including location, external appearance and material finishes) for, and measures to mitigate the impact of, all plant and machinery, including air conditioning units, air source heat pumps, ventilation and extraction systems, etc. within that phase, whether free-standing or externally mounted/affixed to buildings/structures.

Reason: As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified to ensure an acceptable form of development in the interests of the character, appearance and amenity of the development and the surrounding area.

9 In pursuance of Condition 4 above, for each phase for which details are to be submitted for approval the required details shall:

- a) in terms of the siting and disposition of all buildings/structures within that phase and other features including provision for transportation (all modes), drainage, open space and landscaping:
 - i. the development shall be designed in accordance with the Design Codes and principles (including common and specific (fundamental and potential) requirements) for all Character Zones within which the development hereby approved will be located, as defined and identified within the approved Supplementary Guidance: Findrassie Masterplan;
 - ii. be accompanied by a Design Statement for that phase to describe and demonstrate compliance with design and site layout place-making principles and the principles and Design Codes for development as included within the Findrassie Masterplan (in accordance with Policy PP3 Place-making of the Moray Local Development Plan 2015 and associated Supplementary Guidance: Urban Design and Supplementary Guidance: Findrassie Masterplan including any equivalent planning policy and/or supplementary guidance which supersedes or replaces the identified provisions of the development plan during the life-time of the permission hereby approved). The Statement shall also address how the siting and design arrangements have been informed by the contextual analysis of the site and its surroundings, including how the design fits within the landscape framework and urban structure of the development (Findrassie Masterplan refers) and Policy PP3 Place-making of the Moray Local Development Plan 2015 and associated Supplementary Guidance: Urban Design and Supplementary Guidance: Findrassie Masterplan (including any equivalent planning policy and/or supplementary guidance which supersedes or replaces the identified provisions of the development plan during the life-time of the permission hereby approved);
 - iii. where they are relevant to the phase of development applied for, include location and design specifications for
 - the location of all residential and non-residential including commercial development(s) to be provided,
 - the local community hub;
 - the primary school (a serviced 2.5ha site) together with playing fields and associated community facilities;
 - all proposed areas of open space taking account of the quality and quantity requirements for new open, in this case

a minimum of 30% open space to be provided in accordance with Policy E5 Open Spaces and associated Supplementary Guidance: Urban Design and Supplementary Guidance: Findrassie Masterplan (including any equivalent planning policy and/or supplementary guidance which supersedes or replaces the identified provisions of the development plan during the life-time of the permission hereby approved);

- all proposed play areas to be provided, including specifications for play equipment;
- all proposed areas for allotments, including boundary enclosure and site layout and any standard of buildings to be provided;
- the proposed amphitheatre, including site sections relating to the formation of this feature;
- all sports pitches and proposed changing accommodation;
- the primary school;
- the siting of all waste storage, recycling and collections systems;
- all areas for landscaping, including advance landscaping and enclosing tree belts; and
- the siting of all development including proximity of development to, flood event levels, watercourses and existing electricity substation shall be in accordance with the requirements of Conditions 39, 40 and 53;

b) in terms of means of access and parking:

- i. provide for the phase of development to be accessed (by all transport modes) from the A941 Lossiemouth Road and/or, the U24E Covesea Road and/or the unclassified Myreside Road in accordance with the requirements of Conditions 16 - 25;
- ii. provide for the internal transport network arrangements for road, footpath and cycle networks within that phase to be provided in accordance with Moray Council specifications and the access strategy, movement and connectivity principles including regard to street structure and types (hierarchy) as incorporated within the Findrassie Masterplan, and in accordance with Conditions 25 - 29 and 31; and
- iii. provide for all parking arrangements within that phase to be in accordance with Moray Council standards and in accordance with

the principles for parking as included in the Findrassie Masterplan, and in accordance with Condition 30;

c) in terms of drainage:

- i. provide for a public foul sewer connection for that phase of development in accordance with Condition 37; and
- ii. provide for the disposal of surface water using SUDs during both operational and construction stages of that phase of the development in accordance with Condition 38.

Reason: As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified to ensure an acceptable form of development in the interests of the character, appearance and amenity of the development and the surrounding area.

10 In pursuance of Condition 5 above, the required details to be submitted for each phase of development shall:

- provide for the location, design specifications and material finishes for all boundary treatments and means of enclosure to be provided within that phase of the development; and
- include a mix of boundary treatments, to be designed in accordance with the Design Codes and principles (including common and specific (fundamental and potential requirements) for all Character Zones within which the development hereby approved will be located, as defined and identified within the approved Supplementary Guidance: Findrassie Masterplan.

Reason: As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified to ensure an acceptable form of development in the interests of the character, appearance and amenity of the development and the surrounding area.

11 In pursuance of Condition 6 above, the required details to be submitted for each phase of the development shall:

- include all earth engineering including excavation, mounding and moulding operations, including cut and fill operations required to accommodate that phase of the development; and
- relate existing and finished (floor and/or ground) levels for that phase of the development to a fixed datum and the setting of that phase of development shall take account of the siting and setting requirements identified within Conditions 39, 40 and 53.

Reason: As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified to ensure an acceptable form of development in the interests of the character,

appearance and amenity of the development and the surrounding area.

12 In pursuance of Condition 7 above, the required details to be submitted for each phase of the development shall:

- include a landscape scheme for hard and soft landscaping to be provided within that phase. For the former the scheme shall including the location, design specifications and colouration of all hard surfaced landscaping to be provided for soft landscaping, the scheme shall identify all planting to be retained or removed and all new planting together with the timescale and maintenance arrangements for all planting in accordance with Condition 41 and 42; and
- be designed in accordance with the Design Codes and principles (including common and specific (fundamental and potential requirements) for Character Zones within which the development as hereby approved will be located, as defined and identified within the approved Supplementary Guidance: Findrassie Masterplan and, as required by the Findrassie Masterplan, the scheme shall demonstrate how that phase of the development has been informed by the landscape framework therein; and

For phases P1, P2 and P3 and phases AP-W and AP-N an application for approval of matters pertaining to conditions 7, 41 and 42 shall be submitted to the Council, as planning authority prior to the completion of the 25th residential unit, and approved in writing by the Council, as planning authority prior to completion of the 100th residential unit.

For phase AP-E an application for approval of matters pertaining to conditions 7, 41 and 42 shall be submitted to the Council, as planning authority prior to the completion of the 25th residential unit, and approved in writing by the Council, as planning authority prior to completion of the 35th residential unit.

These applications shall include timescales for the provision of planting/seeding and open space within each phase on a pro rata basis in stages, based on the number of completed residential units. Once approved the landscape scheme shall be implemented strictly in accordance with the approved timescales unless otherwise agreed and in any event, planting/seeding of the areas identified shall be carried out no later than:

- P1 and P2, in accordance with the agreed timescales in stages prior to completion of the 175th, 350th and 500th residential unit; and for P3 prior to completion of the primary school site
- AP-E (adjacent to Lossiemouth Road) prior to completion of the 50th residential unit or by bare root planting season 2021/2022 (October 2020/ March 2021); and for AP-E (adjacent to the Elgin Substation) prior to commencement of development on phase E3
- AP-W prior to completion of the 150th residential unit or by bare root planting season 2022/23 (October 2022/ March 2023) or prior to the approval of an application for development on part or the whole of blocks D1-D4 (inclusive), whichever comes first

- AP-N prior to completion of the 265th residential unit or by bare root planting season 2024/25 (October 2024/ March 2025), or prior to the approval of an application for development on part or whole of blocks W1-W3 (inclusive) and N1-N9 (inclusive), whichever comes first

All maintenance arrangements which form part of the approved landscaping scheme as agreed shall be strictly adhered to.

Reason: As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified to ensure an acceptable form of development in the interests of the character, appearance and amenity of the development and the surrounding area.

- 13 In pursuance of Conditions 2 - 7, the requirements of all Conditions 14 - 65 as included below shall also apply to the development as hereby approved.

Reason: As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified to ensure an acceptable form of development in the interests of the character, appearance and amenity of the development and the surrounding area.

- 14 Notwithstanding the provisions of the Town & Country Planning (Use Classes) (Scotland) Order 1997 (or any Order revoking or re-enacting that Order), the permission relates solely to the development being provided in accordance with the uses and Use Classes as stated within the formal description of the application and for no other use or purpose without the prior written approval of the Council, as Planning Authority. The permission hereby granted is solely for a development not exceeding 500 dwellings (houses and/or flat/apartments) and all use Class 1 (shop) uses including proposed facilities at the local community hub and at locations identified within the Findrassie Masterplan shall demonstrate that the nature of such retail activity is, at all times, in accordance with Policy R3 of the Moray Local Development Plan 2015 and the associated Supplementary Guidance: Findrassie Masterplan including any equivalent planning policy and/or supplementary guidance which supersedes or replaces the identified provisions of the development plan during the life-time of the permission hereby approved.

Reason: To ensure an acceptable form of development in accordance with the submitted particulars and to retain control over the identified uses as specified within the development including consideration of the effects and impacts of uses other than those hereby approved.

- 15 No more than 350 dwellings shall be occupied until:

- i) details (which may include evidence from Transport Scotland) have been submitted to and approved by the Council as Planning Authority to confirm that the Trunk Roads Authority has completed the upgrading and realignment of the A96 (T) Hardmuir to Fochabers section of the A96 Dualling programme; or

- ii) the works to the A96 East Road/Maisondieu Road/Pansport Road roundabout have been implemented generally in accordance with Goodson Associates Drawing reference P13779 SK001; or
- iii) a Transport Assessment or Addendum Report has been submitted to the Planning Authority and that any trunk road mitigation measures necessary to offset the impact of the area have thereafter been implemented in accordance with a timescale identified by the Transport Assessment to the satisfaction of the Planning Authority in consultation with Transport Scotland.

Reason: To ensure that the scale and operation of the proposed development beyond 350 dwellings does not adversely affect the safe and efficient operation of the A96 trunk road network.

16 No development shall commence on any phase of the development until the following has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority and where appropriate, the Head of Housing & Property:

- i) drawing(s) (scale 1:1000 minimum) showing the position of bus stops and 400 metre walking isochrones which cover all areas of that phase of the development and the A941 and Covesea Road;
- ii) drawing(s) (scale 1:500 minimum) showing:
 - a) positions of bus lay-bys on the A941 and bus stop infrastructure (shelters and flags) and/or bus stops on Covesea Road, where they fall within the 400 metre walking isochrones for that phase; and bus stop infrastructure (shelters and flags) within the development;
 - b) widening of bends on all bus routes to enable buses to pass each other without conflict;
- iii) timescales for the delivery of all bus stop infrastructure proposed for that phase of the development and on the A941 and Covesea Road where required for the development of that phase; and
- iv) evidence of a written agreement with local bus operators for the provision of bus services to serve that phase, including the extension/enhancement of existing bus services and/or the provision of new dedicated bus services to provide a minimum level of service operating from 7.00am to 6.00pm at a half hourly frequency, Monday to Friday inclusive, and from 8.00am to 6.00pm at an hourly service on Saturday, for a minimum duration of two years. Thereafter, the bus stops, bus lay-by, bus infrastructure and bus services shall be provided in accordance with the approved details and agreed timescales.

Reason: To ensure the satisfactory provision of public transport infrastructure

to serve the development.

- 17 Prior to the commencement of any part of the development accessed from the A941 Elgin to Lossiemouth Road, detailed drawings (scale 1:500) shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority to show the location, design specifications and timescale for delivery of the southern access to the development on the A941 including the proposed design speed, visibility splay requirements and junction type. The design details shall be informed by a Stage 1/2 Road Safety Audit for the proposed junction and any other works proposed on the A941 e.g. bus laybys and pedestrian crossings, and the Road Safety Audit shall be included as part of the required details.

Thereafter, the development access, bus laybys and pedestrian crossings shall be provided in accordance with the approved details and agreed timescales.

Reason: To ensure the provision of a safe and suitable access, including for pedestrians and cyclists, to the development in the interests of road safety.

- 18 Prior to the commencement of the 50th unit accessed from the A941 Elgin to Lossiemouth Road, detailed drawings (scale 1:500) shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority to show the location, design specifications and timescale for delivery of the northern access to the development on the A941 including the proposed design speed, visibility splay requirements and junction type. The design details shall be informed by a Stage 1/2 Road Safety Audit for the proposed junction and any other works proposed on the A941 e.g. bus laybys and pedestrian crossings, and the Road Safety Audit shall be included as part of the required details.

Thereafter, the development access, bus laybys and pedestrian crossings shall be provided in accordance with the approved details and agreed timescales.

Reason: To ensure the provision of a safe and suitable access, including for pedestrians and cyclists, to the development in the interests of road safety.

- 19 No development shall commence on more than 50 housing units which are accessed from the A941 Elgin - Lossiemouth Road, until a second point of access and/or a route to enable an emergency access for use by all emergency vehicles, pedestrians and cyclists has been provided.

Reason: To ensure an acceptable alternative means of access to the development, including for the emergency services.

- 20 Prior to the commencement of any phase of the development accessed from the C24E Covesea Road, detailed drawings (scale 1:500) shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority to show the location, design specifications and timescale for delivery of all proposed accesses to the development on the C24E Covesea Road within that phase of development, including the proposed

design speed, visibility splay requirements and junction type. The design details shall be informed by a Stage 1/2 Road Safety Audit for the proposed accesses and any other works proposed on Covesea Road e.g. bus stops and pedestrian crossings, and the Road Safety Audit shall be included as part of the required details.

Thereafter, the development accesses, bus stops and pedestrian crossings shall be provided in accordance with the approved details and agreed timescales.

Reason: To ensure the provision of a safe and suitable access, including for pedestrians and cyclists, to the development in the interest of road safety.

- 21 Prior to the commencement of any part of the development taking vehicular access from the C24E Covesea Road, detailed drawings (scale 1:500) shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority to show the location, design specifications and timescale for the upgrading of the C24E Covesea Road within the development to a 'Primary Route' with dedicated facilities for pedestrians/cyclists on both sides of the carriageway (at least one 3m cycleway) including the proposed design speed and details of the specifications for the widening, provision of roads drainage and re-construction of the existing carriageway. The design details shall be informed by a Stage 1/2 Road Safety Audit for the road improvements and any other works proposed on Covesea Road e.g. bus stops and pedestrian crossings, and the Road Safety Audit shall be included as part of the required details.

Thereafter, the upgrading of the road shall be provided in accordance with the approved details and agreed timescales.

Reason: To ensure the provision of a safe and suitable access, including for pedestrians and cyclists, to the development in the interest of road safety.

- 22 No development shall commence on more than 50 housing units which are accessed from the C24E Covesea Road, until a second point of access, onto the C24E Covesea Road and/or Greenfield Wynd, and/or a route to enable an emergency access for use by all emergency vehicles, pedestrians and cyclists has been provided.

Reason: To ensure an acceptable alternative means of access to the development, including for the emergency services.

- 23 Prior to the operation of the northern access, as detailed in condition 18 of this decision notice, a detailed drawing (scale 1:500) shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority to show:
- i) the modifications to the A941/Myreside Road junction, design specifications and timescale for delivery of the junction modification to prevent vehicular access from the A941 onto Myreside Road;

- ii) the proposed design for restricting vehicular access at the western end of Myreside Road; and
- iii) written evidence to confirm that a Road Traffic Regulation Order has been secured to remove rights of access for motorised vehicles on the section of Myreside Road between the A941 and Myreside Farm Cottage.

Thereafter, unless otherwise agreed in writing by the Planning Authority in consultation with the Roads Authority, the modification to the junction and the vehicular access arrangements shall be provided in accordance with the approved details and agreed timescales.

Reason: To ensure the provision of a safe and suitable access, including for pedestrians and cyclists, to the development in the interest of road safety.

- 24 Prior to the commencement of any part of the development (other than within phases E1, E2, E3, E4), as set out in the approved Findrassie Masterplan (2015) detailed drawings (scale 1:500) shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority to show the location, design specifications and timescale for the upgrading of the U39E Myreside Road within the development to a 'Primary Route' with dedicated facilities for pedestrians/ cyclists on both sides of the carriageway (at least one 3m cycleway) including the proposed design speed and details of the specifications for the widening, provision of roads drainage and re-construction of the existing carriageway. The design details shall be informed by a Stage 1/2 Road Safety Audit (RSA) for the road improvements and any other works proposed on Myreside Road e.g. bus stops and pedestrian crossings, and the Road Safety Audit shall be included as part of the required details.

Thereafter, the upgrading of the road shall be provided in accordance with the approved details and agreed timescales

Reason: To ensure the provision of a safe and suitable access, including for pedestrians and cyclists, to the development in the interest of road safety.

- 25 Prior to the commencement of any phase of the development, detailed drawings (scale 1:500) shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority to show the location, design specifications and timescale for delivery for the internal road network, including proposals for footways, cycleways, pedestrian/cycle crossing facilities, bus infrastructure, boundary treatments, and shared parking areas within that phase of the development. The design details shall be informed by a Stage 1/2 Road Safety Audit (RSA) for the proposed road network and any other works proposed e.g. pedestrian crossings, and the Road Safety Audit shall be included as part of the required details.

Thereafter, the internal road network shall be provided in accordance with the approved details and agreed timescales.

Reason: To ensure acceptable infrastructure within the development to cater for movements by foot, including ambulant disabled persons, cycle, vehicle and public transport.

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

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

- 27 No walls or any other obstruction whatsoever over 0.6m measured from the level of the public carriageway shall be permitted within any 'forward visibility' areas or any visibility splays crossing plot boundaries within all areas of the residential development, unless otherwise agreed in writing by the Council, as Planning Authority in consultation with the Roads Authority.

Reason: To enable drivers of vehicles to have an acceptable clear forward visibility, in the interests of road safety for the proposed development and other road users.

- 28 Driveways over service verges shall be constructed to accommodate vehicles and shall be surfaced with bituminous macadam.

Reason: To ensure acceptable infrastructure is provided at the property accesses.

- 29 Houses requiring 2 parking spaces shall have a driveway length of 6.0m minimum in front of any garage to permit a second car to park, unless alternative parking arrangements are provided. No part of the driveway shall be included in the public road.

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.

- 30 Parking provision shall be provided and made available for use at all times to the Moray Council Parking Standards for each class of development use together with provision for secure cycle parking and facilities for electric vehicle charging. The standards for parking as applied at the time of any application for development shall be in accordance with Policy T5 Parking Standards of the Moray Local Development Plan 2015 and any associated guidance setting out the standards of parking including any equivalent planning policy and/or guidance which supersedes or replaces the identified provisions of the development plan during the life-time of the permission hereby approved.

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.

- 31
- a) Prior to the commencement of any part of the development, the following shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority, and Moray Access Manager:
 - i) in accordance with Supplementary Guidance: Findrassie Masterplan principles to enhance connectivity between the proposed and existing development to the south,
 - detailed drawings (scale 1:500 minimum) for that phase of development showing the location, design specifications and timescale for the provision of active travel corridors and connections between the development and Elgin Core Paths EG31 and EG33; and
 - drawings (scale 1:1000 minimum) showing an indicative network of active travel corridors including that phase of development and the remaining phases and connections to the existing/committed network in accordance with the principles set out in the Supplementary Guidance: Findrassie Masterplan.
 - b) Prior to the completion of any residential or non-residential building within any phase of development, other than within phases E1 and E2, as set out in the approved Findrassie Masterplan (2015), the following shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority, and Moray Access Manager:
 - i) detailed drawings (Scale 1:500 minimum) showing the location, design specifications and timescale for the provision of a cycleway connection alongside Covesea Road to the south of the development, linking to the existing cycleway or other cycle link to Moray Council adoption standards to provide a continuous adopted cycle route from the development to Sey Burn Wynd and Myreside Circle and extending to the existing remote cycle track at the Lossiemouth Road/Covesea Road junction.

Thereafter, the proposed foot and cycle connections, crossings and corridors shall be provided in accordance with the approved details and agreed timescales.

Reason: To ensure the provision of a safe and suitable access routes for pedestrians and cyclists both within and to/from the development, in the interest of road safety.

- 32
- No works shall commence on any phase of the development until details have been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority regarding:

- a) A Construction Traffic Management Plan which shall include the following information:
- duration of works;
 - construction programme;
 - number of vehicle movements (i.e. materials, plant, staff, components);
 - anticipated schedule for delivery of materials and plant;
 - full details of construction traffic routes from the Strategic Road Network (A941/A96) to the site, including any proposals for temporary haul routes and routes to be used for the disposal of any materials from the site;
 - measures to be put in place to prevent material being deposited on the public road;
 - measures to be put in place to safeguard the movements of pedestrians;
 - traffic management measures to be put in place during works including any specific instructions to drivers; and
 - parking provision, loading and unloading areas for construction traffic.

and

- b) Details of any required/proposed temporary construction access which shall include the following information:
- a drawing (scale 1:500 minimum) regarding the location and design specifications of the proposed access(es);
 - specification of the materials used for the construction access(es);
 - all traffic management measures required to ensure safe operation of the construction access(es);
 - details, including materials, for the reinstatement of any temporary construction access(es); and
 - details regarding the timescale for the opening up and closure of any temporary access(es) together with the time period over which the temporary access(es) will be used.

Thereafter, the development of that phase(s) shall be implemented in accordance with the approved details.

Reason: To ensure an acceptable form of development in terms of the arrangements to manage traffic during construction works at the site, road safety and the amenity of the area/adjacent properties.

- 33 Prior to the commencement of any part of the development, a detailed drawing (scale 1:500) shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority to show the location, design specifications and timescale for delivery of improvements to the capacity of the Morriston Road/Duffus Road junction (to 'no net detriment') through the provision of 'ghost island' right turn facility or introduction of traffic signal control, including proposals for pedestrian crossing and cycling facilities.

The design shall be informed by a Stage 1/2 Road Safety Audit for the proposed junction improvement and any other works proposed e.g. pedestrian crossings, and the Road Safety Audit shall be included as part of the required details.

Thereafter, the Morriston Road/Duffus Road junction improvements and pedestrian and cycle facilities shall be provided in accordance with the approved details and agreed timescales.

Reason: To ensure that the road network continues to operate safely and efficiently for the benefit of all road users, including for pedestrians and cyclists.

- 34 Prior to the commencement of any part of the development, details shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority with drawings, based on a topographical survey (scale 1:500) to show the location, design and specifications, of works to improve the operation and capacity at the North Street/Morriston Road traffic signal controlled junction (to 'no net detriment'), including proposals for pedestrian crossing and cycle facilities. The design shall be informed by a Stage 1/2 Road Safety Audit for the proposed junction improvement and any other works proposed e.g. pedestrian crossings, and the Road Safety Audit shall be included as part of the required details.

Reason: To ensure that the road network continues to operate safely and efficiently for the benefit of all road users, including for pedestrians and cyclists.

- 35 Prior to the commencement of the 50th dwelling (house and/or flat/apartment) OR prior to the commencement of any non-residential, including commercial development but excluding the proposed primary school and local community 'hub', the following shall be provided:

- i) written evidence to demonstrate control of the land through ownership or legal agreement to deliver the junction improvements at North Street/Morriston Road (Condition 34); and
- ii) written details of the timescale for delivery of junction improvements at North Street/Morriston Road.

Thereafter, and prior to the commencement of the 100th dwelling (house and/or flat/apartment) OR prior to the commencement of any non- residential, including commercial development but excluding the proposed primary school and local community 'hub', the North Street/Morrison Road junction improvements and pedestrian and cycle facilities shall be provided in accordance with the approved details and agreed timescales.

Reason: To ensure that the road network continues to operate safely and efficiently for the benefit of all road users, including for pedestrians and cyclists.

- 36 Prior to the commencement of any part of the development, a detailed drawing (scale 1:500) shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority to show the location, design specifications and timescale for delivery of improvements to the capacity of the Covesea Road/Lossiemouth Road junction (to 'no net detriment') through the provision of traffic signal control, including proposals for pedestrian crossing and cycle facilities.

The design shall be informed by a Stage 1/2 Road Safety Audit for the proposed junction improvement and any other works proposed e.g. pedestrian crossings and the Road Safety Audit shall be included as part of the required details.

Thereafter, the Covesea Road/Lossiemouth Road junction improvements and pedestrian and cycle facilities shall be provided in accordance with the approved details and agreed timescales.

Reason: To ensure that the road network continues to operate safely and efficiently for the benefit of all road users, including for pedestrians and cyclists.

- 37 No development on any phase of the development shall commence until details have been submitted to and approved by the Council, as Planning Authority in consultation with Scottish Water, SEPA and Moray Flood Risk Management where appropriate regarding a finalised foul drainage scheme for that phase of the development. The Scheme for each phase shall:

- a) provide for connection to the public foul drainage sewer network;
- b) be developed and designed in accordance with the submitted Drainage Assessment and Flood Risk Assessment;
- c) identify the location(s) and route(s) and time-scale(s) for the provision of all foul drainage infrastructure for that phase including pumping stations and pipework both within the site, and between the site and the proposed point of connection to the foul drainage network;
- d) include the location, design specifications, external appearance and material finishes, and site layout arrangements including hardstanding areas and means of access to above ground buildings/structures or

other apparatus to be provided within the phase(s) on which such pumping stations will be located as part of any required/proposed pumping station to be provided; and

- e) confirm the adopting authority or in perpetuity body for the foul drainage network.

Thereafter, the phase of development shall be provided in accordance with the approved foul drainage scheme details and connection to the public foul drainage sewer network shall be provided and made available for use prior to first occupation of the development unless temporary arrangements are agreed in writing with the Council, as Planning Authority in consultation with Scottish Water and SEPA.

Reason: To ensure an acceptable form of development in terms of the provision and delivery of foul drainage infrastructure for the development.

- 38 No development shall commence on any phase until details have been submitted to and approved by the Council, as Planning Authority in consultation with SEPA and Moray Flood Risk Management and Scottish Water where appropriate regarding:

- a) a finalised surface water drainage scheme for the operation of that phase of the development. The Scheme shall include details of all sustainable (SUDs-based) drainage features to be provided within that phase including details of the location, design construction specifications, level(s) of treatment, supporting calculations and time-scale(s) for provision and maintenance of all (sustainable) surface water features, including roads drainage to be incorporated into the site layout and:
 - i) be developed and designed in accordance with the surface water design strategy as outlined in the submitted Drainage Assessment and Flood Risk Assessment (May 2017) together with technical guidance and requirements contained in The SUDs Manual (by CIRIA, C753), Sewers for Scotland 3 and SEPA guidance, Regulatory Method (WAT-RM-08) Sustainable Urban Drainage Systems (SUDS or SUD Systems)";
 - ii) be designed to manage storm water flows for storm events up to and including a 1 in 200-year flood event with surface water to be discharged after on-site attenuation at a controlled rate, not exceeding the greenfield run-off rate;
 - iii) include a site plan showing the proposed SUDS treatment train together with submission of Simple Index Approach calculations and, a detailed risk assessment where development has a high pollution hazard level;
 - iv) include information to demonstrate that no existing natural water

bodies, for example Myreside Pond will be used as SUDS;

- v) include cross- and long- sections to confirm the area and depth of all required/proposed SUDS basin(s) or other sustainable drainage features where proposed, with finished levels related to existing ground levels and a fixed datum;
- vi) include details to manage and mitigate any overland flows in the event of flood events or drainage failure in excess of the capacity of the SUDs design/installed drainage network and ensure that such flows are not directed towards existing or proposed development;
- vii) where the development area is sub-divided into separate parcels for development, address the integration of those separate parcels into the overall surface water drainage scheme arrangements for the development; and
- viii) confirm the adopting authority/authorities or in perpetuity body/bodies for all surface water drainage arrangements;

and

- b) a construction surface water management plan, to include the location, design specifications and time-scale(s) for provision of all required/proposed temporary site construction SUDs in order to demonstrate that surface water run-off from the site will be managed and not increase the risk of flooding during the construction phase of the development.

Thereafter, the development of that phase shall be implemented in accordance with the approved surface water drainage scheme details and all approved surface water drainage arrangements shall be provided and made operational prior to first use and occupation of that phase of the development

Reason: Details of the matters specified are insufficient (being based on an outline drainage and SUDS strategy) and/or are lacking from the submitted particulars and ensure an acceptable (and sustainable) form of development is provided and maintained and to provide for adequate protection from surface water run-off both during the operational and construction stages of the development.

39 As part of the proposed development:

- no development, or land raising, shall take place within the 1 in 200-year flood extent as shown in drawing 8246_401 Rev D as included in the submitted Drainage Assessment and Flood Risk Assessment for the PPP for mixed use development Findrassie Area 1 (May 2017) (by Ironside Farrar);

- finished floor levels shall be set 1m above the relevant 1 in 200-year flood level as shown in Appendix A, Addendum 1 of the submitted Drainage Assessment and Flood Risk Assessment for the PPP for mixed use development Findrassie Area 1 (May 2017) (by Ironside Farrar);
- for school development (and other most vulnerable land uses), finished floor levels shall be set 1m above the relevant 1 in 1000-year flood level as shown in Appendix C, Addendum 1 of the submitted Drainage Assessment and Flood Risk Assessment for the PPP for mixed use development Findrassie Area 1 (May 2017) (by Ironside Farrar); and
- For development in the vicinity of the culverts, finished floor levels should be set 1m above the relevant culvert blockage flood level as shown in Appendix E and G, Addendum 1 of the submitted Drainage Assessment and Flood Risk Assessment for the PPP for mixed use development Findrassie Area 1 (May 2017) (by Ironside Farrar). Reason: To protect people and property from flood risk in line with Scottish Planning Policy.

40

No development shall commence on any phase of the development until details have been submitted to and approved by the Council, as Planning Authority in consultation with SEPA regarding all proposed engineering activities to be undertaken within any part of the water environment as part of that phase. The details shall include:

- i) the location, and type including design specifications and timescales for all proposed engineering activities including watercourse crossings to be undertaken within the water environment and any cumulative impacts that may arise from development of other phases within this PPP;
- ii) a systematic table providing a detailed justification for each and all proposed engineering activities and identifying all measures to mitigate any adverse impact arising from such activity; and
- iii) all proposed watercourse crossings shall be designed to accept the 1 in 200-year flow.

Thereafter, the development shall be implemented in accordance with the approved water engineering activities.

Reason: To ensure adequate protection of the water environment.

41

No development shall commence on any phase of the development until details have been submitted to and approved by the Council, as Planning Authority regarding a detailed landscape scheme for that phase of the development. The scheme shall:

- a) identify the location of all existing trees/shrubs and hedgerows or other landscape features within that phase and identify those to be retained and those to be removed. The details shall address the implications of all required/proposed drainage and transportation infrastructure associated with that phase of the development. Applications for development of phasing zones P1 and P2 as set out in the approved Findrassie Masterplan (2015) should provide for the retention of the existing woodland created adjacent to Myreside Pond (and its incorporation into the open space area to be provided within the Hub + Central Open Space Character Zone within these phasing zones);
- b) include details of measures to protect existing trees, shrubs and hedgerows and other landscape features to be retained within that phase, before during and after construction activity;
- c) include details of the number, species, position, planting distances and sizes of all trees, shrubs and hedgerow planting to be provided within the site. All proposed planting details and specifications shall provide for the use of native species of local provenance. The scheme shall include all proposed areas of advance planting (including avenue/boulevard planting and enclosing woodland/tree belt planting areas located within the Lossiemouth Road, Employment, Sub-station, Duffus Road, Findrassie Woodland Edge and Northern Edge Character Zones, where applicable to that phase, in so far as such landscape planting is proposed as part of the development as hereby granted together with all planting proposed within residential areas including play and open space areas within that phase in accordance with the Supplementary Guidance: Findrassie Masterplan;
- d) include details of the time-scale(s) for all proposed planting included within that phase of the scheme;
- e) include details of a management plan for the maintenance of all planting; and
- f) for all areas where earth moving, mounding and excavation is required/ proposed to form landscape and open space features, for example the amphitheatre within the central open space area or earth bund to enclose the sub-station (Condition 53), the scheme shall include details regarding the timescale for provision and location and design specifications, including cross and long-sections to describe the extent, area and height/depth of any proposed or resultant landscape feature with finished levels related to existing ground levels and a fixed datum.

Thereafter, the development of each phase shall be implemented in

accordance with the approved landscape scheme details and maintained in accordance with the maintenance plan

Reason: Details of matters specified are lacking from the submitted particulars and ensure an acceptable form of development in the interests of the character, appearance and amenity of the development and the surrounding area.

- 42 In relation to the approved landscape scheme for the development, all trees shrubs and hedge planting which within a period of 5 years from planting, die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, numbers and species unless with the prior written consent of the Council, as Planning Authority.

Reason: To ensure that the approved landscaping works are timeously carried out and properly maintained in a manner which will not adversely affect the character, appearance and amenity of the development and the surrounding area.

- 43 No development shall commence on any phase of the development until a written statement has been submitted to and approved by the Council, as Planning Authority in consultation with SNH and others where appropriate to describe and confirm all measures to mitigate the impact of that phase of the development upon the integrity of the internationally and nationally important Loch Spynie Special Protection Area, Ramsar site and Site of Special Scientific Interest. The statement details shall confirm all proposed mitigation measures to address:

- water quality and quantity during construction of the development of that phase;
- water quality and quantity during the operational life of the development of that phase; and
- water quality during any river engineering works associated with the development of that phase.

Thereafter, the development of that phase shall be implemented in accordance with the submitted statement details.

Reason: Details of the matters specified are lacking from this "in principle" application and to ensure the international and national status and integrity of Loch Spynie is not adversely affected by the development.

- 44 No development of any phase shall commence until the following have been submitted to and approved by the Council, as Planning Authority in consultation with SNH regarding:

- a) details to confirm the arrangements to undertake pre-construction surveys for all protected species recorded as using that phase of the site, to include the time-scale(s) for undertaking surveys and thereafter, the arrangements for reporting the results of the survey. Where any survey identifies protected species using that phase of the site, the survey results shall also identify all required/proposed measures to be implemented to mitigate the impact of the development upon any identified protected species;
- b) the arrangements to undertake watching briefs for protected species during construction works together with the procedures to be adopted to mitigate the protected species where encountered during construction works; and
- c) details to confirm all required/proposed measures to mitigate the impact of the development of that phase upon bat species.

Thereafter, the development shall be implemented in accordance with the approved protected species details including mitigation measures.

Reason: To ensure an acceptable form of development taking into account the need to afford protection to all protected species recorded as using the site, and in accordance with mitigation measures intimated within the submitted Ecological Appraisal (for Findrassie, 30/05/2017, by Neo Environmental).

45

No development shall commence until a site-specific Construction Environmental Management Plan (CEMP) for each phasing zone as set out in The approved Findrassie Masterplan (2015) has been submitted to and approved by the Council, as Planning Authority in consultation with SEPA, SNH and other agencies where appropriate. The CEMP shall identify all risks and detailed pollution prevention measures, site management and mitigation measures for all elements potentially capable of giving rise to pollution and be supported by drawing(s) showing the location of construction management features and, in addressing all pollution prevention and environmental management issues related to the development (including construction method, surface water and site waste management). The CEMP shall include the following information:

- a) a list of all construction activities that will be undertaken and the sequence of these, for example ground stripping;
- b) information to demonstrate that ground conditions are suitable for the temporary construction SUDS chosen. Confirmation shall be provided that the temporary construction SUDS are appropriately located in terms of the topography of the site. All SUDS shall be specifically designed for the purposes of construction and separately for final phase SUDS;

- c) the timing of the works, e.g. heavy construction works to be staged to avoid periods of heavy rainfall;
- d) environmental management structure including a hierarchy and contact details for responsible persons on site;
- e) details of how the environmental obligations of the site will be communicated to staff carrying out the works (e.g. delivery of toolbox talks), etc.;
- f) details of emergency procedures/pollution response plans in the event of a pollution event (particularly silt pollution prevention/discovery of silty water);
- g) provisions for pollution response plans in the event of an out of hours or weekend incident;
- h) SEPA's pollution hotline number 0800 80 70 60 should be included for the reporting of any environmental events;
- i) fuel and chemical storage provisions;
- j) identify any existing field drains as, if intercepted, this could provide a preferential pathway for contaminated run-off water;
- k) details of waste management, in the form of a site waste management plan which shall include information such as: Who will be responsible for the resource management, what types of waste will be generated, how the waste will be managed, how it will be reduced, reused or recycled, which contractors will be used to ensure the waste is correctly recycled or disposed of responsibly and legally, and how the quantity of waste generated by the project will be measured (with further information available in SEPA's document "A simple guide to Site Waste Management Plans");
- l) soil storage locations, concrete wash out areas, wheel wash stations;
- m) arrangements to mark out appropriately sized buffer strips around watercourses on/adjacent to the site and other sensitive features or appropriate mitigation proposed to protect these features;
- n) the principles of any relevant SEPA Guidance for Pollution Prevention shall be incorporated into the method statement rather than just referenced and supported by drawings showing the location of the above features; and

- o) in accordance with the Ecological Appraisal (for Findrassie, 30/05/2017, by Neo Environmental), confirm the details of all proposed/required measures to mitigate potential impacts on local ecological receptors during the construction period.

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

Reason: To minimise the impacts of the development works upon the environment.

46

No development on any phase shall commence until details have been submitted to and approved by the Council, as Planning Authority in consultation with SEPA to demonstrate that there are no private water supplies within 250m of the phase. The required details shall include:

- a) a map demonstrating that all existing groundwater abstractions are outwith a 100m radius of all excavations shallower than 1m, and outwith 250m of all excavations deeper than 1m and proposed groundwater abstractions. (The survey information shall extend beyond the application site boundary where required to satisfy the specified radius distance); and
- b) if the minimum buffers are not achieved, a detailed site specific qualitative and/or quantitative risk assessment shall be submitted to identify and describe all required/proposed measures to mitigate the impact and effect of the development upon any existing groundwater abstraction source.

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

Reason: To minimise the impacts of the development works upon the environment.

47

No development of any phase of the development shall commence until details have been submitted to and approved by the Council, as Planning Authority in consultation with SEPA regarding a schedule to identify all required/proposed "green" measures that will be implemented on that phase of the site, including a drawing demonstrating the 10m buffer between any watercourse and the development together with the outcomes of investigation and details (location, design specification and timescale(s) for provision) of all proposed measures to be provided on the site including, for example, use of green roofs, rain water harvesting/sustainable water use measures, arrangements for re-naturalising/re-meandering of any water features within the site, etc.

Thereafter, the development of that phase shall be implemented in accordance with the approved green measures.

Reason: To ensure an acceptable form of development in accordance with the provisions of the approved Findrassie Masterplan and to ensure adequate protection of the water environment whilst contributing to and enhancing the natural environment.

48

No development on any phase shall commence until a Sustainability Statement for that phase has been submitted to and approved by the Council, as Planning Authority to identify all required/proposed measures to be incorporated into the development to address objectives contributing to reduction of greenhouse gas emissions. The Statement shall include a Sustainability Checklist in accordance with Policy PP2 Climate Change and associated Supplementary Guidance: Climate Change of the Moray Local Plan 2015 and Supplementary Guidance: Findrassie Masterplan (including any equivalent planning policy and/or supplementary guidance which supersedes or replaces the identified provisions of the development plan during the life-time of the permission hereby approved).

Thereafter, the development of that phase shall be implemented in accordance with the approved sustainability measures identified in the required statement.

Reason: To ensure an acceptable form of development in accordance with sustainability objectives for development at Findrassie.

49

No development on any phase shall commence until details have been submitted to and approved by the Council, as Planning Authority in consultation with SEPA to establish and demonstrate the potential or otherwise for district heating on that phase, to be met through connection to an existing district heating network or implementation of an on-site district heating network. Unless otherwise demonstrated through a feasibility study, the required details shall provide for:

- a) the inclusion of infrastructure (such as pipelines) within that phase of the site to enable connection to any district heating scheme/combined heat and power plant in the vicinity (and the subsequent requirement to connect when available) or;
- b) the safeguarding of land within that phase of the development for the future installation of infrastructure to enable connection to any district heating scheme/combined heat and power plant for the overall masterplan site (and the subsequent requirement to install such infrastructure and connect when available).

Reason: To demonstrate the consideration given to Scottish Planning Policy (2014) to include infrastructure to make best use of available local resources.

50

In respect of possible land contamination on the site, unless otherwise

agreed in writing with Moray Council as Planning Authority, no development works on any phase of the development, other than those required to facilitate assessment and remediation of contamination, shall commence until the following have been carried out:

- i) full details of the methodology for assessment of land contamination at that phase of the site have been submitted to and accepted in writing by Moray Council, as Planning Authority;
- ii) the assessment works for that phase have been completed in full in accordance with the agreed details and a report submitted to and accepted in writing by Moray Council, as Planning Authority;
- iii) in the event that the assessment identifies the need for remediation or mitigation measures to ensure the suitability of that phase of the site for the proposed use, full details of the remediation methodology, including proposals for validation works, have been submitted to and accepted in writing by Moray Council, as Planning Authority; thereafter these works will be implemented in full in accordance with the agreed details;
- iv) a full validation report has been submitted to and accepted in writing by Moray Council, as Planning Authority, which demonstrates that no pollutant linkages remain or are likely to occur.

Should any previously undiscovered contamination be encountered during the development of the site, then all works shall cease, and the Council, as Planning Authority should be contacted immediately to agree an appropriate course of action.

Reason: To safeguard the health and safety of the occupants of the properties, the building structures and the local environment from the effects of harmful ground contamination.

51

No phase of 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 for that phase in accordance with the approved WSI. The WSI shall include details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the written scheme of investigation will be provided throughout the implementation of the programme of archaeological works. Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be 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. The PERD can be undertaken in line with the phases of development.

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

52

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

Reason: To ensure an acceptable form of development in the interests of the amenities of the surrounding area, including neighbouring residential property.

53

No phase of development shall commence until details have been submitted to and approved by the Council, as Planning Authority in consultation with the Environmental Health Manager, regarding an updated noise impact assessment pursuant to Planning Advice Note PAN 1/2011 and the associated Technical Advice Note Assessment of Noise (TAN), in order to consider the amenity of future residential properties within that phase, in proximity to the existing Elgin sub-station. The assessment findings shall be reported in terms of BS 4142: 2014 Methods for rating and assessing industrial and commercial sound, Noise Rating Curves (NR 20) for night-time, and NANC 45 night-time criteria. The measures to mitigate the impact of noise shall include prescription of "stand-off" distance between the sub-station and the location, design specifications and time-scale for provision of any required/proposed acoustic barrier (earth bund and/or fencing or similar).

Thereafter, any resulting noise mitigation arrangements shall be implemented in accordance with the approved details.

Reason: To ensure an acceptable form of development in the interests of the amenities of the surrounding area, including neighbouring residential property.

54

No development within any phase of development shall commence until details have been submitted to and approved by the Council, as Planning Authority in consultation with the Environmental Health Manager regarding details of any external lighting scheme(s)

required/proposed for the development of that phase, excluding street lighting arrangements. Where the phase of development includes the proposed primary school building and associated external sports areas, any separate sports and recreation area or playing fields area and the proposed local community Hub, the details sought shall include (but are not limited to) the lighting issues for those elements. The required scheme shall:

- a) be designed to minimise the use of external lighting within and around the boundaries of the site, and the effects of light spills and glare upon the surrounding area beyond the site boundary;
- b) provide details of all required/proposed external lighting arrangements, whether free-standing or affixed to buildings/structures or similar during both the construction and completed development; and
- c) include the location and design specifications (including both candela and lux rating information) for all lighting to be installed and the time-periods for operation together with specifications for all mitigation measures to be introduced and designed to minimise the impact of lighting within and beyond the site boundary, for example, light hoods and louvres, orientation and angle of downward inclination of lamps, etc.

Thereafter, the external lighting arrangements shall be implemented within that phase, in accordance with the approved details and no further external lighting shall be provided, installed or used within that phase throughout the lifetime of the development except where otherwise agreed in writing with the Council, as Planning Authority.

Reason: To ensure an acceptable form of development in particular to minimise the potential for light pollution including light glare/spill and disturbance impacts upon the visual amenity and appearance of the surrounding area, including any existing or proposed neighbouring residential property.

55

No development shall commence on any phase until details have been submitted to and approved by the Council, as Planning Authority in consultation with the Environmental Health Manager regarding a detailed Construction Noise Impact Assessment for that phase which shall:

- a) be based upon (but not limited to) procedures for good practice and workmanship, and noise management and control as advocated within relevant BS:5228 codes of practice for noise and, where necessary, vibration;
- b) identify all noise management and mitigation measures (including noise and where necessary vibration monitoring

programmes) to be adopted during construction works for the development of that phase, to be based upon the appointed contractor's working practices and methods together with proposals to promote and establish community relations to address noise/vibration impacts at the closest neighbouring properties to that phase including any cumulative impacts from development of other phases, arrangements and procedures/protocols for reporting, handling and responding to complaints regarding noise where so received; and

- c) unless otherwise agreed in writing with the Council, as Planning Authority in consultation with the Environmental Health Manager, construction noise criteria for the permitted construction hours above shall be in accordance with the ABC method detailed in BS 5228-1 :2009 (Noise).

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

Reason: To ensure an acceptable form of development in the interests of the amenities of the surrounding area, including neighbouring residential property.

56

No development shall commence on any phase until a scheme to control dust during the construction phase for that phase of the development has been submitted and approved in writing by the Council, as Planning Authority in consultation with the Environmental Health Manager. The scheme shall identify any potential cumulative impacts that may arise from concurrent development of other phases.

Thereafter, the dust control arrangements shall be implemented on that phase in accordance with the approved details.

Reason: To ensure an acceptable form of development in the interests of the amenities of the surrounding area, including neighbouring residential property.

57

No development shall commence on any phase of the development until an assessment of air quality for the construction and operational phases of that phase of the development has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Environmental Health Manager. The scheme shall identify any potential cumulative impacts that may arise from concurrent development of other phases.

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

Reason: To ensure an acceptable form of development in the interests of the amenities of the surrounding area, including neighbouring

residential property.

- 58 No development shall commence on any phase of the development until details have been submitted to and approved by the Council, as Planning Authority in consultation with the Environmental Health Manager regarding a suitable assessment of road traffic noise arising for residential development within that phase of the development, as well as considering road traffic noise as it may affect existing residential development outwith the application site, pursuant to Planning Advice Note PAN 1/2011 and the associated Technical Advice Note Assessment of Noise (TAN). The scheme shall identify any potential cumulative impacts that may arise from the concurrent developments of other phases.

Thereafter, any resulting noise mitigation arrangements shall be implemented within that phase, in accordance with the approved details.

Reason: To ensure an acceptable form of development in the interests of the amenities of the surrounding area, including neighbouring residential property.

- 59 Prior to the school commencing a Noise Impact Assessment pursuant to Planning Advice Note PAN 1/2011 and the associated Technical Advice Note Assessment of Noise (TAN), shall be submitted and approved in writing by the Council, as Planning Authority in consultation with the Environmental Health Manager, detailing all noise sources associated with the construction and operational phases of the development. The Assessment shall also identify all measures (including their location, design specifications and external impact) to be adopted to mitigate the impact of noise emissions from the development.

Thereafter, any resulting noise mitigation arrangements shall be implemented in accordance with the approved details.

Reason: To ensure an acceptable form of development in the interests of the amenities of the surrounding area, including neighbouring residential property.

- 60 No development of the proposed primary school shall commence until details have been submitted to and approved by the Council, as Planning Authority in consultation with the Environmental Health Manager regarding measures to suitably control cooking odours from any proposed kitchen ventilation/extraction system serving any proposed primary school associated with the development, including the installation and maintenance of any required/proposed ventilation/extraction system.

Thereafter, ventilation/extraction and odour control arrangements shall

be implemented in accordance with the approved details.

Reason: To ensure an acceptable form of development in the interests of the amenities of the surrounding area, including neighbouring residential property.

- 61 No development shall commence for any proposed development/use within Use Class 3, 7, 8 and 10 until a Noise Impact Assessment pursuant to Planning Advice Note PAN 1/2011 and the associated Technical Advice Note Assessment of Noise (TAN) has been submitted and approved in writing by the Planning Authority, in consultation with the Environmental Health Manager, detailing all noise sources associated with the development. The Assessment shall also identify all measures (including their location, design specifications and external impact) to be adopted to mitigate the impact of noise emissions from the development.

Thereafter, all resulting noise mitigation arrangements shall be implemented in accordance with the approved details.

Reason: To ensure an acceptable form of development in the interests of the amenities of the surrounding area, including neighbouring residential property.

- 62 No development shall commence for any proposed development/use within Use Class 3, 7, 8 and 10 until details have been submitted to and approved by the Council, as Planning Authority in consultation with the Environmental Health Manager, regarding measures to suitably control cooking odours arising from any proposed development/use within Use Class 3, 7, 8 and 10, including the installation and maintenance of any required/proposed ventilation/extraction system.

Thereafter, the ventilation/extraction and odour control arrangements shall be implemented in accordance with the approved details.

Reason: To ensure an acceptable form of development in the interests of the amenities of the surrounding area, including neighbouring residential property.

- 63 **Fixed plant and machinery noise emissions** associated with any proposed development/use within Use Class 1, 2, 3 and 4 shall, between the daytime of 0700 to 2300 hours, not exceed **Noise Rating Curve (NR) 25**, as determined within a living apartment of the nearest noise sensitive property with the external window moderately open. This limit would apply and be determined over a one-hour duration within any day-time period.

Reason: To ensure an acceptable form of development in the interests of the amenities of the surrounding area, including neighbouring residential property.

64

Fixed plant and machinery noise emissions associated with any proposed development/use within Use Class 1, 2, 3 and 4 shall, between the night time of 2300 to 0700 hours, not exceed **Noise Rating Curve (NR) 20**, as determined within the bedroom of the nearest noise sensitive property with the external window moderately open. This limit would apply and be determined over a five-minute duration within any night-time period.

Reason: To ensure an acceptable form of development in the interests of the amenities of the surrounding area, including neighbouring residential property.

65

The woodland area adjacent to Myreside Pond shall be retained and incorporated into the proposed open space area within the Hub + Central Open Space Character Zone, and in the event of any loss of trees or woodland occurring over 0.1ha within a phase of the development area as hereby approved, no development within that phase shall commence until details have been submitted to the Council, as Planning Authority in consultation with Scottish Forestry regarding details of a compensatory woodland planting scheme (the Replanting Scheme) within Moray. The Replanting Scheme details shall:

- a) include specifications for
 - i. on-site replanting;
 - ii. off-site compensatory planting;
 - iii. tree maintenance and protection to established planting; and
- b) comply with the requirements set out in the UK Forestry Standard (Forestry Commissions, 2011. ISBN 978-0-85538-830-0) and the associated guidelines to which it refers and include:
 - i. details of the location of the area to be planted;
 - ii. details of land owners and occupiers of the land to be planted;
 - iii. the nature, design and specification of the proposed woodland to be planted;
 - iv. details of all necessary consents for the Replanting Scheme and timescales within which each shall be obtained;
 - v. the phasing and associated timescales for implementing the Replanting Scheme; and
 - vi. proposals for the maintenance and establishment of the Replanting Scheme, including annual checks; protection from predation; replacement planting; fencing; ground preparation; and drainage, etc.

Thereafter, the development shall be implemented in accordance with the approved Replanting Scheme details, including the phasing and timescales as set out therein.

Reason: To ensure an acceptable development in the absence of details of the matters specified from the submission and to ensure an acceptable form of development where replacement or compensatory planting is provided where the development results in a loss of woodland.

Reason(s) for Decision

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

Planning permission in principle has already been granted for the "mixed use development" within Area 1, R11 Findrassie/Myreside and I8 Newfield, comprising 400-500 houses, primary school and playing fields, employment opportunities, neighbourhood and community hub, open space, landscaping and associated infrastructure, subject to planning conditions and a legal agreement regarding planning obligations.

By seeking to vary some of the conditions of that development, this application seeks to maintain the overall parameters and provisions of the current permission but now within the framework of the submitted phasing plan for the whole Masterplan site. This would allow for development proposals on the site and its associated infrastructure to come forward in a phased manner by permitting the submission/approval of details and supporting information (including triggers for infrastructure requirements). These proposals would then be assessed as part of a series of subsequent applications for matters specified in conditions (AMCs) or detailed planning permission.

Subject to the development progressing in accordance with the phasing plan and amended conditions as recommended, the proposal accords with planning policy and respects the Findrassie Masterplan, and can be achieved without unacceptable or significant adverse natural and build environmental impacts and there are no material considerations that indicate otherwise.

List of Informatives:

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

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

The development is subject to a legal agreement (Section 75) in regard to
a) developer obligations towards primary education facilities (a 2.5ha

- serviced site for a primary school) and secondary education facilities, healthcare, transportation and sports and recreation facilities; and
- b) the required delivery of a positive boundary treatment for western edge of sub-station (in accordance with requirements of the Findrassie Masterplan.

The Findrassie Masterplan was as approved on 1 December 2015 by Moray Council as Supplementary Guidance. As a material consideration, the Masterplan carries significant weight in the determination of all planning applications at Findrassie.

The applicant is advised that to enable some of the negative suspensive conditions to be fulfilled works which are operational development may have to be undertaken outwith the application site. These works in themselves may require the submission of a planning application.

In relation to accessible housing condition, subject to the following requirements at all times being provided, no other internal alterations would require the prior approval of the Council as Planning Authority:

- Hallways - minimum 1200mm wide.
- Door frames - minimum 926mm wide door leaf, giving a clear width of 870mm.
- Bathroom/wet rooms to be retained on ground floor - 1500mm wheelchair turning circle required.

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

It is recommended that early contact be made with this Section in connection with proposed commercial developments, including any food business proposal, to ensure proposals comply with the Health and Safety at Work etc Act 1974 and associated legislation, in addition to the Food Hygiene (Scotland) Regulations 2006 where necessary.

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

The Transport Assessment as provided by the applicant in support of the submission has been used on a comparative basis only as junction models have not been calibrated to observed queue lengths at critical junctions on the existing road network.

The following drawings submitted showing proposed junction improvements are not approved:

- Transport Planning Ltd Drawing No. TP187/SK/001
- Transport Planning Ltd Drawing No. TP187/SK/103
- Transport Planning Ltd Drawing No. TP187/SK/301
- Transport Planning Ltd Drawing No. TP187/SK/302
- Transport Planning Ltd Drawing No. TP187/SK/303C
- Transport Planning Ltd Drawing No. TP187/SK/304

All designs for traffic signal-controlled junctions shall take into consideration

locally measured saturation flows e.g. at the existing North Street/Morrison Road junction.

The Elgin Traffic Model is being re-built and any further detailed application for Area 1 and beyond will need to be supported by a Transport Assessment utilising 2018 base year traffic model data. This model will also be used to inform and identify development impacts on the local and trunk road networks, appropriate mitigation measures and developer obligations requirements to address impact of development on the wider transport network.

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

Construction Consent shall include a CCTV survey of all existing roads drainage to be adopted and core samples to determine the construction depths and materials of the existing public roads to determine the extent of re-construction required within the development site.

A Road Safety Audit shall be completed for all new or modified junctions unless otherwise agreed in writing with the Roads Authority for the modifications to the existing public road (including all A941 junction improvements, Morrison Road/Duffus Road junction improvements and the proposed site accesses onto A941 and Covelea Road) will also be required as part of the Roads Construction Consent.

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

Planning consent does not carry with it the right to carry out works within the public road boundary and the applicant is obliged to contact the Transportation Manager for road opening permit in accordance with Section 56 of the Roads (Scotland) Act 1984. This includes any temporary access joining with the public road.

For garage parking to be included as part of the parking provision the applicant must demonstrate the garages car parking spaces have minimum clear internal dimensions not less than of 3 metres by 7 metres.

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

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

Street lighting will be required as part of the development proposal. The developer must contact the Roads Authority Street Lighting Section at Ashgrove Depot, Elgin - Tel (01343) 557300, Ext 7343 to discuss the proposals.

ABERDEENSHIRE ARCHAEOLOGY SERVICES has commented that:

The affects the archaeology site NJ26NW0056, an area of cropmarks thought to indicate prehistoric activity, adjacent to the archaeology sites NJ26NW0040, an extensive area of cropmarks indicating prehistoric settlement remains, and NJ26SW0048, cropmarks indicating the presence of a probably prehistoric enclosure.

The mitigation should take the form of a 7-10% archaeological trial trenching evaluation of the proposed development site to be carried out in advance of development works; a phased approach to archaeological mitigation can `be taken in line with any proposed phasing of development works.

SCOTTISH WATER has commented that:

Comments received from SCOTTISH WATER are attached for your information.

See consultation response dated 24 September 2019 regarding information about current availability of water, foul and surface water drainage for the development together with Scottish Water's General Notes and "next steps" etc.

MORAY FLOOD RISK MANAGEMENT has commented that:

In accordance with the submitted Drainage Assessment & Flood Risk Assessment and together with the requirement to restrict flows to existing rates, there is a need for the development to be assessed based on current guidance at the time of application. Whilst the submitted Drainage Assessment & Flood Risk Assessment allows for 20% climate change, current guidance seeks a 30% allowance for climate change.

THE SCOTTISH ENVIRONMENT PROTECTION AGENCY has commented that:-

See consultation responses (as already provided to the agent) dated 5 July 2017, 5 September 2017 and 26 September 2019.

The CEMP is submitted at least 2 months prior to the commencement of any works on site; this is to allow the necessary agencies sufficient time to fully review the mitigation proposals to avoid any potential delays to the project moving forward.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
	Location plan
14098(P) 500	Site plan
SK001	Proposed mitigation measures
SK002	Tracking - Maisondieu Road
SK003	Pansport Road tracking
SK004	A96 West tracking
	Phasing Plan



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:

19/01085/APP

Site Address:

Elgin R11 Findrassie/Myreside Site And I8 Newfield, Findrassie

Elgin

Applicant Name:

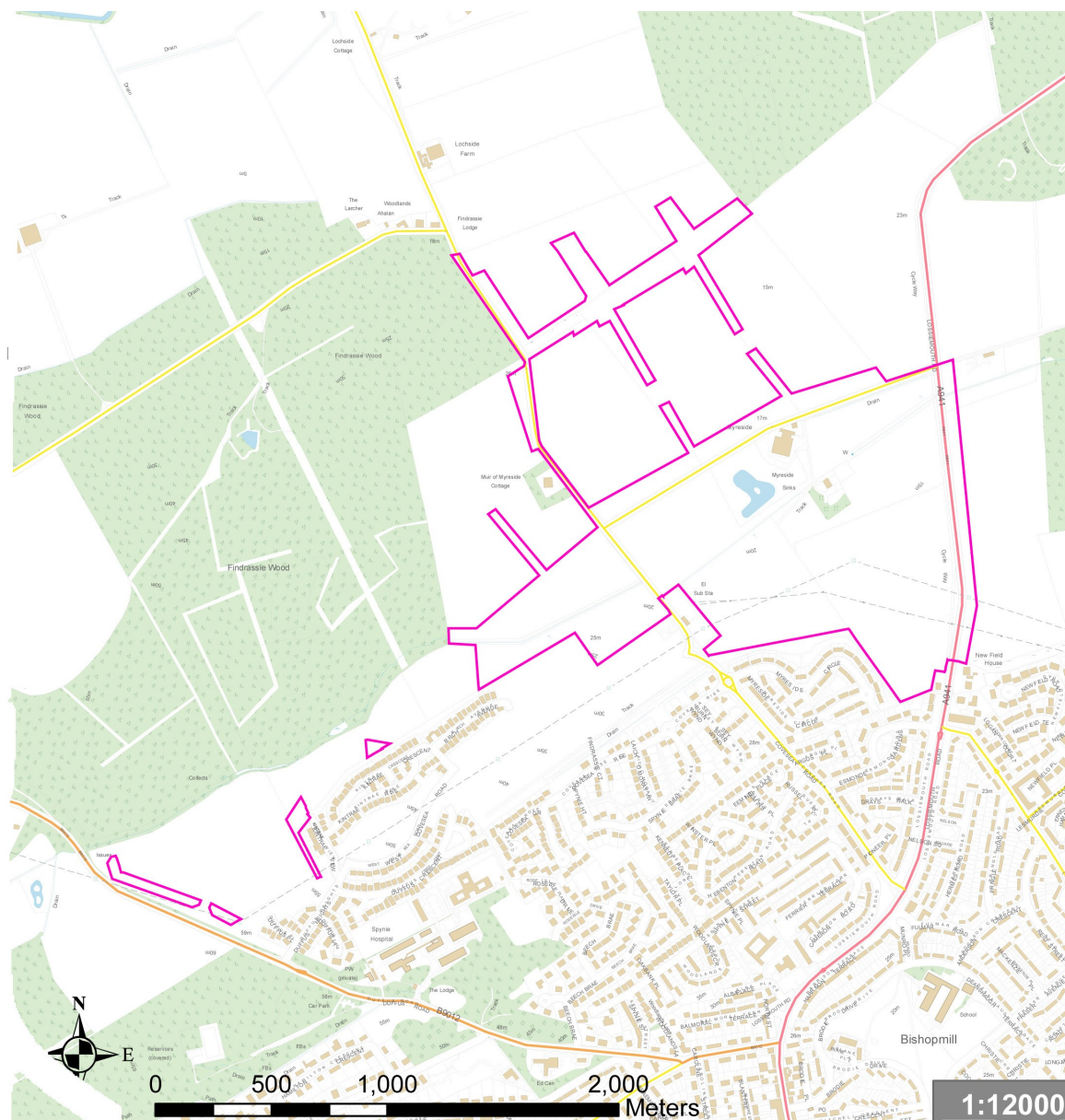
Pitgaveny Farms

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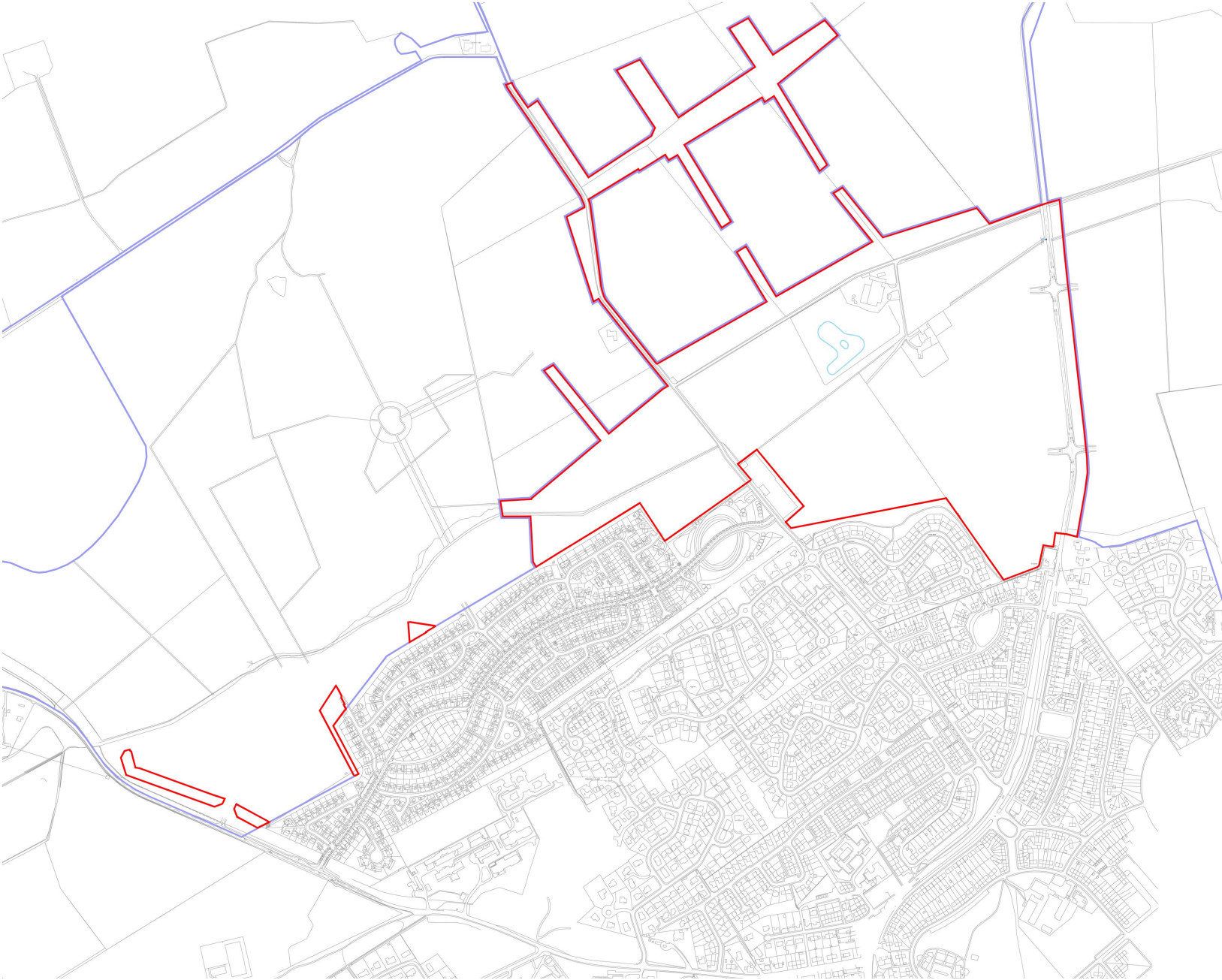
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Location Plan



Site Location



Site plan











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

THE PROPOSAL

- This application submitted under Section 42 seeks to vary 46 of 65 conditions imposed on planning consent 17/00834/PPP for a “mixed use development”, comprising Class 9 residential development including affordable housing and student residential accommodation, community facilities including a primary school with playing fields, associated neighbourhood uses within Class 1 (Shops), Class 2 (Financial, professional and other services), Class 3 (Food and drink), Class 4 (Business), Class 7 (Hotel), Class 8 (Residential institutions) and Class 10 (Non-residential institutions) (Use Classes Order 1997 refers) together with associated infrastructure, namely, roads, drainage, services, open space, and landscaping including advance landscaping within Area 1, at sites R11 Findrassie/Myreside Site and I8 Newfield Elgin.
- From supporting information, Area 1, envisaged to comprise an "integrated mixed use new neighbourhood", would include:
 - c.400 - 500 houses, including affordable housing, flats and student residential accommodation
 - new primary school and playing fields
 - employment opportunities (Class 1, 2, 3, 4, 7, 8 and 10 uses)
 - associated neighbourhood uses including community hub
 - open space and landscaping including advanced landscaping
 - roads, pedestrian and cycle routes through the site and to/from existing areas
 - water supply and drainage infrastructure
- The location and extent of Area 1 is defined on drawing 14098(OS) 100 (Location Plan). Drawings 14098(PL) 500 and 501 show the extent of Area 1 relative to an indicative site layout for the whole of the Masterplan area.
- The S42 application seeks to vary the majority of the conditions to allow for the development of the site and its necessary infrastructure to come forward in a phased manner by permitting the submission of details and supporting information (including triggers for infrastructure requirements) in accordance with an overall phasing plan which has been submitted with the application. These would then be assessed as part of a series of subsequent applications for matters specified in conditions (AMCs) or detailed planning permission.
- The conditions proposed for amendment are 1-12 inclusive, 14-16, 18, 20, 21, 23-25, 31, 32, 37, 38, 40, 41, 43-51, 53-58, 60-62 and 65. These, as currently worded, require the submission and approval of details of all elements within Area 1 (and supporting information) prior to commencement of any development, without having regard to phasing. This is the main reason for this application as different developers/parties will be responsible for various elements of the development.
- The variations sought are:
- The amendment of condition 1 allowing for the submission and approval of a

detailed phasing plan as part of the current S42 application, which sets out the framework for coordinating development and phases of development within Area 1 based on the approved Findrassie Masterplan; and thereafter, requiring approval to be obtained for the matters specified in the conditions including the siting, design and external appearance of all building(s)/structure(s), the means of access thereto, drainage and landscaping within each respective phase.

- The proposed amended conditions referencing the phasing plan require the following information to be submitted with each AMC or detailed application (this information will vary depending on the nature and location of the proposal):
 - detailed drawings of the siting, design and external appearance of all buildings/structures, assess thereto, drainage and landscaping/open space;
 - design statements accompanying each application to demonstrate compliance with place-making principles and Design Codes/Character Zones within the Findrassie Masterplan;
 - provision of transportation infrastructure (roads, junctions, improvements to the local road network, footpaths/cycleways, pedestrian crossings, bus laybys etc.);
 - provision of drainage infrastructure, including pumping station (foul and surface water SUDs);
 - finished floor levels to be set above 1:200 flood levels (where required);
 - detailed landscape scheme(s) which accord with approved Masterplan requirements;
 - provision of affordable and accessible housing;
 - pre-construction species surveys and mitigation measures to protect the Loch Spynie SSSI, SPA and Ramsar Sites to the north;
 - Construction Environmental Management Plans;
 - mitigation measures to protect private water supplies;
 - provision of a 10m buffer for watercourses and other green measures;
 - sustainability statements to demonstrate compliance with sustainability objectives;
 - details demonstrating the potential or otherwise for district heating investigations;
 - contaminated land assessment(s);
 - archaeological investigation works;
 - updated noise impact assessments, external lighting, dust and air control measures;
 - kitchen ventilation to the school and other commercial premises; and
 - compensatory woodland planting.
- Further proposed amendments to the conditions include revised wording specifically to the following:
 - Conditions 1 and 4, to cover the specific provision of route to school walking and cycling and infrastructure with each phase of development (on and off-site).
 - Condition 12, to include triggers for the submission of a strategy, timetable and delivery (and sequence of delivery) for the central open space and advance planting required within landscape details to be submitted as part of two AMC applications.
 - Condition 14 to remove reference to residential proposals being in accordance within Class 9 (Houses) only, which as currently worded excludes flats (sui generis), as flats form part of the proposed approved development.
 - Condition 15 to require improvements to the A96 road network (Pansport Roundabout) based on a new trigger of 350 residential unit completions (whereas previously this was 175 residential units plus primary school and hub).

- Condition 18 requiring provision of a secondary access (either emergency or permanent) onto the A941 Elgin to Lossiemouth Road based on a trigger of 50 completed house units (whereas previously this was required prior to any development commencing).
- Condition 23 requiring modifications to the A941/Myreside Junction and western end of Myreside Road to be carried out prior to first operation of the northern access onto the A941 (whereas previously this was required prior to any development commencing with access from A941).
- Condition 31 requiring approval of details/timescales for provision of active travel corridors/connections between the development and Elgin Core Paths EG31 and EG33 and a cycleway connection alongside Covesea Road to the south of the development linking to the existing cycleway (or other cycle link to Moray Council adoption standards) to provide a continuous adopted cycle route to the existing remote cycle track at the Lossiemouth Road/Covesea junction.
- Condition 37, to permit a limited (temporary) connection to the Elgin Town drainage Network in consultation with Scottish Water, to allow for the commencement of initial development whilst the Rising Main is being installed by the applicant (whereas previously none of the development was to connect to the Elgin Town network).

Submitted supporting documentation includes all documents previously part of the 17/00834/PPP application, document entitled '17/00834/PPP Proposed S42 Amended Conditions, dated 30 August 2019, updated 13 February 2020' containing the full wording of the proposed amended conditions, reasons and accompanying justification for each amendment, a phasing plan for Area 1 and updated drawings of the A96 Pansport roundabout.

THE SITE

- The site lies to the north of Elgin beyond its existing built-up edge; Area 1 is an irregular-shaped area of land, approx. 48.6ha.
- Area 1 forms part of the (larger) Elgin R11 Findrassie/Myreside and Elgin I8 Newfield designations, as defined in the MLDP 2015. The total combined area of these designations is approx. 112ha i.e. 100ha for housing and 12ha for employment/business use.
- This Area 1 application refers mainly to the south-eastern part of Elgin R11 designation, located between the A941 Lossiemouth Road to the east and Covesea Road to the west and land to the south and north of Sey Burn.
- No development is proposed within the Elgin I8 designation except for a 20m wide strip of landscaping located along the edge of the A941 Lossiemouth Road and two access junctions providing access to both Elgin R11 and I8 sites.
- Based upon the Masterplan layout, land for advance and enclosing woodland/tree belt planting is proposed mainly to the west and north of the main areas within Area 1 to be developed for residential use, and as enclosure to parcels of land to be developed in later phases of the development at Findrassie or to separate the site from existing development.
- The Area 1/Masterplan site is bounded by Findrassie Woods to the north west and by existing residential development off Covesea Road including development off Myreside Circle, Argus Place and Esmonde Gardens and Hamilton Gardens to the south and south-west.

- To the west, the site is bounded by Duffus Road and to the east, beyond the A941 Lossiemouth Road, the site is bounded by agricultural land.
- Covesea Road extends north-south through the Findrassie designation and forms part of the western boundary to Area 1. The existing electricity substation on the east side of Covesea Road adjoins but is not located within the Area1/Masterplan site.
- Extending between the existing sub-station and the A941 Lossiemouth Road is an overhead power line route supported on two pylons.
- Myreside Road extends east-west through the site between Covesea Road to the west and the A941 Lossiemouth Road to the east.
- At the eastern end of Myreside Road are existing residential and agricultural buildings at Myreside Farm (to be converted to form the local community Hub).
- Generally, Area 1 comprises agricultural land (which is not prime quality land) with undulating topography across the land area, falling northwards from approx. 25mAOD along the southern boundary to approx. 13mAOD towards the lower-lying proposed green space corridor extending along the Sey Burn and thereafter the land rises (beyond Area 1) to approx. 25mAOD.
- Within the lower-lying area of the Elgin R11 designation (and towards the northern edge of Area 1) is the Sey Burn which runs west-east through the site and ultimately discharges into Loch Spynie, an existing pond at Myreside and an area of woodland/trees at Myreside Farm.
- Land within Area 1 is not subject to any landscape or natural or cultural heritage designations except in relation to known areas of archaeological interest located over parts of the site.

HISTORY

19/01220/AMC - Application for Approval of Matters specified in conditions 1 - 17, 19, 23, 25-30, 37-44, 45-47, 52, 53 and 58 on planning consent 17/00834/PPP for proposed residential development of 92 homes including affordable housing with landscaping parking access and associated works within part of Area 1, R11 Findrassie/I8 Newfield – this extends to 5.3ha, forms the southern corner of the Area 1 site and is currently pending consideration.

17/00834/PPP - Planning permission in principle for "mixed use development" with Class 9 residential development including affordable housing and student residential accommodation, community facilities including a primary school with playing fields, associated neighbourhood uses within Class 1 (Shops), Class 2 (Financial, professional and other services), Class 3 (Food and drink), Class 4 (Business), Class 7 (Hotel), Class 8 (Residential institutions) and Class 10 (Non-residential institutions) (Use Classes Order 1997 refers) together with associated infrastructure, for example, roads, drainage, services, open space, and landscaping including advance landscaping at sites R11 Findrassie/Myreside Site and I8 Newfield Elgin. This is also subject to a S75 legal agreement requiring developer obligations towards primary education facilities (a 2.5ha serviced site for a primary school), secondary education facilities, healthcare, transportation and sports and recreation facilities; and delivery of positive boundary treatment to western edge of existing electricity sub-station. Issued 1 July 2019.

16/00413/PAN - Proposal of Application Notice (PAN) for mixed use development with Class 9 residential development including affordable housing and student residential

accommodation, community facilities, a primary school with playing fields, associated neighbourhood uses within Class 1 Shops, Class 2 Financial, professional and other services, Class 3 Food and drink, Class 4 Business, Class 5 General Industrial, Class 6 Storage and distribution, Class 7 Hotel, Class 8 Residential institutions, Class 10 Non-residential institutions (Use Classes Order 1997 refers) together with associated infrastructure (for example roads, drainage, services, open space, landscaping including advance landscaping) at R11 Findrassie/Myreside and 18 Newfield - response (28 March 2016) confirms the requirements for consultation with the local community.

Following consideration of the PAN, the Planning & Regulatory Services Committee advised (19 April 2016) that consideration should be given to placing overhead electricity lines underground, and to note the current pressure of school rolls in the area [paragraph 13 of Minute refers].

16/01374/SCN - Screening Opinion for mixed use development comprising Class 1 Shops, Class 2 Financial, professional and other services, Class 3 Food and drink, Class 4 Business, Class 5 General Industrial, Class 6 Storage and distribution, Class 7 Hotel, Class 8 Residential institutions, Class 10 Non-residential institutions (Use Classes Order 1997 refers) sui generis student residential accommodation and associated infrastructure works (including roads drainage open space and landscaping) at Findrassie - formal Screening Opinion adopted/issued (17 October 2016) where, under the Environmental Impact Assessment Regulations 2011 (EIA) and after taking account of the characteristics and location of the development and the characteristics of its potential impact, the proposal is a 'Schedule 2 development' but would not be likely to result in significant environmental effects, hence the proposal is not EIA development and formal EIA procedures are not required.

1 December 2015 - After consideration, the Planning & Regulatory Services Committee agreed inter alia to approve the Findrassie Masterplan as Supplementary Guidance, to be used as a material consideration that will be given significant weight in the determination of planning applications pertaining to sites R11 Findrassie/ Myreside and 18 Newfield of the Moray Local Development Plan [paragraph 8 of Minute refers].

POLICY - SEE APPENDIX 1

ADVERTISEMENTS

- Advertised for neighbour notification purposes.

CONSULTATIONS

Building Standards Manager - Building Warrant is required.

Estates Manager - No comments received.

Strategic Planning & Delivery – No objection. The Strategic Planning and Development section previously objected to the proposed variations to the conditions and the phasing plan. The initial objection raised concerns with the enforceability of the proposed conditions to ensure that the central area of open space and the advance planting would be provided and that its delivery could be enforced. The response highlighted concerns that the phasing plan was not being approved as part of the S42 and wider PPP

application as it was merely a supporting document. It lacked detail regarding triggers or timings in relation to the delivery and enforceability of these key strategic elements. This raised issues with the delivery of the central area of open space and advanced landscaping as it would be effectively detached from the housing element. These key elements would have been separate phases without any detailed conditions to enforce their delivery as the housing element built out.

Following a meeting and discussions with the applicant a revised phasing plan and proposed rewording of the conditions was provided. The rewording of condition 1 has been amended to include the approval of the phasing plan as part of the S42 application which is supported. This will tie the phasing plan to the PPP application to ensure that the strategic elements of the masterplan will be delivered and are enforceable. Proposed wording was suggested to the applicant for Condition 12. This was to ensure that the advanced planting will be delivered and is enforceable across all phases of the masterplan (even if phases were to come forward in a different order than is stated in the phasing plan). On this basis the proposal is acceptable.

Developer Obligations – The existing S75 legal agreement associated with the planning consent 17/00834/PPP will be required to be modified to take account of the S42 application, but the obligations included will remain the same.

Environmental Health Manager – No objections to the proposed amendments pursuant to the Section 42 application.

Environmental Health, Contaminated Land - No objection subject to condition requiring assessment of land contamination to include details, where required, for remediation and validation, etc.

Environmental Protection Manager - No comments received.

Moray Access Manager - No objection. I am in agreement with the condition changes to include reference to footpaths and cycleways. On a general note the development should integrate with the wider masterplan in terms of accommodating future roll out of the cycle and paths network. The development should also contain a functional hierarchy for the paths network indicating on the plan which routes are for multi user active travel and which are for lower level general recreational access.

Transportation Manager – No objection to the proposed revised transport related conditions and revisions agreed in separate email correspondence with the applicant.

Transport Scotland – Condition to be attached that no development to commence beyond 350 dwellings until i) completion of the Hardmuir to Fochabers section of the A96 dualling programme, or ii) completion of works to the A96 East Road/Maisondieu Road/Pansport Road roundabout as shown in drawing number SK001 or iii) a Transport Assessment or Addendum Report has been submitted/approved and trunk road mitigation measures necessary to offset the impact of the development have been implemented within an agreed timescale, to ensure that the scale of the development beyond 350 residential units is supported by any the above mitigation and that it does not adversely affect the safe and efficient operation of the A96 trunk road network.

The applicants commissioned a topographical survey of the A96/Pansport Road/Maisondieu Road Roundabout having based previous assessment work on OS

mapping. Their consultants undertook further analysis based on on-site dimensions and were able to provide sufficient evidence that up to 350 dwellings could be occupied before the performance of the roundabout deteriorated to an unacceptable level. This position has been accepted by Transport Scotland and appropriate related planning conditions were recommended to Moray Council in the consultation response of 4 November 2019.

Moray Council, Housing & Property Manager - No objection to the proposed amended conditions.

Policy H8 requires that 25% of units are provided for affordable housing. The applicant is required to, and must, agree the housing mix and arrangements for delivery of the affordable housing prior to starting any housing on the site. The applicant should contact officers in Housing and Property to agree the arrangements for delivery of the affordable housing.

Policy H9 requires that 10% of private sector units are built to wheelchair accessible standards with Supplementary Guidance: Accessible Housing requiring that not less than half of the private sector wheelchair accessible units are built as single storey units. An approved Compliance Statement along with sufficiently detailed plans is required to demonstrate that accessible housing requirements have been met.

Moray Council, Education – No comments to make.

Moray Flood Risk Management - No objection, agrees to the proposed amendments to the conditions covering drainage.

Scottish Environment Protection Agency (SEPA) – No objection. We have previously been contacted by Barratt North Homes to discuss any requirements we would have in regard to phased development of the site and the amendment of the approved conditions. We welcome the acknowledgement of any such requirements as referenced in the “Proposed amendment” column of the Proposed S42 Amended Conditions document.

As such we are pleased to confirm we have no concerns with the proposed amendments to the conditions relating to issues within our remit and on this basis have no objection to this application.

Scottish Natural Heritage (SNH) – No comments to make.

Aberdeenshire Archaeology Services - No objection subject to condition requiring for each phase a programme of archaeological works in accordance with a written scheme of investigation (WSI) and a post-excavation research design (PERD) where the need for post excavation analysis is identified.

Ministry of Defence – No comments received.

Scottish Forestry – No objection, confirms that the amendment proposed to condition 65 regarding woodland retention and compensatory planting in the event of tree removal would be acceptable to Scottish Forestry.

Scottish Water - No objection, however this does not confirm that the proposed development can currently be serviced. In terms of water supply, Scottish Water is unable to confirm capacity at the relevant water treatment works at this time and to allow full

appraisal suggests that the applicant completes a Pre-Development Enquiry (PDE) Form and submits it directly to Scottish Water. With regard to foul drainage, currently, there is sufficient capacity at the waste water treatment works but further investigations may be required once a formal connection application has been submitted to Scottish Water, who are unable to reserve capacity at the waste water treatment works for this development. Once a formal connection application is submitted, after planning permission has been granted, Scottish Water will review the availability of capacity at that time and advise accordingly.

Scottish & Southern Energy - No comments received.

Scotia Gas - No objection, no high-pressure gas pipelines will be affected by the proposal.

Elgin Community Council - No comments received.

Heldon Community Council - No comments received.

Inness Community Council - No comments received.

OBJECTIONS-REPRESENTATIONS

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

One letter of representation has been received from:-

[REDACTED]

The grounds for objection/representation are summarised as follows:

Issue: Concerns regarding impact from development on wildlife, flora and fauna.

Comment (PO): The re-submitted Ecological Appraisal which accompanied the previous PPP application proposes further survey work to minimise potential impact on local wildlife, and with mitigation/compensation measures implemented (pre-construction surveys and use of suitable site management procedures to protect mammals), considers that no significant effects are likely on local ecological receptors. This is to be covered by conditions.

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 be subject to the Examination process and therefore will be given minimal weight.

The main issues are considered below.

Background to application

As already outlined, many of the conditions of the PPP require the submission/approval of details of elements within all of the Area 1 to be provided prior to commencement of any development within the site, without having regard to phasing arrangements. This was required as a phasing plan with triggers for requirements was not submitted with the PPP application. The current S42 application, supported by the accompanying phasing plan seeks to address this issue by inserting amendments into the wording of the majority of conditions (46 out of 65), to allow for the submission of information relating to the phase for which development is sought and its necessary infrastructure. This would, as confirmed by the applicant then provide for the delivery of the various components required for the development of area 1 in a sustainable/viable manner and allow elements to come forward independently, but within the framework of the Masterplan and the PPP consent.

All aspects of the proposed development will require to be subject to further application(s) for permission prior to works commencing on site. Subject to the development progressing in accordance with the varied (and unaltered) conditions as recommended, incorporating consultee requirements and the already approved Masterplan with its design code and site principles (to address place-making requirements), the development would satisfy Policy H1 (and other policy) and be acceptable 'in principle'.

Section 42 application

An application under Section 42 of the 1997 Planning Act seeks to provide a new planning permission but with different conditions from those attached to a previous permission for that development.

In this case, the current application is seeking to modify some of the existing conditions imposed on the consent 17/00834/PPP to allow for the submission of details and triggers for requirements in line with the submitted phasing plan, as the current conditions do not

provide the framework for details to be submitted in a phased manner without all details being provided at the same time.

For Section 42 applications, the consideration is about the conditions to be attached to any resultant new permission. Circular 3/2018 (Development Management Regulations) states, if the decision does not alter or effect the previous permission and/or it should be granted subject to the same conditions as before then the application should be refused. However, if permission should be granted subject to different or no conditions these should be attached to the new permission along with conditions from the previous permission where it is intended that these should apply. Where appropriate, the Council, as Planning Authority should also ensure that the permission is granted subject to the conclusion of any appropriate planning obligation. In this case a modification of the existing agreement to include the current application reference is required.

In terms of development type although this Section 42 application is a major proposal, it is not subject to pre-application consultation procedures. The Regulations advise that the duration of the new permission should be as specified in Section 58 (or 59) of the Act although it is possible to direct and apply an alternative time-period. In this case a change to the (Section 58) 3-year period to 5 years for the duration of the permission was sought and approved under the PPP application. The current S42 application does not seek to alter this.

Development on land at Findrassie/Myreside R11 and Newfield I8 (Elgin R11, I8, TSP16, TSP17, ENV6, H1, PP3 and IMP1)

(Conditions: 1 - 12, 14, 15, 16, 18, 20, 21, 23 - 25, 31, 32, 37, 38, 40 and 41)

The principle of the 'mixed used development' within Area 1, Findrassie was established on 1st July 2019 following the issuing of the planning permission in principle 17/00834/PPP.

Area 1 forms part of an area already allocated for residential and employment purposes i.e. the Elgin R11 and I8 designations as defined within MLDP 2015. This land allocation is subject to the approved Findrassie Masterplan which provides a framework, including design and siting principles and codes for the delivery of development at Findrassie including the Area 1 site. Any development would require to be provided in accordance with site-specific requirements for these designations and other development requirements as identified within planning policy, (Appendix 1).

The conditions of the PPP listed above as currently worded require the submission and approval of detailed drawings showing the siting and design of all buildings/structures (housing, primary school, community hub and commercial premises), transportation and drainage infrastructure, open space and landscaping for the whole site and supporting information including design statements to demonstrate compliance with place-making principles and Design Codes/Character Zones within the Findrassie Masterplan. The proposed amendments to the conditions would allow for the phased submission of these details in line with the submitted phasing plan, and provide a mechanism for development along with its necessary infrastructure to progress across the site.

Subject to the development progressing in accordance with the submitted phasing plan and amended conditions as recommended, incorporating consultee requirements and the already approved Masterplan with its design code and site principles (to address place-making requirements), the development would satisfy Policy H1 (and the associated abovementioned policies) and be acceptable 'in principle'.

Place-making, design and site layout and sustainability

(Elgin R11, 18, PP2, PP3, E4, E5, EP2, IMP1 and H1)

(Conditions: 1 – 12 inclusive, 14, 15, 16, 18, 20, 21, 23-25, 31, 32, 37, 38, 40 and 41)

The PPP application sought only to establish the principle of development within Area 1 at Findrassie. No detailed design or site layout details were provided with that application, nor have they been submitted with the current S42 application. In principle, the development is supported by MLDP 2015 policy, and the Findrassie designations and approved Masterplan and the extent to which any future detailed design and site layout arrangements accord with these requirements will need to be assessed within subsequent AMC or detailed applications. In line with the PPP conditions, these are expected to demonstrate how the Masterplan principles and PP3 place-making principles have informed each development.

The proposed modified conditions identified above requiring adherence to the phasing plan would allow for the various detailed designs, site layout plans and supporting information to be submitted with each application within the framework of the phasing plan and Findrassie designations and approved Masterplan. This is amplified within supporting information accompanying the application entitled '17/00834/PPP Proposed S42 Amended Conditions dated 30 August 2019, updated 13 February 2020' which contains the full wording of the proposed amended conditions, reasoning and justification for each amendment. The amended conditions and phasing plan would also facilitate the consideration and provision of the necessary transportation and drainage infrastructure for each proposed development and the wider Area 1, and the advance and central landscape areas which are key strategic elements of the masterplan, as approved by the PPP.

For these latter elements condition 12 has been specifically amended to include triggers for the submission of a strategy, timetable and delivery (and sequence of delivery) for the central open space and advance planting required within landscape details to be submitted as part of AMC applications. This includes enforceable triggers based on completions of residential units and a pro rata approach to the delivery of the open space to ensure that its provision is related to the housing element and the wider PPP application which is essential given its importance to the wider masterplan.

Subject to the development progressing in accordance with these requirements the proposal would to comply with the following policies PP2, PP3, E4, E5, EP2, IMP1 and H1 and designation requirements Elgin R11 and I8.

The proposed revised wording to condition 14 to remove reference to residential proposals being solely in accordance within Class 9 (Houses) (as defined in the Town and Country Planning (Use Classes) (Scotland) Order 1997), which specifically excludes flats (sui generis) is acceptable as flats form part of the proposed approved development and are a type of development that would be supported here to provide a mix of housing types.

Sustainability (PP2 and Scottish Planning Policy (2014))

(Conditions 48 and 49)

A Sustainability Statement which was submitted with the PPP application sets out how the objectives of Primary Policy PP2: Climate Change would be addressed within future development. This also provided information on the potential for technological innovation to occur over the life-time of the development, including measures to afford greater insulation and solar gain and to lower energy consumption, for example through use of

micro-renewable systems and connection to a district heating network, the latter as advocated within Scottish Planning Policy (2014) and SEPA, and also envisaged by the Findrassie Masterplan (i.e. decentralised or local source of heat/power such as a biomass facility). With the above requirements in mind, conditions 48 and 49 of the PPP require the submission/approval of Sustainability Statements for each AMC or detailed application, and as recommended by SEPA, details of infrastructure to be provided and/or land to be safeguarded for infrastructure to connect to any existing or proposed district heating network, unless a feasibility study demonstrates otherwise.

The proposed variations requiring the submission/approval of the above information for developments on each phase would ensure an acceptable form of development in accordance with sustainability objectives for development at Findrassie, and demonstrate the consideration given to SPP 2014 to include infrastructure to make best use of available local resources.

Transport and Access (R11, I8, T1, T2, T5, T7, IMP1, IMP2, and IMP3) (Conditions 1, 2, 4, 9, 15, 16, 18, 20, 21, 23, 24, 25, 31 and 32)

The Transport Assessment (TA) and Transport Assessment Supplementary Paper (TASP) which accompanied the PPP application highlighted that the development would have an impact upon the local and trunk road networks and the need for transport infrastructure. To this end, the application was approved subject to a range of conditions and developer obligations requiring the provision of transport infrastructure both on and off-site, and mitigation measures to address the development traffic impacts on the wider local and trunk road networks.

More specifically, as currently worded these conditions require:

- 1) details of the provision for public transport (including bus stop infrastructure (laybys, shelters and flags), widening of road bends and provision for bus services to serve the site (conditions 9, 16 and 25);
- 2) details of location, design specifications and timescale for delivery of southern and northern accesses to the development to/from the A941 and accesses on Covesea Road (conditions 18, 20, 21);
- 3) road modifications to prevent access onto A941/Myreside Road (conditions 23);
- 4) location, design specifications and timescale for upgrading Covesea Road and Myreside Road to "primary routes" including dedicated pedestrian and cyclist facilities (condition 21 and 24);
- 5) not more than 50 units to be accessed off the A941 Lossiemouth Road and Covesea Road until second points of access and/or routes to enable emergency access are provided (condition 19 and 22);
- 6) location, design specifications and timescale for improvements to capacity at Morriston Road/Duffus Road, North Street/Morriston Road and Covesea Road/Lossiemouth Road junctions (conditions 33 - 36 inclusive);
- 7) location, design specifications and timescale for provision of a cycleway along Covesea Road linking to the existing cycleway and the internal road, public transport, pedestrian and cycle networks (conditions 25 and 31);
- 8) provision of construction traffic management plans including temporary construction access (condition 32);
- 9) specifications for visibility and parking (conditions 25 – 30); and
- 10) development not to commence beyond 175 residential units including the primary school and hub until either the A96 (T) Hardmuir to Fochabers section of the A96 Dualling programme is completed, or an updated Transport Assessment/Addendum

Report with associated trunk road mitigation measures is submitted and approved (condition 15).

The proposed variations to the conditions identified requiring the submission and approval of the above details and works for each phase in accordance with the phasing plan (along with other agreed timescales as discussed below) would ensure the proportionate provision of roads infrastructure with each application, and would not diminish the transportation requirements of the settlement statement designation R11, or associated TSP's.

The Transportation Manager has raised no objection to the revised wording but has suggested further minor amendments to the following conditions to address various transport related matters. The applicant has confirmed agreement to these amendments.

Conditions 1 and 4 have been updated to reference the specific provision of route to school walking and cycling infrastructure with each phase of development (on and off-site).

Condition 18 has been altered to include the requirement for provision of a secondary access (either emergency or permanent) onto the A941 Elgin to Lossiemouth Road prior to the commencement of the 50th residential unit, to allow development to commence while also ensuring that information is submitted at the appropriate time, in advance of the requirements for secondary access to the site.

Condition 23 has been amended to require modifications to the A941/Myreside Junction and western end of Myreside Road to be carried out prior to first operation of the northern access onto the A941, as detailed in condition 18.

Condition 24, has been revised to remove the requirement for the U39E Myreside Road to be upgraded to a primary route as part of the Phase E housing as it is unrelated and remote from this first phase of housing, lying 150m to the north along the northern boundary of phasing zone P.

Condition 31 has been altered to require approval of details/timescales for provision of a cycleway connection alongside Covesea Road to the south of the development linking to the existing cycleway (or other cycle link to Moray Council adoption standards) to provide a continuous adopted cycle route to the existing remote cycle track at the Lossiemouth Road/Covesea junction, prior to completion of any residential/non-residential building within any phase of the development with the exception of phases E1 and E2. This requirement was initially proposed for exclusion from the whole of phasing Zone E, but this was considered unacceptable given the close proximity of the western part of Zone E (Phases E3 and E4) to Covesea Road and the likely routes to schools, shops and services.

The proposed revised requirement within condition 15 linking the provision of improvements to the A96 trunk road network (Pansport Roundabout) to a new threshold of 350 residential unit completions, previously 175 units including the primary school and hub, has also been agreed by Transport Scotland. This follows further investigative work by the applicants who commissioned a topographical survey of the A96/Pansport Road/Maisondieu Road Roundabout having based previous assessment work on OS mapping. Their consultants undertook further analysis based on on-site dimensions and were able to provide sufficient evidence that up to 350 dwellings could be occupied before

the performance of the roundabout deteriorated to an unacceptable level. This position has been accepted by Transport Scotland and reflected within the amended condition.

Subject to the development progressing in accordance with the above conditions/requirements the proposal would comply with transport related policies T1, T2, T5, T7, IMP1, IMP2, IMP3 and designation/TSP requirements.

**Water Supply, Drainage and Flooding (EP5, EP6, EP7, EP10, IMP1, IMP2)
(Conditions 1, 2, 4, 9, 37, 38, 40, 46 and 47)**

As identified within the PPP application and the accompanying Drainage Assessment and Flood Risk Assessment (DFRA), the development would be served by a public water supply and connect to the public foul drainage network via a new rising main to be installed by the developer of the first AMC housing application. This would connect to the Moray West Water Treatment Treatment Works at Lossiemouth and would avoid discharging into the existing Elgin town drainage network. The development would have a surface water drainage system with appropriately-sized SUDs integrated within the development area involving filter drains, swales and pond or basin type treatment features, together with associated landscape treatment to ensure their integration into green space networks and opportunities for habitat/biodiversity development.

The development would also require to take account of flood risk from the Sey Burn which flows through the lower northern part of the site, and as mitigation, the submitted DFRA recommends that development is directed away from these areas and that proposed finished floor levels are set 1m above specified flood event levels (1 in 200/and or 1 in 1000). The requirement for mitigation measures to address potential surface water flooding, protection of private water supplies/abstractions in the area and for provision of a 10m buffer between development and the water course was also identified.

To address the above, conditions of the PPP require the submission/approval of details for the provision of foul and surface water drainage infrastructure for each development proposal (including connections between the site and proposed point of connection to the foul drainage network) (conditions 9, 37 and 38), construction phase surface water management plan(s) (condition 38), finished floor levels to be set above specified flood event levels (as shown in the submitted Drainage Assessment and Flood Risk Assessment) (condition 39) and mitigation measures to protect private water supplies and the water course (conditions 40, 46 and 47).

The proposed variations requiring the submission and approval of the above information with each application in accordance with the phasing plan would ensure the appropriate provision of drainage infrastructure and address other issues identified regarding flood risk, and protection of private water supply and watercourse, as development proceeds across the site.

The proposed amendments to condition 37 regarding approval of finalised foul drainage schemes for each phase of development and removing the reference to the Elgin Town Network are acceptable. This follows confirmation from Scottish Water to the applicant that the existing pumping station adjacent to Hamilton Gardens (on Covesea Road) has sufficient capacity to serve a proportion of the development at Findrassie (i.e. 100 units). The applicant has confirmed that the Rising Main will be delivered by Barratt North Scotland as part of Phasing Zone E, with design and installation taking several months and that limited connection to the Elgin town network would allow the commencement of initial development whilst the main is being installed. This would involve up to 100 units

connecting to the town network, which would then be diverted to the new Rising Main once installed.

SEPA, Flood Risk Management and Scottish Water have raised no objection to the revised wording. Subject to compliance with the conditions the proposal would accord with the above policies EP5, EP6, EP7, EP10, IMP1 and IMP2.

**Pollution Impacts (EP8, EP9, EP12, IMP1)
(Conditions 45, 50, 53 - 58, 60 - 62)**

The PPP was approved subject to the conditions identified above to address potential pollution impacts on the environment and amenity. These include the requirement for applications to be supported by contaminated land assessments (condition 50), Construction Environmental Management Plans (CEMP) (condition 45), updated noise and construction noise impact assessments (conditions 53, 55 and 58), measures to control external lighting, dust and air control and kitchen ventilation to the school and other commercial premises (conditions 54-57 and 60-62 inclusive).

The CEMPs would address any potential pollution risks from the development that might adversely impact on the environment and amenity, and identify measures to be adopted/implemented after taking into account contractor and construction working practices, including best practice to manage and mitigate the impact of the construction phase upon the environment together with account of materials, soil, waste, surface water run-off (in terms of water quality and quantity) and ecological mitigation measures. The contents of the CEMPs would also contribute towards safeguarding the integrity of Loch Spynie.

For noise, dust, air quality and lighting, the conditions require development to manage and mitigate noise risks and sources during both during construction and/or operation of the development, including the performance of any fixed plant and machinery associated with any proposed non-residential uses. Details to control dust emissions and road traffic an air quality assessment are also conditioned. Details of any external lighting scheme within the development (excluding street lighting), are also required, including that associated with the primary school and the local hub to mitigate against light spill/glare or other visual intrusive impacts which might otherwise detract from the appearance of the development and/or amenity of neighbouring property.

To take account of the proximity of the sub-station to the site, condition 53 of the PPP recommended by the Environmental Health Manager requires the submission/approval of an updated noise impact assessment to address the impact of the sub-station upon the amenity of residential development proposed within the Hub + Central Open Space and North/South Connections where located in proximity to the sub-station. The assessment would be expected to inform the detailed design and site layout details for residential development within this area taking into account measures to mitigate the impact of the sub-station including the determination of an appropriate 'stand-off' distance and additional measures including means of enclosure/acoustic barriers (earth bunds/acoustic enclosures) and landscaping.

The proposed variations requiring the above information to be submitted/approved with each AMC applications for each phase (and in the case of the CEMPs for each phasing zone) would ensure that suitable remediation, pollution prevention and amenity protection measures are considered and implemented as development proceeds across the site. Following consultation SEPA, SNH and the Environmental Health Manager have raised no

objection to the revised wording. Subject to compliance with the conditions the proposal would accord with the above policies EP8, EP9, EP12 and IMP1.

Affordable/Accessible Housing (H8 and H9) (Condition 8)

Policy H8 and associated Supplementary Planning Affordable Housing Guidance requires development on designated and other sites to provide affordable housing, normally 25% of the total development. Condition 8 as currently worded requires this provision across the whole site regardless of phasing and does not take account of the fact that the site will be developed over different areas, by different parties.

Policy H9 requires all proposals for 10 or more units to provide a proportion of wheelchair accessible housing. The associated Supplementary Planning Guidance (SPG) requires 10% of the units that are not part of the affordable housing contribution to be accessible, with 50% delivered as single storey dwellings.

The proposed amendments to condition 8 requiring 25% provision for each application and allowing for the development to be delivered in phases (by different developers) would ensure that the affordable housing remains at a level of 25% of every proposal. The amendments enabling delivery of the development in phases with each application required to include accessible housing provision would also ensure compliance with policy H9.

Following consultation, the Housing Strategy and Development Manager has raised no objection to this revised wording.

Nature Conservation (Policies E1, E2, E3, IMP1 and IMP4) (Conditions 43, 44 and 45)

The site itself is not subject to any site-specific nature conservation designation although there are natural heritage interests of national and international importance present within the wider area, in this case Loch Spynie Special Protection Area, Ramsar and SSSI, located approximately 2 km to the north east.

The Ecological Appraisal accompanying the PPP confirmed that given the nature of the proposed development and separation distance with the interests involved, together with ecological mitigation where recommended, no significant effects were likely to occur. As part of the assessment of the PPP application, SNH and SEPA noted that the site is hydrologically connected with Loch Spynie (via the Sey Burn) and the potential for pollution of surface/ground water from the development to affect the integrity of Loch Spynie and its protected habitats/species. However, with implementation of appropriate pollution prevention measures (as covered by conditions 43 and 45), SNH considered that the development would not lead to significant impacts for the aquatic environment within and adjacent to Loch Spynie. In accordance with the Conservation (Natural Habitats, &c.) Regulations 1994, as competent authority, Moray Council undertook an 'appropriate assessment' at the time which concluded that the development will not adversely affect the integrity of Loch Spynie.

In terms of local wildlife on and near the site, the Ecological Appraisal also considered that no significant adverse effects were likely subject to further survey work to minimise potential impacts and implementation of mitigation/compensation measures (pre-construction surveys and use of suitable site management procedures to protect mammals) (condition 44).

The proposed variations to the conditions requiring applications within the phases to be supported by a written statement confirming mitigation measures to protect the integrity and interests of Loch Spynie SPA, Ramsar Site and SSSI, and the pre-construction survey work/mitigation to protect local wildlife would ensure compliance with the above policies E1, E2, E3, IMP1 and IMP4. SNH and SEPA have raised no objection to the revised wording. Given the nature of the proposed revisions, the previous adopted 'appropriate assessment' and its conclusions remain unchanged for the purposes of the current application. An updated 'assessment' to be adopted referencing the current application is attached at Appendix 2.

Cultural Heritage (BE1, IMP1) (Condition 51)

Known archaeology is present within Area 1 at Myreside i.e. cropmarks of possible enclosures and other indeterminate features, and as such archaeological mitigation is required by condition 51 of the PPP, in this case a programme of archaeological works in accordance with a written scheme of investigation. The proposed variation to the condition requires these works to be undertaken for each phase of development. The Aberdeenshire Archaeology Service has suggested changes to the amended condition 51 to include specific reference to the requirement for a post-excavation research design (PERD) where the need for post excavation analysis is identified, which the applicant has agreed to. On this basis the proposal would accord with policy BE1 and IMP1.

Developer Obligations (IMP3)

Policy IMP3 together with the associated Supplementary Guidance: Developer Obligations (March 2018) seeks contributions (obligations) where development has a measured adverse or negative impact upon existing infrastructure, community facilities or amenity.

As part of the consideration of the PPP application, a range of developer obligations were identified and secured by a legal agreement with an agreed schedule of payments related to progress in house completions. The obligations relate to primary education facilities (a 2.5ha serviced site for a primary school), secondary education facilities, healthcare, transportation and sports and recreation facilities.

This Section 42 application allowing for the development to be delivered in phases will require the legal agreement to be modified to reflect the new application details, with the same triggers and levels of contributions. This is subject of a concurrent application submitted under Section 75A.

Conclusion and Recommendation

Planning permission in principle has already been granted for the "mixed use development" within Area 1, R11 Findrassie/Myreside and I8 Newfield, comprising 400-500 houses, primary school and playing fields, employment opportunities, neighbourhood and community hub, open space, landscaping and associated infrastructure, subject to planning conditions and a legal agreement regarding planning obligations.

By seeking to vary some of the conditions of that development, this application seeks to maintain the overall parameters and provisions of the current permission but now within the framework of the submitted phasing plan for the whole Masterplan site. This would allow for development proposals on the site and its associated infrastructure to come forward in a phased manner by permitting the submission/approval of details and supporting information (including triggers for infrastructure requirements). These

proposals would then be assessed as part of a series of subsequent applications for matters specified in conditions (AMCs) or detailed planning permission.

Subject to the development progressing in accordance with the phasing plan and amended conditions as recommended, the proposal accords with planning policy and respects the Findrassie Masterplan, and can be achieved without unacceptable or significant adverse natural and build environmental impacts and there are no material considerations that indicate otherwise.

Subject to adoption of the 'appropriate assessment', prior completion of the required legal agreement and conditions as recommended, approval of this application to vary the identified conditions of application 17/00834/PPP is recommended.

REASON(S) FOR DECISION

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

Planning permission in principle has already been granted for the "mixed use development" within Area 1, R11 Findrassie/Myreside and I8 Newfield, comprising 400-500 houses, primary school and playing fields, employment opportunities, neighbourhood and community hub, open space, landscaping and associated infrastructure, subject to planning conditions and a legal agreement regarding planning obligations.

By seeking to vary some of the conditions of that development, this application seeks to maintain the overall parameters and provisions of the current permission but now within the framework of the submitted phasing plan for the whole Masterplan site. This would allow for development proposals on the site and its associated infrastructure to come forward in a phased manner by permitting the submission/approval of details and supporting information (including triggers for infrastructure requirements). These proposals would then be assessed as part of a series of subsequent applications for matters specified in conditions (AMCs) or detailed planning permission.

Subject to the development progressing in accordance with the phasing plan and amended conditions as recommended, the proposal accords with planning policy and respects the Findrassie Masterplan, and can be achieved without unacceptable or significant adverse natural and build environmental impacts and there are no material considerations that indicate otherwise.

Author/Contact

Richard Smith

Ext: 01343 563256

Officer:

Principal Planning Officer

Beverly Smith

Development Management & Building Standards Manager

APPENDIX

POLICY

Adopted Moray Local Development Plan 2015

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 H8: Affordable Housing

Proposals for new housing developments of 4 or more units (including conversions) must provide 25% of the total units as affordable housing.

A higher percentage contribution may be appropriate 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.

Supplementary or other guidance will provide further details of this policy including the proportion of provision, the specification of wheelchair accessible housing and the exceptions that may apply.

Policy H9: Housing Mix/Accessible Housing

Proposals for multiple houses must meet the needs of smaller households, older people and other needs (e.g. extra care housing) identified in the Council's Housing Need and Demand Assessment.

All new residential developments must provide a range of housing of different types and sizes which should reflect the requirements of the Local Housing Strategy. Different house types should be well integrated, ensuring that the siting and design is appropriate to the location and does not conflict with the character of the local area.

Housing proposals of 10 or more units will be required to provide a proportion of wheelchair accessible housing. Flexibility may apply on less accessible sites and/or where an alternative acceptable housing mix is proposed.

Off site provision may be acceptable where sites do not have good access to local services and facilities and are not considered appropriate for housing for older people.

Supplementary or other guidance will provide further details of this policy including the proportion of provision, the specification of wheelchair accessible housing and the exceptions that may apply.

Policy ED1: Development of New Employment Land

The formation of new industrial estates, or business related development will require to satisfy the following requirements. Where appropriate, further details will be contained in site designation texts in settlement statements.

Road Access: Junctions with the public road and internal service roads should be built to Moray Council standards for adoption, and provision made for on site and off site parking. Layout proposals should provide for pedestrian and cycle links and provide options for linking with public transport services (eg by provision of bus stops/laybys/shelters as deemed appropriate).

Drainage: All foul drainage must connect to the public sewer, with surface water drainage incorporating appropriate sustainable urban drainage (SUDS).

Landscaping: Requirements for individual sites will be specified in more detail in the relevant settlement designation. Proposals should address issues such as screening; noise barriers; treatment at boundaries/frontages; general visual appearance of the site. Details for maintenance arrangements will be required for landscaped areas.

Design: Where site frontages are highly visible (eg onto a main road, or town gateway site) a high standard of design for front elevations; layout of yard; storage areas; parking must be a consideration.

Designing Out Crime: New estates should be designed so that they provide deterrents to crime, by ensuring sufficient lighting, planting and boundary treatments. Consultation will be carried out with Police Scotland for new proposals. Examples of best practice will be provided to applicants at pre- application stage.

Natural Environment: Provision should be made to ensure appropriate protection and enhancement of the natural environment, and integration with natural heritage on adjacent lands.

Waste Management: Provision should be made for the collection, separation and management of waste materials.

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 IMP1 are 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 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.

R11: Findrassie/Myreside Site

Previously identified as a LONG site, this is now brought forward as the major new land release for Elgin. The site extends to approximately 100 hectares and has capacity for 1500 houses.

A masterplan must be prepared and the development phased to create a distinct identity. The design principles set out in the accompanying map should address the key design principles set out in the accompanying map. . Access to I8 should be considered in conjunction with this site. Development proposals will require to safeguard the integrity of Loch Spynie SPA. Adequate SUDs provision should be made. Flood risk may constrain parts of the site and a flood risk assessment will require to accompany proposals for development. Water resilient measures should be considered as part of this. A buffer strip of at least 6 metres between the development and the watercourse is required.

A Transport Assessment must be submitted with proposals and early contact with Moray Council Transportation is essential. Off site junction improvements will be required (see TSP's). Connection should be made with access arrangements for R7 and a new/upgraded junction onto the A941 is required. Widening and improvements required to Covesea Road and Myreside Road. Footway, cycleway and public transportation connections required. The impact on the junction TSP31 must be considered and a contribution to any necessary mitigation addressed.

I8: Newfield

This site is suitable for business uses within use Class 4 (business). Development of offices, research and development facilities and light industrial uses in class 4 will be supported. The site should have a high amenity setting and a landscape and planting scheme must be submitted with proposals. This must consider the context of the site and future development at LONG 1. An access strategy for this site should be considered as part of the masterplan for R11 and future connections to LONG 1. A Transport Assessment will be required and the following junctions must be considered TSP 16 and TSP 17.

A walkover and photographic survey of habitats is required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependent terrestrial ecosystems. Development proposals will require to safeguard the integrity of Loch Spynie SPA. Adequate SUDS provision should be made.

LONG 1: North East

- An avenue of trees should be planted either side of the A941 Lossiemouth Road to provide a mature setting to development and enhance the approach to Elgin.

- Development run off should match pre- development run off and this should be achieved through the use of appropriate levels of Sustainable Urban Drainage. This should negate the impact of increased impermeable areas causing changes in flow peaks of canals. SUDS should be used to treat surface water prior to discharge given the size and sensitivity of the catchment. Full treatment will be required. A drainage impact assessment and full SUDS design will be required at an early stage. The proposal should demonstrate that it will not adversely affect the integrity of Loch Spynie SPA designation;
- Flood risk may constrain parts of the site and a flood risk assessment will require to be submitted. Water resilient measures should be considered as part of this;
- A walkover and photographic survey of habitats is required to assess the presence of wetlands; and,
- A buffer strip of at least 6 metres between the watercourse and development is required.

TSP2: A96/Morrison Road junction

Impact on this junction from development of sites R11; BP/OPP needs to be considered in Transport Assessments.

TSP6: Cumming Street/Alexandra Road at Town Hall

Impact on this junction from development of sites needs to be considered in Transport Assessments. The Elgin City for the Future Strategy indicates a signalled junction and at grade pedestrian crossing facilities as preferred infrastructure.

TSP7 A96/Pansport Road

Potential junction improvements or mitigation may be required from developments across Elgin. Impact on this junction from development of sites needs to be considered in Transport Assessments.

TSP9: Morrison Road/Duffus Road

Junction improvements may be required associated with development of R11.

TSP10: Morrison Road/North Street

Further junction improvements may be required here as a result of further development in North Elgin.

TSP11: Westerfolds/Covelea Road

Road improvements likely to be required in association with development of R11.

TSP12: Myreside Road/Covesea Road

Junction and road improvements required for development of site R11.

TSP14: Covesea Road/Lossiemouth Road

Junction improvements likely to be required in association with development of R11 and I8.

TSP15: Lossiemouth Road/Lesmurdie Road

Junction improvement likely to be required, associated with development of R11 and I8.

TSP16: Lossiemouth Road

New Junction, to provide access to R11/I8. Relocation of speed limits; provision of footways to connect with existing network.

TSP17: Lossiemouth Road/Myreside Road

Potential junction improvements associated with R11 and I8.

TSP18: Linksfield Road/Lesmurdie Road

Potential junction improvement required associated with development impact from R11 and I8.

TSP19: Calcots Road/Lesmurdie Road

Potential junction improvement required associated with development impact from R11 and I8.

TSP31: Edgar Road/New Elgin Road

Appraisal of this junction based on the development that has been given consent already shows insufficient traffic capacity at this junction. It should be noted that scope for additional capacity improvement at this location is limited due to land constraints adjacent to the junction. Junction improvement will be essential for designated sites in the immediate vicinity of the junction (OPP1 and OPP5). Junction improvement will also be required for any other sites being developed in Elgin (north and south of the railway line) which would impact on this junction. The process for identifying the impact and the level of mitigation is through the submission and approval of a Transport Assessment acceptable to the Council. Developers are urged to contact Transportation at the earliest opportunity to clarify the scoping matters for a Transport Assessment.

TSP32: Moss Street/Station Road

Appraisal of this junction based on the development that has been given consent already shows insufficient traffic capacity at this junction. It should be noted that scope for additional capacity improvement at this location is limited due to land constraints adjacent to the junction. Junction improvement will be required for any sites being developed in Elgin (north and south of the railway line) which would impact on this junction. The

process for identifying the impact and the level of mitigation is through the submission and approval of a Transport Assessment acceptable to the Council. Developers are urged to contact Transportation at the earliest opportunity to clarify the scoping matters for a Transport Assessment,

TSP34: Hay Street/South Street/Northfield Terrace

Developments across Elgin may have to assess impact on this junction. Land would be required to make any significant improvement to this junction, or mitigation required elsewhere.

Policy E1: Natura 2000 Sites and National Nature Conservation Sites

Natura 2000 designations

Development likely to have a significant effect on a Natura 2000 site which is not directly connected with or necessary to its conservation management must be subject to an appropriate assessment of the implications for its conservation objectives. Proposals will only be approved where the appropriate assessment has ascertained that there will be no adverse effect on the integrity of the site.

In exceptional circumstances, proposals that could affect the integrity of a Natura site may be approved where;

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

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

National designations

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

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

Policy E2: Local Nature Conservation Sites and Biodiversity

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

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

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

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

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

Policy E3: Protected Species

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

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

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

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

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

Policy E4: Trees and Development

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

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

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

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

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

Proposals affecting woodland will be considered against Policy ER2.

Policy E5: Open Spaces

Safeguarding Open Spaces

Development which would cause the loss of, or adversely impact on, areas identified under the ENV designation in settlement statements and the amenity land designation in rural groupings will be refused unless;

- The proposal is for a public use that clearly outweighs the value of the open space or the proposed development is ancillary to the principal use and will enhance use of the site for sport and recreation; and
- The development is sited and designed to minimise adverse impacts on the recreational, amenity and biodiversity value of the site; and
- There is a clear excess of the type of ENV designation within easy access in the wider area and loss of the open space will not negatively impact upon the overall quality and quantity of open space provision, or

- Alternative provision of equal or greater benefit will be made available and is easily accessible for users of the developed space.

Provision of new Open Spaces

Quantity

New green spaces should be provided to the following standards;

- Residential sites less than 10 units - landscaping to be determined under the terms of policies PP3 and IMP1 to integrate the new development.
- Residential sites 10-50 units and new industrial sites- minimum 15% open space
- Residential sites 51-200 units- minimum 20% open space
- Residential sites 201 units and above and Business Parks- minimum 30% open space including allotments, formal parks and playspaces within residential sites.

Quality

New green spaces should be;

- Overlooked by buildings with active frontages
- Well positioned, multi functional and easily accessible
- Well connected to adjacent green and blue corridors, public transport and neighbourhood facilities
- Safe, inclusive and welcoming
- Well maintained and performing an identified function
- Support the principles of Placemaking policy PP3.

Allotments

Proposals for allotments on existing open spaces will be supported where they do not adversely affect the primary function of the space or undermine the amenity value of the area and where a specific locational requirement has been identified by the Council. Consideration will include related aspects such as access and car parking and not just the allotment area itself.

Policy BE1: Scheduled Monuments and National Designations

National Designations

Development Proposals will be refused where they will adversely affect Scheduled Monuments and nationally important archaeological sites or their settings unless the developer proves that any significant adverse effect on the qualities for which the site has

been designated are clearly outweighed by social or economic benefits of national importance.

Local Designations

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

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

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

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

Policy EP2: Recycling Facilities

Proposals for new development must ensure the provision of adequate space within layouts for well designed waste storage, recycling and collection systems to maximise waste reduction and the separation of materials at source. The scheme should be designed in consultation with the Council's Waste Manager.

For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.

EP4: Private Water Supplies

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

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

Surface water from development should be dealt with in a sustainable manner that has a neutral effect on the risk of flooding or which reduces the risk of flooding. The method of dealing with surface water should also avoid pollution and promote habitat enhancement and amenity. All sites should be drained by a sustainable drainage system (SUDS).

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

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

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

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

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

Policy EP6: Waterbodies

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

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

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

Policy EP7: Control of Development in Flood Risk Areas

New development should not take place if it would be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere. Proposals for development in areas considered to be at risk from flooding will only be permitted where a flood risk assessment to comply with the recommendations of National Guidance and to the satisfaction of both the Scottish Environment Protection Agency and the Council is provided by the applicant. This assessment must demonstrate that any risk from flooding can be satisfactorily mitigated without increasing flood risk elsewhere. Due to continuing changes in climatic patterns, the precautionary principle will apply when reviewing any application for an area at risk from inundation by floodwater.

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

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

Areas within these risk categories will generally not be suitable:

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

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

Policy EP8: Pollution

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

Policy EP9: Contaminated Land

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

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

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

Policy 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 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 T1: Transport Infrastructure Improvements

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

- a) dualling the A96 Aberdeen to Inverness route with early delivery of bypasses for settlements prioritised.
- b) improving the A95 (Keith to Grantown) route.
- c) Improving A941 (Lossiemouth to Elgin to Craigellachie) and A98 (Fochabers to Cullen) routes. Proposals must avoid or address any adverse effect on the integrity of Loch Spynie SPA or the River Spey SAC including hydrological and water quality impacts on habitat or disturbance to species.
- d) improving the Aberdeen to Inverness railway for passengers and freight by providing route and service enhancement.
- e) improving harbour facilities for freight and leisure including the diversification of the commercial harbour at Buckie for offshore renewables. Harbour improvement works must avoid or address any adverse effect on the integrity of the Moray Firth Special Area of Conservation through noise or vibration disturbance to bottlenose dolphins, cumulative increase in vessel movements, or through dredging and disposal operations.
- f) improving access to air facilities, at Aberdeen and Inverness, in particular through public transport, and the establishment of a railway station at Dalcross.

- g) improving the transport network within Elgin where there is evidence of positive economic benefits including release of sites designated in the local development plan.

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

Policy T2: Provision of Access

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

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

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

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

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

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

Significant travel generating proposals will only be supported where:

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

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

Policy T3: Roadside Facilities

The Council will approve applications for roadside facilities if there is a specific locational need; no adverse impact on the built and natural environment that cannot be satisfactorily mitigated; and where appropriate access, parking and safety standards can be met.

Policy T4: Safeguarding Bus, Rail & Harbour Facilities

The Council will promote the improvement of bus, rail and harbour services and facilities within Moray. Development proposals that may compromise the viability of these facilities will not be acceptable.

Where proposals have the potential to impact on the rail network this should be assessed and adverse impacts mitigated.

Diversification of commercial harbours for freight and as operations and maintenance base for offshore renewables will be encouraged. Harbours are identified within settlement statements along with the uses that will be supported.

Policy T5: Parking Standards

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

Policy T6: Traffic Management

There is a presumption against new accesses onto a trunk road, and Transport Scotland will consider the case for such junctions where nationally significant economic growth or regeneration benefits can be demonstrated.

There will also be a presumption against new direct access onto other main/key routes (the A941 and A98) except where required to support the provisions of the development plan. Moray Council will consider the case for such junctions where significant regional economic growth benefits can be demonstrated. Consideration will be given to the traffic impact, appropriate road design and traffic management requirements.

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

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

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

- incorporate the route within the site layout and the routes amenity value must be maintained or enhanced; or
- provide alternative access that is no less attractive and is safe and convenient for the public to use.

Policy R3: Neighbourhood & Local Shops, Ancillary Retailing, & Recreation or Tourist Related Retailing

Proposals for Neighbourhood and Local Shops, Ancillary Retailing, and Recreation or Tourist Related Retailing will generally be acceptable in the following circumstances:

- a) small shops which are intended to primarily serve the convenience needs of a local neighbourhood within a settlement boundary
- b) ancillary retail operations to an industrial or commercial business. In this case ancillary is defined as up to 10% of total gross floorspace of the business, and up to 1000 square metres gross total of retail floorspace, where the retail operation is directly linked to the industrial or commercial production and where the goods are produced on the same premises.
- c) farms or farm buildings for the retailing of farm produce, or,
- d) specialist retailing associated with an existing or proposed recreation or tourist development and where the scale and function of the proposal is appropriate to the character of the area.

These types of retailing are exempt from the sequential assessment requirement but may, when requested by the Planning Authority, be required to demonstrate that they will not have an adverse effect on the vitality and viability of the identified network of centres.

In all cases, satisfactory provision must be made to ensure that the environment is not compromised and that there is appropriate access and parking, and other service provision.

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.

Proposed Moray Local Development Plan 2020

The Moray Local Development Plan 2020 is required to set out a vision. The proposed vision is set out below, supported by a series of objectives.

People want to live, work and invest in Moray because of the outstanding quality of life and environment.

Plan Aims/Objectives

- * Apply a placemaking approach to development to create sustainable, welcoming, well connected and distinctive places that are safe, healthy and inclusive.
- * Provide a generous supply of housing land to meet the needs of various sectors of the market.
- * A strong framework for investment that provides sufficient land for development and supports sustainable economic growth (including the tourism economy).
- * Identify and provide for new or upgraded social and physical infrastructure to support the expanding population whilst safeguarding existing infrastructure.
- * Promote the vitality and viability of town centres.
- * Encourage efficient use of land and promote low carbon and sustainable development.
- * Protect and enhance the built and natural environment.
- * Improve resilience of the natural and built environment to climate change.

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

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

(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, pavements, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of service vehicles with hammerheads minimised in preference to turning areas 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.

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.

DP7 RETAIL/TOWN CENTRES

a) Town Centres.

Developments likely to attract significant footfall including retail, offices, leisure, entertainment/cultural and community facilities must be located in town centres.

Within Core Retail Areas (identified on settlement maps, CRA), at ground level, only development for Use Class 1 Shops, Use Class 2 Financial, professional and other services, or Use Class 3 Food and drink will be supported.

Proposals must be appropriate to the scale, character and role of the town centre (Table 6) and support a mix of uses within the town centre. Proposals that would lead to a concentration of a particular use to the detriment of the town's vitality and viability will not be supported.

b) Outwith Town Centres

Outwith town centres, development (including extensions and sub-divisions) likely to attract significant footfall including retail, offices, leisure, entertainment/cultural and community facilities must;

- a) Demonstrate that no sequentially preferable sites are available. Locations will be considered in the following order of preference;
 - Town centres (as shown on settlement maps).
 - Edge of centre.
 - Commercial Centres (as shown on settlement maps, CC).
 - Brownfield or OPP sites that are or can be made easily accessible by pedestrians and a choice of modes of transport.
 - Out of centre sites that are or can be made easily accessible by pedestrians and a choice of modes of transport.
- b) Demonstrate that there is no unacceptable individual or cumulative impact on the vitality and viability of the network of town centres (Table 6), where appropriate by a Retail Impact Assessment.

Flexibility will be allowed to ensure that community, education and health care uses are located where they are easily accessible to the communities they serve.

c) Neighbourhood Retail.

Small shops that are intended to primarily serve the convenience needs of a local neighbourhood within a settlement boundary will be supported. Depending on scale, proposals may be required to demonstrate that they will not have an unacceptable adverse impact on the vitality and viability of the network of town centres (Table 6), by a Retail Impact Assessment or Retail Statement. Within a neighbourhood one unit of up to 400m² designed to meet the day to day convenience needs of the neighbourhood will be supported. Other small units of up to 150m² that contribute to creating a mix of uses in a neighbourhood centre/hub will be supported. This could include small retail uses (Class 1 non-food), financial and professional services (Class2) and cafes and small restaurants (Class 3). Neighbourhood hubs/centres should aim to contribute to the sense of community and place, the sustainability of an area, reduce the need to travel for day to day requirements and provide adequate parking and servicing areas.

Change of use of established or consented neighbourhood retail units will only be supported where it can be demonstrated that active marketing has failed to find a retail use for the premise. For a change of use to be considered, the premises must

have been vacant and actively marketed for a minimum of three years at an appropriate market rent/value. Where the unit is part of a consent for wider development, the three year marketing period will be counted from the completion of the development as a whole i.e. change of use of a retail unit will not be considered half way through completion of a development or in the three years after the completion of the whole development.

d) Ancillary Retailing.

See policy DP5 Business and Industry in respect of ancillary retailing to an industrial or commercial business.

e) Outwith Settlement Boundaries.

Outwith settlement boundaries, proposals for small scale retail development will only be supported if these are ancillary to a tourism or agricultural use. Small scale extensions to existing retail activity will only be supported where this does not undermine the vitality and viability of the network of town centres (Table 1).

Table 1 Moray Town Centres

EP1 NATURAL HERITAGE DESIGNATIONS.

a) Natura 2000 designations.

Development likely to have a significant effect on a Natura 2000 site and which is not directly connected with or necessary to the conservation management of that site must be subject to an appropriate assessment of the implications for its conservation objectives. Proposals will only be approved where the appropriate assessment has ascertained that there will be no adverse effect on the integrity of the site.

In exceptional circumstances, proposals that could affect the integrity of a Natura 2000 site may be approved where:

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

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

b) National designations.

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

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

c) Local Designations

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

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

d) European Protected Species

European Protected Species are identified in the Habitats Regulations 1994 (as amended in Scotland). Where a European Protected Species may be present or affected by development or activity arising from development, a species survey and where necessary a Species Protection Plan should be prepared to accompany the planning application, to demonstrate how the Regulations will be complied with. The survey should be carried out by a suitably experienced and licensed ecological surveyor.

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

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

e) Other protected species.

Wild birds and a variety of other animals are protected under domestic legislation, such as the Wildlife and Countryside Act 1981 (as amended in Scotland by the

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

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

EP2 BIODIVERSITY

All development proposals must 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.

EP5 OPEN SPACE.

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

Development which would result in a change of use of a site identified under the ENV designation in settlement statements or amenity land designation in rural groupings to anything other than an open space use will be refused.

Proposals that would result in a change of use of an ENV4 Sports Area to any other use (including other ENV categories) will be refused. The only exceptions are where the proposal is for essential community infrastructure required to deliver the key objectives of the Council and its Community Planning Partners, excluding housing, or

for a site specific opportunity identified within the settlement statement. Where one of these exceptions applies, proposals must;

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

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

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

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

- ENV 1** Public Parks and Gardens
- ENV 2** Amenity Greenspace
- ENV 3** Playspace for children and teenagers
- ENV 4** Sports Areas
- ENV 5** Green Corridors
- ENV 6** Natural/Semi-Natural Greenspace
- ENV 7** Civic Space
- ENV 8** Allotments
- ENV 9** Cemeteries and proposed extensions
- ENV 10** Private Gardens and Grounds
- ENV 11** Other Functional Greenspace

b) Green Infrastructure and Open Space in New Development.

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

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

i) Accessibility Standard.

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

ii) Quality Standard.

Across a development open space must achieve a very good quality score of 75%. Quality will be assessed by planning officers against the five criteria below using the bullet point prompts. Each criterion will be scored on a scale of 0 (poor) to 5 (very good) with an overall score for the whole development expressed as a percentage.

Accessible and well connected.

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

Attractive and Appealing Places.

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

Biodiverse supporting ecological networks (see Policy EP2 Biodiversity).

- Contribute positively to biodiversity through the creation of new natural habitats for ecological and amenity value.
- Large enough to sustain wildlife populations, including green/blue networks and landscaping.
- Offers a diversity of habitats.
- Landscaping and open space form part of wider landscape structure and setting.

- Connects with wider blue/green networks Provide connections to existing green/blue networks and avoids fragmentation of existing habitats.
- Ensure a balance between areas managed positively for biodiversity and areas managed primarily for other activities e.g. play, sport.
- Resource efficient, including ensuring open space has a clear function and is not "left over".

Promotes activity, health and well being.

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

Safe, Welcoming and contributing to Character and Identity.

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

iii)Quantity Standard.

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

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

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

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

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

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 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 (SUSDS) 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 SUSDS 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 SUSDS solutions developers must integrate the SUSDS 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 SUSDS 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 SUSDS features. On completion of SUSDS construction the developer must submit a comprehensive Operation and Maintenance Manual. The ongoing maintenance of SUSDS 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.

R11 Findrassie 100 ha 1500 units

- Proposals must comply with the Findrassie Masterplan Supplementary Guidance. The Masterplan layout is shown on page 169.
- Demonstrate that there will not be an adverse effect on the integrity of Loch Spynie Special Protection Area e.g. by minimising diffuse pollution, preventing pollution reaching watercourses during construction, and connection of houses to mains water and sewerage.
- A Transport Assessment is required which must assess the impacts on junctions TSP 30 and 31 to determine the level of developer obligations for any necessary mitigation. The scope of the assessment must be agreed with Transport Scotland and the Moray Council Transportation.
- Off site road improvements are required, see Roads Infrastructure Improvements (TSPs) within the Action Programme Appendix 1 for a full list.
- Connections to R10 and new junctions onto A941 required.
- Widening and improvements required to Cove Sea and Myreside Road.
- Footway, cycleway and public transportation connections required to access local services, including the provision of new bus laybys on the A941.
- Provision of open and green space must be provided in compliance with the masterplan. A Neighbourhood Park and series of Pocket Parks must be provided in compliance with the masterplan. Allotments must be provided.
- Flood Risk Assessment (FRA) required.
- Drainage Impact Assessment (DIA) required.
- Phase 1 Habitat Survey required.
- The site may be impacted by the A96 dualling and development may require to take into account the preferred A96 dualling route.

I8 Newfield Industrial Estate

- Proposals must comply with the Findrassie Masterplan Supplementary Guidance. The Masterplan layout is shown on page 169.

- Suitable for business uses within use Class 4 (Business) or Class 5 industrial uses that are compatible with surrounding uses which is predominantly residential.
- High amenity setting required.
- Transport Assessment required. The impacts on junctions TSP9, 12, 17, 20 and 21 must be assessed and addressed.
- Connections to the adjacent MU2 and LONG 1A sites must be safeguarded.
- Phase 1 Habitat Survey required.
- Demonstrate that there will not be an adverse effect on the integrity of Loch Spynie Special Protection Area e.g. by minimising diffuse pollution, preventing pollution reaching watercourses during construction, and connection of buildings to mains water and sewerage should avoid such changes.
- Flood Risk Assessment (FRA) required.
- Drainage Impact Assessment (DIA) required.
- No development to occur within 6m of the watercourse.
- The site may be impacted by the A96 dualling and development may require to take into account the preferred A96 dualling route.

MU2 Lossiemouth Road (NE) 7 ha Business, live work units

- Proposals must comply with the Key Design Principles set out in Figure 1.2 at site R12.
- Suitable for business uses within use Class 4 (Business) or light industrial uses that are compatible with surrounding uses. Up to 2ha of the site can be developed for live work units/workshops.
- The layout and design must integrate with the Findrassie Masterplan. This includes in terms of access, character, landscaping provision and open space provision.
- A Landscape and Planting Strategy is required.
- A gateway that creates a sense of arrival into Elgin must be created in conjunction with R12.
- Advance planting of avenue trees along A941 required.
- Access must be taken through site I8 to the south.
- Transport Assessment required. The impacts on junctions TSP9, 12, 17, 20 and 21 must be assessed and addressed.

- Flood Risk Assessment (FRA) required.
- Noise Impact Assessment required due to proximity to A941.
- Depending on business uses proposed noise and air quality may need assessed.
- A Drainage Impact Assessment (DIA) and full SUDS design will be required at an early stage. Development run off must match pre-development run off by using appropriate levels of SUDS. SUDS must be used to fully treat surface water prior to discharge given the size and sensitivity of the catchment.
- Demonstrate that there will not be an adverse effect on the integrity of Loch Spynie Special Protection Area e.g. by minimising diffuse pollution, preventing pollution reaching watercourses during construction, and connection of buildings to mains water and sewerage should avoid such changes.
- A buffer strip of at least 6 metres between the watercourse and development is required

Appendix 2

Appropriate Assessment for Application 19/01085/APP under S42 to vary conditions of planning permission in principle 17/00834/PPP: Impact of proposed mixed-use development as proposed at Findrassie upon Loch Spynie Special Protection Areas, Ramsar sites and Site of Special Scientific Interest

Nature 2000 sites include Special Protection Areas (SPAs), Ramsar sites and any component Site of Special Scientific Interest (SSSI). The Conservation (Natural Habitats, &c.) Regulations 1994 require that certain proposals which are likely to have a significant effect on a 'Natura 2000' site must be subject on 'Appropriate Assessment' by a competent authority. These requirements apply to applications for planning permission and planning permission in principle, including applications under Section 42 to vary conditions.

SNH previously advised that, as competent authority, Moray Council undertake an 'appropriate assessment' for the application for planning permission in principle for a mixed use development as described on application 17/00834/APP [the development] because the proposal is likely to have a significant effect on the Loch Spynie which is designated as a SPA, Ramsar and SSSI site. This requirement applies to the current S42 application 19/01085/APP under consideration.

In undertaking this assessment, account has been taken of

- the development as described within application 19/01085/PP including the application form, drawings and supporting information including the applicant's Ecological Appraisal (30 May 2017) and additional correspondence regarding inputs for Loch Spynie (submitted in support of application 17/00834/PPP);
- the Council's Screening Opinion (16/01374/SCN) as adopted for this development, wherein no significant environmental effects are considered likely after taking into account the character and location and potential characteristics of impact; and
- all consultation responses received on the application 19/01085/APP (and 17/00834/PPP), including those from SNH, SEPA and Moray Flood Risk Management (MFRM).

In terms of the Regulations and where a development proposal unconnected with the nature conservation management of a Natura 2000 site is likely to have a significant effect on that site, the competent authority must undertake an "appropriate assessment" of the implications for the development upon the conservation interests for which the site has been designated. The assessment extends to proposals outwith the boundary of the Natura 2000 site in order to determine their implications for the interests protected within the site.

As competent authority, Moray Council can only agree to the proposal under Regulation 48 after having ascertained that it will not adversely affect the integrity of the site. If this is not the case, and there are no alternative options, the proposal can only be allowed to proceed if there are imperative reasons to over-ride public interest including those of an economic or social nature, after referral to Scottish Ministers.

Loch Spynie

European Interests

Under the EC Directive 79/409/EEC, Loch Spynie is classified as a SPA based upon its internationally important populations of *wintering greylag geese*. This is also an SSSI feature.

Loch Spynie is designated under the Ramsar Convention for its populations of *wintering greylag geese* and its range of vegetation communities representing all stages of hydro-seral succession (open water colonisation by vegetation) and its vascular plants, including nationally scarce plant species. The loch itself is an example of a meso-eutrophic loch surrounded by large area of open water transition mire (including SSSI features such as standing freshwater habitats; vascular plants; fen and swamp communities, and fen woodland).

Loch Spynie is designated as an SSSI based upon *greylag geese* (as SPA above), plant species and as a eutrophic loch (as Ramsar above), and breeding birds.

Conservation objectives for qualifying interests:

Conservation objectives for Loch Spynie SPA are to avoid deterioration of habitats of, or significant disturbance to, the qualifying species (greylag geese), thus ensuring that the integrity of the site is maintained.

For the Ramsar designation, the conservation objectives for Loch Spynie are to avoid deterioration of, or significant disturbance to, qualifying habitats (including the meso-eutrophic loch surrounded by large area of open water transition mire), the habitats of qualifying species (wintering greylag geese and nationally scarce plant species), thus ensuring that the integrity of the site is maintained and makes an appropriate contribution to achieving favourable conservation status for each qualifying interest.

National Interests

Under the Nature Conservation (Scotland) Act 2004 (Section 12), consultation with SNH is required where development is on, or affects, any land which is, or forms, part of an SSSI, and when exercising functions which might affect an SSSI, to further the conservation and enhancement of the protected natural features specified in the SSSI and maintain and enhance the representative nature of the SSSI as a whole.

The appraisal for Natura 2000 interests (SPA and Ramsar) covers all interests of the SSSI except breeding bird interests, as a result of the habitats of Loch Spynie. The appraisal of the impact on habitats therefore indirectly covers this interest.

Requirement for Appropriate Assessment

Appropriate assessment is required in relation to the potential impact of the development upon Loch Spynie SPA, Ramsar and SSSI interests. The development is considered to be hydrologically connected with Loch Spynie via the Sey Burn which runs through the development site and ultimately discharges to Loch Spynie via the Spynie Canal. In this case, and without mitigation, the potential pollution of surface and ground water within and adjoining the development has the potential to impact upon the aquatic environment of Loch Spynie.

There are no other Natura sites which could be impacted upon by this proposal. The development site itself is not subject to the Natura 2000 designations and does not directly affect, or impact upon, Loch Spynie.

Indirect effects upon Loch Spynie relate to (a) the potential increase in sediment and/or other pollution effects during construction activity occurring on the development site, and (b) any potential change in surface water characteristics including greater volumes of water affecting rates of run-off and sediment reaching any watercourse including the Sey Burn which discharges ultimately to Loch Spynie. These indirect effects may occur individually because of this development or cumulatively in conjunction with other developments where surface waters discharge to the Sey Burn, for example from residential development on the adjoining Hamilton Gardens site, albeit assessment of water quality and quantity issues arising from that development were not subject to appropriate assessment.

Based on the requirements of the Habitat Regulations (Regulation 48):

- i) **Is the development directly connected with or necessary for site management for nature conservation of Loch Spynie?**
No. The proposed development is to provide a mixed-use development as defined under application 19/01085/APP. Land at Findrassie is the subject of a major land allocation for residential and employment use, designated as Elgin R11 and I8 within the Moray Local Development Plan (MLDP) 2015. This land area is also subject to the Supplementary Guidance: Findrassie Masterplan, as approved on 1 December 2015. From the latter, the vision for this designation/land release, including the current planning application, is to provide a new neighbourhood community on the northern edge of Elgin. The proposal is neither directly connected nor needed for the nature conservation purposes and management of Loch Spynie.
- ii) **Is the development likely to have a significant effect on Loch Spynie?**
Yes. The development does not have a direct effect but because it is hydrologically connected with Loch Spynie through the Sey Burn.

With the potential for discharges from within the development area to the Sey Burn there is a potential risk of sediment and other pollutants to discharge to that watercourse during the construction process, with or without mitigation measures being in place, for example from any earth moving works and operations to re-contour the landform or from use of construction plant and machinery and storage and movement of materials, etc. within the site. During the operational period, there is potential for changes in surface water characteristics resulting from increased volume of water discharging to the Sey Burn affecting rates of run-off and sediment and pollution effects.

A further (indirect) effect upon breeding birds is the disturbance and displacement of bird species and habitats during construction and operation of the development in terms of loss of land, a mixture of arable and improved grassland, to accommodate the development. This habitat can provide suitable foraging opportunities for a variety of breeding birds, including greylag geese.

Post-construction, the increase in human population within the local area may give rise to an increase in recreational use of the surrounding countryside.

From consideration of the development, the need to address any significant effect has been identified by:

- SNH, who confirm that there is a potential for adverse effects to occur upon the aquatic environment at Loch Spynie. Notwithstanding that planning permission in principle is sought for the development, there is a need to address and manage water quality and quantity during both construction and operation of the development;
- SEPA, who highlight the need to consider pollution prevention, site waste management and other environmental issues including the management of surface water during both construction and operational stages of the development, notably in terms of water quality aspects and impacts upon the water environment. Consideration is also required over the risk of flooding from all sources including ground and surface water to mitigate rather than exacerbate the risk of flooding to the development or the surrounding area;
- MFRM, in terms of information to address proposed/required operational and construction SUDs arrangements including attention to run-off and attenuation rates, overland flows, etc. to address water quantity and flooding issues associated with the development; and
- Submissions from the applicant, which highlight the need to address water quality and quantity issues within the development: the Drainage Assessment and Flood Risk Assessment, the Ecological Appraisal and other supporting information highlight the need to consider the impact of the development upon the integrity of Loch Spynie.

Effects on Loch Spynie

Greylag geese depend on the Loch Spynie waterbody being present and providing a roost site (shelter and safety) from approx. September – April annually. They do not depend on the waterbody for food so water quality is less likely to be an issue unless water quality affects the extent of open water versus marginal habitats.

Any potential impact on geese is likely from expansion of marginal vegetation, loss of water from the loch, significant disturbance (noise and human activity) when geese are present, and sediment and nutrient built-up on terrestrial habitats.

With any water body, natural succession is an on-going process: Loch Spynie demonstrates the transition from open water habitats through to woodland, it is relatively shallow and lends itself to expansion of marginal habitats. Sediment and nutrient inputs influence change at Loch Spynie. Increased sediment can help to establish areas where, with reduced water depth, reed growth and encroachment can occur. Increases in nutrient levels increase biomass accumulations, thus increasing opportunities for vegetation to establish. Increased eutrophication leads to an increased rate of encroachment of vegetation on the waterbody.

Natural fluctuations in water levels occur both within the loch and surrounding wetlands. However, this development does not propose any work at, or near, Loch Spynie resulting in a loss of water from the loch, so this is not of concern. A breach of the embankment dams holding water within the loch would have consequences

upon the qualifying interests of the site but no works are proposed near Loch Spynie as part of this development, hence no significant disturbance to geese is expected.

In relation to additional Ramsar interests, the nationally scarce plant species present are depend on the presence of the waterbody and wetland habitats. Regular inundation helps maintain the wet habitats, inhibiting growth of species that prefer drier conditions. Loch Spynie is a meso-eutrophic loch dependent upon the hydrology within, and acting upon, the site to maintain a variety of habitats. Loch Spynie is naturally susceptible to becoming too rich to maintain the important interests.

Increased nutrients and sediments from external sources would increase the amount of marginal vegetation, help other species that do not normally tolerate wet conditions to become established, and reduce the open water habitat. Whilst naturally eutrophic, additional nutrient and sediment would enter the loch from existing drainage including the Sey Burn which has a direct route into the loch unchecked by control structures. Whether occurring under normal conditions and/or in larger quantities during increased run-off and flood conditions, such action could strip sediments on the bottom of the loch, cause resuspension of nutrients.

iii) Can it be ascertained that the Area 1 proposal at Findrassie will not adversely affect the integrity of Loch Spynie?

Yes. Notwithstanding the 'in principle' nature of the current application with no specific design and site layout details, the following can be noted:

- the MLDP 2015 includes policies intended to safeguard the natural (and built) environment including Policies E1 and E2 which seek to safeguard nature conservation interests and species, Policy E8 which defines the boundary for expansion of Elgin; Policy E9 which defines a 'Countryside around Towns' buffer between Elgin and Loch Spynie. In addition, Policies IMP1, EP9, EP8, EP7, EP6 and EP5 refer to matters regarding contamination, pollution, flooding, water engineering and drainage which are all relevant. The latter requires provision of on-site SUDs as part of any development, thereby helping to protect against changes in drainage, run-off and water quality and quantity within the catchment;
- notwithstanding the loss of land for foraging opportunities for breeding birds, the development site is not known as feeding grounds for geese. The applicant's submissions include correspondence from the RSPB which indicates that, after their contact with the "Murray County Bird Recorder" (*sic*), they are not aware of significant use of the development/Findrassie site by geese;
- indirect disturbance to geese could occur from increased recreation activity including dog walking. However, there are no specific proposals to improve access for recreation at Loch Spynie included and given the existing (boggy) ground conditions, any increase in recreational activity is unlikely to lead to disturbance in ornithological interests at Loch Spynie.
- to minimise impacts upon the water environment, SEPA *inter alia* recommend that a Construction Environmental Management Plan (CEMP) be prepared to identify all construction pollution and environmental impacts and all mitigation measures to be adopted/implemented including construction working practices and surface water quality issues.

Additionally, full details of all SUDs are required during the operation phase(s) of the development together with all engineering activities within the watercourse, provision for buffers between development and the watercourse and measures to mitigate flood risk, etc; and

- MRFM require details of all SUDs infrastructure to be provided during both construction and operation of the development particularly to address water quality issues including the capacity of infrastructure to accommodate increased run-off from the site, on-site attenuation of run-off and regulation over the rate of discharge from the site; and
- SNH advise that the proposal would not adversely affect the integrity of Loch Spynie SPA and Ramsar and SSSI protected habitats and species provided appropriate mitigation is implemented. This requires identification of all measures to address water quality and quantity during construction and operational of the development, ensuring river engineering works do not result in pollution, implementation of a CEMP etc, to ensure that internationally and nationally important nature conservation interests are duly recognised.

Furthermore, as part of any recommendation to grant permission under S42, conditions to address the above matters during both construction and/or operational stages of the development, including a requirement that any (subsequent) development address, demonstrate that no unacceptable adverse effects occur upon the Loch Spynie SPA, Ramsar and SSSI. Information to address these condition(s) will also be subject to future consultation with SNH, SEPA and MFRM who will have the opportunity to consider and confirm whether the information is acceptable in addressing Loch Spynie and other interests. Thereafter, once details are agreed, the terms of the permission require that the applicant to implement the development in accordance with the agreed details.

Conclusion

Loch Spynie is designated for internationally and nationally important nature conservation interests, as reflected in its status as Loch Spynie SPA, Ramsar, and SSSI.

The proposed mixed-use development as defined at Findrassie (Area 1) is not needed for nature conservation purposes, it will not directly affect Loch Spynie but it is hydrologically connected to Loch Spynie via the Sey Burn which runs through the proposed development area. Together with potential for increased run-off, the potential risk of sediment or other pollutants on surface and ground water within and/or adjacent to the development has the potential to alter the existing eutrophic state of Loch Spynie. Its nutrient rich conditions favour vegetation growth and open water that it is important in providing a safe roost for wintering greylag geese and support a variety of designated species. Urban pollution from this (and other) development has the potential to alter the existing balance of conditions, accelerating vegetation growth at the expense of open water.

Subject to conditions, including those recommended by consultees, to mitigate and manage surface water quality and quantity, etc. together with adoption, commitment to and implementation of all required/proposed mitigation measures, the proposal will

not adversely affect the integrity of Loch Spynie SPA, and the habitats and species protected by its Ramsar and SSSI status.

Recommendation

It is recommended that this assessment be adopted by the competent authority, Moray Council to enable Moray Council, as planning authority to proceed and determine application 19/01085/APP.

WARD 08_17

19/00260/PPP
11th March 2019

Proposed residential development comprising of 23 serviced house plots with associated access drainage infrastructure and landscaping on Site R4 Damhead Kinloss Forres Moray for The Rhind 2008 Discretionary Trust

Comments:

- A SITE VISIT has been carried out.
- Advertised as a departure from the development plan.
- Advertised for neighbour notification purposes - notification not possible because no premises situated on land to which notification can be sent.
- 7 representations received.
- The application has been referred to the Planning and Regulatory Services Committee because the proposal for 5-49 dwellings is not in accordance with the development plan, and therefore falls out with the scope of the Council's delegation scheme.

Procedure:

- Completion of a (Section 75) legal agreement regarding developer obligations relating to primary education, healthcare, sports and recreation provision and affordable housing contribution prior to issue of consent; and
- Submission of separate application for tree removal works under Regulation 9 of the Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas (Scotland) Regulations 2010.

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

Conditions/Reasons

1. The approval hereby granted is for planning permission in principle and prior to the commencement of the development approval of matters specified in conditions, including the siting, design and external appearance of the building(s) the means of access thereto, drainage, landscaping of the site and a phasing plan for the development shall be obtained from the Council, as Planning Authority.

Reason: In order to ensure that the matters specified can be fully considered prior to the commencement of development.

2. The grant of planning permission in principle hereby granted for the proposed development shall be carried out only in accordance with detailed drawings and phasing plan which shall previously have been submitted to and approved by the Council, as Planning Authority. These drawings shall show the matters specified in conditions numbered 3-8 below.

Reason: As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

3. The proposed comprehensive layout of the whole site supported by an accompanying phasing plan shall be submitted in accordance with condition no. 2 above. The layout plan shall accord with the approved Masterplan drawing no. 2491/CC and show details of the following:
 - a) the exact position of the site boundaries and individual plots;
 - b) the means of access, and details of pedestrian links to and through the site;
 - c) details of all landscaping arrangements and future maintenance arrangements, which shall be in accordance with the approved Masterplan, Tree Survey Report DAMHEAD KINLOSS prepared by BOWLTS revised/dated October 2019, and Arboricultural Impact Assessment Plan (Rev H) drawing number 2491 CC;
 - d) details of all proposed earthworks;
 - e) arrangements for the disposal of foul and surface water, which shall be in accordance with the Drainage Assessment by GMCSurveys dated September 2019; and
 - f) the phasing plan for the development detailing the timescales for provision of roads infrastructure, footpaths (on and off-site), foul and surface water drainage works and landscaping/tree planting for the communal areas and house plots.

The comprehensive layout plan of the site and phasing plan shall be submitted with the first application submitted for the approval of the matters specified in conditions specified by condition 2. Thereafter the development shall proceed in accordance with that approved phasing plan unless otherwise approved in writing by the Council, as Planning Authority.

Reason: As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

4. The proposed layout of each plot showing the exact position of plot boundaries, the position of all buildings, the means of access, areas for vehicle parking, arrangements for the disposal of foul and surface water (i.e. a SUDS system or equivalent) and landscaping shall be submitted in accordance with condition no. 2 above.

Reason: As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

5. Plans, sections and elevations of all buildings proposed with details of the type and colour of all external materials and finishes shall be submitted in accordance with condition no. 2 above.

Reason: As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

6. Details of the exact extent, type and finish of all other works including walls, fences and other means of enclosure and screening shall be submitted in accordance with condition no. 2 above.

Reason: As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

7. Sections through the site showing the development on its finished levels in relation to existing levels shall be submitted in accordance with condition no. 2 above.

Reason: As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

8. Landscaping proposals showing all existing trees/hedges/shrubs to be retained or removed together with details of the type, position and numbers of all planting to be undertaken, a programme of implementation and details of future maintenance arrangements shall be submitted in accordance with condition no. 2 above. All proposals must comply with the approved Masterplan, Tree Survey Report DAMHEAD KINLOSS prepared by BOWLTS revised/dated October 2019, Topographic and Tree Survey Plan drawing number 0876_SUR_01_Rev Sheet 1 of 2, Tree Survey Results Appendix III Updated 28 October 2019 and Arboricultural Impact Assessment Plan (Rev H) drawing number 2491 CC.

Reason: As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

9. That for any subsequent detailed application or application for Matters Specified in Conditions relative to this approval, the layout, design and landscaping of the development hereby approved shall satisfy the following requirements:-
 - a) All development shall accord with the design principles set out in the approved Design Code dated October 2019; and
 - b) All dwellings shall be single or one and a-half storeys in design, as set out within the Design Code.

Reason: To ensure an acceptable form of development which relates satisfactorily to surrounding housing in terms of scale, design and character, and protects the amenity of neighbouring residents.

10. That for any subsequent detailed application or application for Matters Specified in Conditions relative to this approval, 3 accessible dwellings, the location of which is identified in the approved Masterplan shall be designed and built to wheelchair accessible standards (as defined in the Moray Council 'Accessible

Housing' Supplementary Guidance). For the avoidance of doubt at least two of these wheelchair accessible units must be delivered as a single storey dwelling with no accommodation in the upper roof space, i.e. a bungalow. These applications shall include an Accessible Housing Compliance Statement and sufficiently detailed plans to demonstrate that these requirements have been met. No more than 15 house units shall be completed until the accessible units have been provided in accordance with the agreed arrangements. Thereafter the internal layout of this unit shall remain as built and approved in perpetuity unless otherwise agreed with the Council.

Reason: To ensure an acceptable form of development which provides accessible housing on the site.

11. Within 6 months prior to development commencing on any house plot or the roadway within the site, the results of pre-construction protected species surveys undertaken by a suitably qualified person shall be submitted to and approved by the Council, as Planning Authority, in consultation with Scottish Natural Heritage. In the event that protected species are discovered on or near the plot or road, no works shall take place in that area until appropriate mitigation measures have been agreed in consultation with Scottish Natural Heritage. Thereafter all works shall be carried out in accordance with these details.

Reason: To ensure the adequate protection of the protected species and minimise disturbance to nature conservation interests.

12. All foul and surface water drainage proposals shall be in accordance with the submitted Drainage Assessment by GMCSurveys dated September 2019 and shall satisfy the following requirements:
 - a) In relation to foul drainage, no development shall commence until written evidence has been submitted to and approved by the Council, as Planning Authority in consultation with SEPA, which confirms that the discharge from the proposed Package Sewage Treatment Plant into the Kinloss Burn meets required treatment levels and has been previously agreed and licenced by SEPA. Thereafter the development shall be implemented in accordance with these approved details and no house shall be occupied until these arrangements are in place and operational.
 - b) In relation to surface water drainage, any subsequent detailed application or application for Matters Specified in Conditions relative to this approval for any house plot or the roadway within the site shall identify SUDs measures and a construction phase surface water management plan. Thereafter the development shall be implemented in accordance with these approved details.

Reason: To minimise the impacts of the development upon the water environment and to ensure the timeous provision of foul and surface water drainage infrastructure.

13. The proposed development is presently located within the 66 to 72 dB(A) MOD noise contours associated with the former RAF Kinloss. For any subsequent detailed application or application for matters specified in conditions relative to

this approval, the applicant shall have regard to the MOD aircraft noise contours in place at that time and shall contact the Environmental Health Manager, Moray Council Offices, High Street, Elgin to confirm whether a detailed noise impact assessment (NIA) including noise mitigation measures will require to be submitted/approved in support of that application, in accordance with Planning Advice PAN 1/2011 and Local Plan Policy EP8. In the event that a Noise Impact Assessment and mitigation measures require to be submitted and approved any subsequent approved development shall be carried out in accordance with those approved details.

Reason: To ensure an acceptable form of development which protects the amenity of occupants against unacceptable aircraft noise disturbance.

14. No development shall commence until the construction on the section of road between the B9089 Burghead Road and the turning head at the end of Blackstob Way which provides vehicular access to the site, has been completed to Moray Council adoptable road specifications in accordance with the Road Construction Consent MC-RCC-0536 and has entered the associated RCC maintenance period.

Reason: to ensure acceptable infrastructure at the development access.

15. No development shall commence until:
- a) A detailed drawing (scale 1:500 or 1:1000 which shall also include details to demonstrate control of the land) showing a visibility splay 4.5 metres by 125m to the East and 4.5m by 95 metres to the West onto the B9089 Kinloss to Burghead Road, with all boundaries set back to a position behind the required visibility splay and a schedule of maintenance for the splay area, has been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority; and
 - b) The visibility splay has been provided in accordance with the approved drawing prior to works commencing.
 - c) Thereafter the visibility splay shall be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the carriageway in accordance with the agreed schedule of maintenance.

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

16. The width of the vehicular access road to be minimum 5 metres as detailed on Drawing No DH01-900-A. The access road shall be constructed to The Moray Council standards and specification for roads adoption, with 2.0m wide footway must be provided on at least one side of the road and either a 2 metre footway/ service verge on the opposite side. The footway and service verge provision shall be as shown on Drawing No: DH01-900-A, unless otherwise approved by the Planning Authority in Consultation with the Roads Authority.

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

17. No development shall commence until evidence has been submitted to the Planning Authority to demonstrate that the Roads Construction Consent (RCC) statutory process has been completed for the detailed design of the off-site footpath and refuge island proposals shown on Drawing No: DH01-902-E.

Thereafter the off-site footway infrastructure shall be completed in accordance with the approved details prior to the occupation or completion of any house within the development, whichever is sooner.

Reason: To ensure acceptable infrastructure is provided on the route to the development in the interests of sustainable transport and road safety.

18. The width of each individual access will be a minimum of 3.0m and have a maximum gradient of 1 in 20 for the first 5.0m from the edge of the access road. Drop kerbs shall be provided across the access(es) to The Moray Council specification.

Reason: To ensure acceptable infrastructure at individual development accesses.

19. Driveways over service verges shall be constructed to accommodate vehicles and shall be surfaced with bituminous macadam.

Reason: To ensure acceptable infrastructure at individual development accesses.

20. Parking provision shall be as follows:
- 2 spaces for dwellings with 3 bedrooms or fewer;
 - 3 spaces for dwellings with 4 bedrooms or more

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

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.

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

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

22. 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.

23. No works shall commence on site until a Construction Traffic Management Plan for each phase of the development has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. The Construction Traffic Management Plan shall include the following information:

- duration of works;
- construction programme including any phasing of the works and plots;
- number of vehicle movements (i.e. materials, plant, staff, components);
- anticipated schedule for delivery of materials and plant;
- full details of any temporary construction access;
- measures to be put in place to prevent material being deposited on the public road;
- measures to be put in place to safeguard the movements of pedestrians;
- traffic management measures to be put in place during works including any specific instructions to drivers; and
- parking provision, loading and unloading areas for construction traffic.

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

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

24. No tree felling shall commence on site until a woodland planting scheme to compensate for the removal of 1.2 hectares of woodland from the site has been submitted to and approved in writing by the Council, as Planning Authority in consultation with Scottish Forestry. The replanting scheme must comply with the requirements set out in the UK Forestry Standard (Forestry Commissions, 2011. ISBN 978-0-85538-830-0) and the guidelines to which it refers. The scheme submitted for approval must include:-
- a) details of the location of the area to be planted (which must be within Moray);
 - b) details of land owners and occupiers of the land to be planted;
 - c) the nature, design and specification of the proposed woodland to be planted (to be mixed native species, at minimum stock density of 1600 trees per hectare);
 - d) details of all necessary consents for the Replanting Scheme and timescales within which each shall be obtained;
 - e) the phasing and associated timescales for implementing the Replanting Scheme;

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

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

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

- 25. Prior to the commencement of development, a scheme identifying all mitigation measures to safeguard existing CLH-PS assets on the site shall be submitted to and approved in writing by the Council, as Planning Authority in consultation with Fisher German LLP (CLH-PS Authorised Agent). Thereafter, the development shall be carried out in accordance with these approved details.

Reason: To ensure that CLH-PS assets and infrastructure in the vicinity of the proposed foul water outfall pipe are adequately protected during the lifetime of the development.

Reason(s) for Decision

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

The application represents an acceptable departure from policy E9 Settlement Boundaries on the basis whilst the private communal shared package sewage treatment plant is located out with the settlement boundary it will result in minimal visual impact. In all other respects the proposal accords with the Moray 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:

This development is subject to a S.75 legal agreement in regard to arrangements for payment of developer obligations to address the impact of the development upon primary schools, healthcare and sports and recreation facilities, to be payable in instalments. The legal agreement will also cover payment of commuted sums towards the provision of affordable housing in the Forres housing market area.

Construction/demolition works have the potential to disturb nesting birds or damage

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

The SCOTTISH ENVIRONMENT PROTECTION AGENCY has commented that:

See attached consultation response dated 5 November 2019.

SCOTTISH NATURAL HERITAGE has commented that:

See attached consultation response dated 3 April 2019.

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.

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

Construction Consent shall include a CCTV survey of all existing roads drainage to be adopted and core samples to determine the construction depths and materials of the existing road. Any requirement for Road Safety Audit (Stages to be agreed) for the modifications to the existing public road (including offsite footway improvements) and for the proposed site for a will be determined through the Roads Construction Consent process or subsequent to the road construction prior to any road adoption.

Before starting, any work on the existing public road the applicant is obliged to apply for a road opening permit in accordance with Section 85 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.

If any street furniture will require to be repositioned this will be at the expense of

the developer.

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

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

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.

SCOTTISH FORESTRY has commented that:

The Woodland Compensatory Plan (CP) must be approved by Scottish Forestry before the applicant can proceed with the development and the felling of trees. The CP plan must confirm all details of the proposed planting, including its maintenance over the entire life-span of the development. It must include:

- Details of the person(s) that survey, describe, assess, specify and deliver both the felling proposals and on-site and off-site CP proposals. The person(s) must have the relevant qualifications, technical abilities and have the necessary experience e.g. a chartered forester;
- Details of the location of both the felling and off-site CP which should be fully detailed, described and supported with good quality maps;
- A rationale that explains why both the felling and CP are necessary and designed the way they are, should be provided. This should include the assessment of impact and proposed mitigation; and
- A full description and specification for both felling and CP should be provided, supported by recognised survey techniques. The harvesting system should be described. A full silvicultural proposal for compensatory planting, supported with maps should be provided. This should include: ground preparation, drainage, planting technique, stocking density, species, maintenance and a protection plan. When: The timings for both felling and CP should be detailed. All CP should be completed within five years after the woodland is removed or within two years of the development being completed. Ensure that a maintenance plan with appropriate timescales is provided- this information should be included in the CP plan. Subsequent establishment should be completed within the period for which enforcement action can be taken.

Monitoring of CP conditions or arrangements: An independent, qualified and technically competent professional(s) (e.g. chartered forester) with the required experience should inspect the CP scheme at regular intervals (year 1, 5 and 10) to ensure that the trees are planted correctly at 1600 trees/ha, maintained to the required standard and ultimately established into woodland. If native woodland is the conditioned CP then a seed certificate must be supplied to as proof of native provenance. This monitoring programme should be conditioned in the consent. The woodland will have to be maintained thereafter. This professional individual should report to the planning authority, to allow the CP condition to be managed and ultimately discharged. Scottish Forestry would be able to offer support in the discharge arrangements if required.

FISHERGERMAN LLP (Agent for CLH-PS, Pipeline Operator) has commented that:

See attached consultation response.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT		
Reference No.	Version	Title/Description
901	A	Swept path analysis
2491	CC	Arboricultural Impact Assessment Plan (Rev H)
		Route of water pipe
903	B	Drainage layout
904	A	Drainage construction details
900	A	Road layout and construction
902	E	Off site footpath
0876_SUR_01	C	Topographic and tree survey
0876/SH/CC		Location plan
2491/CC		Proposed site layout plan

Additional information to be issued with decision:

Scottish Water consultations dated 25 March and 7 November 2019

SEPA consultation dated 5 November 2019

SNH consultation dated 3 April 2019

CLH-PS consultation response and asset plan

Design and Access Statement dated Oct 2019

Design Code dated Oct 2019

Sustainability Statement dated Oct 2019

Drainage Assessment dated Sep 2019

Tree Survey Report dated Oct 2019

Tree Survey Spreadsheet APPENDIX III updated 28 Oct 2019

Protected Species Walk-over Survey and Report(s)

Details of IPAF Packaged Sewage Treatment Plant



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:

19/00260/PPP

Site Address:

Site R4 Damhead
Kinloss

Applicant Name:

The Rhind 2008 Discretionary Trust

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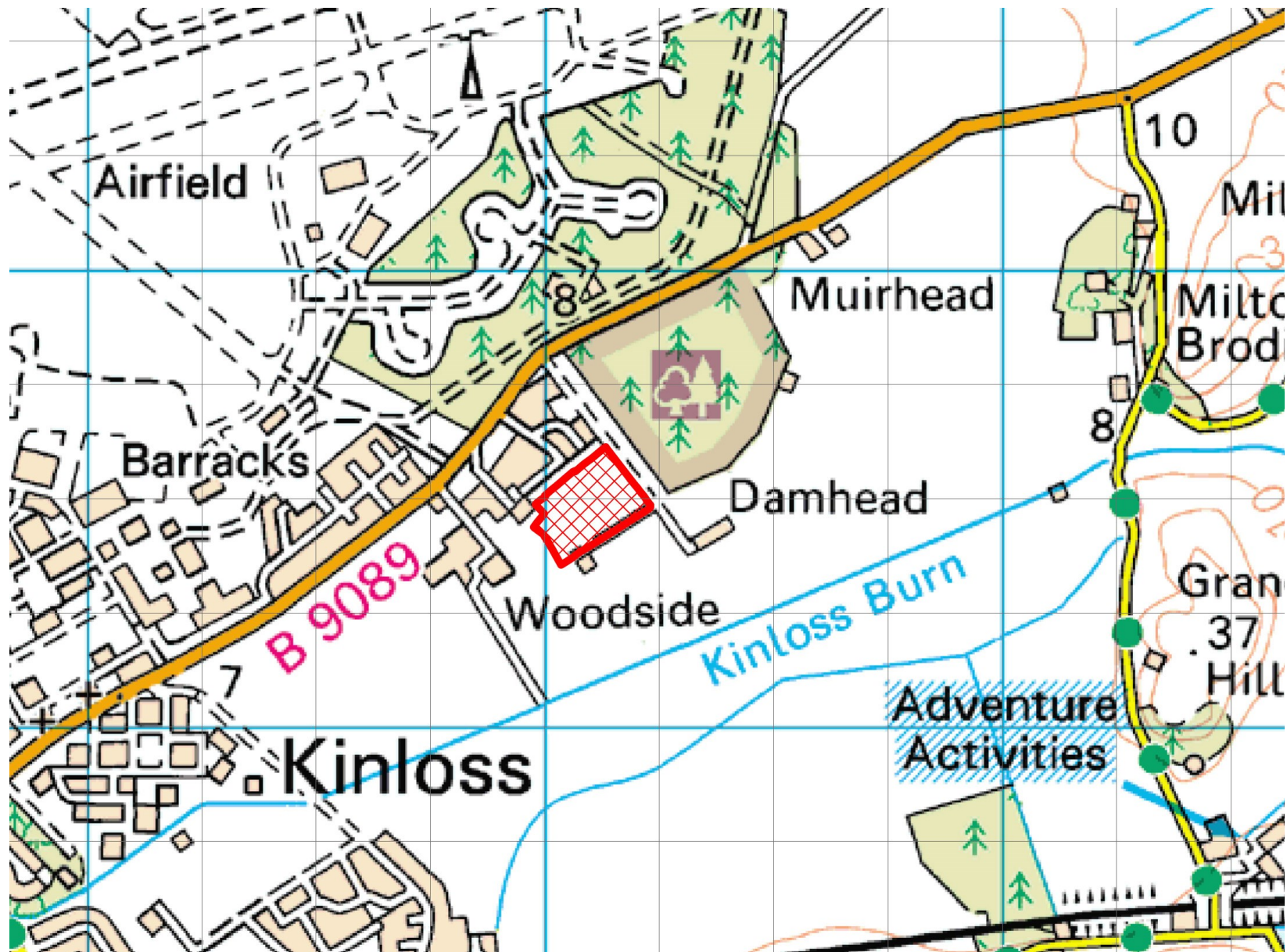
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Location Plan



Site Location



Site layout











PLANNING APPLICATION: 19/00260/PPP

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

THE PROPOSAL

- This application seeks planning permission in principle for 23 serviced house plots with access, drainage, infrastructure and landscaping on land at site R4 Damhead, Kinloss.
- The submitted masterplan/indicative site layout incorporates a loop road to serve the development, which will connect to Blackstob Way to the north.
- Associated infrastructure works include the provision of off-site road and footpath works along the B9089 linking Blackstob Way with the existing footpath network to the east.
- The properties would connect to the public water supply network.
- Foul drainage would be dealt with by a private communal shared Package Sewage Treatment Plant, which would discharge to Kinloss Burn 300m to the south.
- Proposed surface water drainage arrangements would comprise private soakaways on each plot, permeable driveways and road side grass swales. An existing soakaway under the proposed site access would also be relocated to the northeastern corner of the site.
- Landscaping proposals, supported by an accompanying Tree Survey include retention and removal of various trees across the site, along with additional/replacement tree planting. Trees species identified on site include Scots pine, Silver birch, Sessile oak, Rowan, Sycamore, Willow and Cherry.
- An area of compensatory planting of 1.2 hectares will be provided on the applicants land within Moray.
- The application is supported by a Design and Access Statement, Design Code, Sustainability Statement, Drainage Assessment, Tree Survey Report and Protected Species Walk-over Survey and Report.

THE SITE

- The site extends to 3.4 hectare and forms the whole of the Kinloss R4 Damhead housing designation in the Moray Local Development Plan 2015. An additional area along its southern boundary is outwith the settlement boundary.
- It is currently scrubland, the majority of which is open with areas of woodland around its northern, eastern and southern boundary.
- The site is covered by a Tree Preservation Order (with the exception of the small area along the southern boundary).
- Housing lies to the north/northwest, woodland to the east, and farmland to the south and west. Tracks bound the site to the east and south, and a cottage to the southwest.
- The site is generally level with the exception of a small mound within the eastern part of the site and a series of hollows along the southern boundary.

- The SEPA indicative flood maps show the site being at 'little or no risk' from river or coastal flooding. The SEPA flood map indicates that the majority of the site is not at risk from surface water flooding, with small localised areas shown to be at 'low, medium or high risk'.
- The main group of trees within the northern and eastern area of the site is recorded in the National Forestry Inventory 2014.
- The site lies within the 66dBA noise contour for former RAF Kinloss.
- The site is located on land classified as prime agricultural land (Class 3.1).
- The site forms the whole of the Kinloss R3 Damhead housing designation in the Proposed Moray Local Development Plan 2020.

HISTORY

For the Site:

18/00346/PPP Application for planning permission in principle for proposed residential development comprising of 19 serviced house plots with associated access drainage infrastructure and landscaping – withdrawn February 2019.

16/00571/PE – Preliminary enquiry for housing development for the whole site – response issued May 2016.

15/02231/PPP – Application for planning permission in principle to erect a dwellinghouse within the southwest corner of the site - withdrawn Jan 2016.

15/02232/PPP - Application for planning permission in principle to erect a dwellinghouse along the southern boundary of the site - withdrawn Jan 2016.

POLICY - SEE APPENDIX

ADVERTISEMENTS

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

CONSULTATIONS

Strategic Planning & Development: R4 Damhead is a long standing designation identified for development in the Moray Local Development Plan 2015 and has an indicative capacity of 25 units. A planning application for 19 units was previously submitted and withdrawn (18/00346/PPP). This revised application has an increased capacity of 23 units to address issues identified by the applicant in terms of viability

The key planning issues are set out below:

PP3 - Placemaking - Notes that the applicant has provided a layout for the whole of the site and further information in terms of the design, layout, materials and details of the proposed houses (required for designated sites, in accordance with policy H1). On the

basis of this detail a Quality Audit (QA) has been undertaken and is contained in a separate document. A summary of the key findings of the QA are set out below.

As a QA was undertaken for the previous planning application 18/00346/PPP the majority of the issues raised at that time have been addressed in this revised submission. Identified issues for that proposal included deletion of a path between back gardens of plots, car parking shown to the side and rear of properties, lack of information on proposals for compensatory planting, further evidence to show efforts had been made to retain as many trees on site as possible and preparation of a design code for the development.

In the previous Development Plan response to this current proposal, the only issue of concern was the lack of footpath connection to the existing track to Damhead Steading to provide connectivity from the development to the wider countryside. This connection was shown in the layout for planning application 18/00346/APP however following further consideration it is not felt reasonable to require this connection when there are two proposed footways accessing the nearby woodland only a short distance away and the QA has been amended to reflect this.

A design code has been prepared by the applicant to support the proposals. The design code includes requirements for houses to create character and identity, reflect traditional Moray vernacular through designs that are simple and uncluttered. Dual frontage turn the corner buildings are identified on specified plots, car parking is shown indicatively to the side and rear of the majority of plots. Native hedgerow planting has been specified as one of the key boundary treatments with building materials including wet dash harl and slate proposed. It is recommended that the design code is conditioned to ensure that these elements are provided to deliver a high quality development.

A tree survey has been provided to evidence the layout of the development has sought to minimise tree removal, there are proposals for additional woodland planting within the site to promote natural regeneration, enhance current species diversity on site and promote a diverse age structure of trees all of which will help enhance biodiversity on the site. In addition to this 1.2 ha of off-site compensatory planting is also required.

E4 Trees and Development and ER2 Development in Woodlands and Trees and Development Supplementary Guidance - Policy E4 Trees and Development and ER2 Development in Woodlands set out that woodland removal will only be permitted where it would achieve significant and clearly defined additional public benefits, however the principle of developing the site and removal of trees to accommodate development has already been established through its designation for residential use. On this basis the proposals are not considered a departure from these policies subject to seeking retention of as many trees as possible and securing compensatory planting.

These policies set out where woodland is removed, developers will generally be expected to provide compensatory planting to mitigate tree removal on a like for like basis in terms of area. The total area of the site is 3.4 ha. 144 trees out of the 211 surveyed are being removed. All Category A high value specimens have been retained and 60% of Category B medium value specimens are being retained. 1320 new native trees are being planted within the site in the gardens of plots which will result in a net gain of trees on site. It should be noted that the additional planting proposed does not constitute compensatory planting as the existing and proposed woodland is considered to be permanently lost due to change of use to residential. It is acknowledged the applicant has made efforts to retain

as many trees as possible within the site and has proposed significant additional tree planting on site that will be protected from removal by the existing Tree Preservation Order (TPO) covering the site. The applicant is also being required to provide 1.2 ha of compensatory woodland planting by means of either a commuted payment toward woodland provision elsewhere within Moray or tree planting on land within their ownership in Moray. The applicant has indicated that this compensatory planting will be provided on their holding.

Scottish Forestry has not objected to the proposals as this is an existing designated site in the Moray Local Development Plan 2015, existing/retained woodland and any new planting will be protected by the TPO covering the site and the applicant has agreed to provide compensatory planting as set out above.

E5 Open Space - The proposal meets the 15% requirement for open space within the development. There are four areas of open space provided which correlate to the areas of tree retention within the development. As set out in the quality audit there are issues in terms of the quality of the open space in terms of its function and limited opportunities to encourage use of the space, however the retention of trees on site was considered to be more important and therefore the open space proposed is considered acceptable.

E3 Protected Species - A Phase 1 Habitat Survey has been provided to support the proposals. Scottish Natural Heritage has been consulted and raised no objections.

H8 Affordable Housing - Policy H8 requires that 25% of the total number of units in new developments must be provided as affordable housing. As 23 housing units are proposed an affordable contribution of 6 units will be required.

H9 Housing Mix/Accessible Housing - Policy H9 requires that 10% of private sector units are built to wheelchair accessible standards. Therefore 3 units of accessible housing will be required. The Accessible Housing Supplementary Guidance requires that no less than half of the private sector wheelchair accessible units are built as single storey units. Therefore 2 of the 3 accessible units must be built in single storey form.

EP8 Pollution - The applicant should be made aware that any subsequent detailed planning applications may have to be supported by a detailed Noise Impact Assessment due to the MOD noise contours associated with the former RAF Kinloss.

EP10 Foul Drainage - The applicant has managed to design a drainage system to the satisfaction of SEPA.

Conclusion - On the basis of the above the proposals are considered to meet the terms of the relevant Moray Local Development Plan 2015 policies.

Moray Flood Risk Management: No objection, comments provided regarding surface water drainage arrangements which are to be conditioned.

SEPA: No objection, we understand that the agent/applicant have been communicating with the SEPA local team regarding the acceptability of foul drainage proposal and advise that the applicant submits details to the SEPA permitting team for assessment prior to authorisation.

We initially objected to this proposal on waste water drainage grounds and asked that the development connect to the public sewer and private drainage proposals should only be considered where it is not feasible to connect to the public sewer. The applicant following their research has been able to confirm that connection to the public sewer is not likely due to their inability to gain the wayleave required to install pipework through MOD land. We consider this acceptable.

Scottish Natural Heritage: Advice regarding protected species. Notes findings of previous survey and that these are still representative based on a visit in 2018 when the habitats appeared largely unaltered. As more time elapses since the original survey work the risk of protected species activity changing on site is greater; this application is for planning permission in principle therefore there is a degree of uncertainty as to when construction might take place on site. SNH therefore advises on the carrying out of pre-construction protected species surveys within 6 months prior to development on each plot commencing, to ensure that if activity has changed on site it is picked up and species protection plans (and species licensing if necessary) can be developed within the time frame avoiding delays in construction programmes.

Developer Obligations: Developer Obligations assessment carried out in relation to local development plan policy and associated supplementary planning guidance. Contributions are sought towards provision of healthcare, primary education and sport and recreation facilities. A commuted sum is also required towards provision of affordable housing off-site. The applicants have confirmed that they are agreeable to the contributions, which will be secured through a S75 legal agreement.

Moray Access Manager: No objection.

Environmental Protection: No objection. Notes that application is small and does not merit the inclusion of any play equipment, however further small developments in this area will have a cumulative effect and may require a play area to be included in any future applications.

Scottish Water: No objection. Scottish Water is unable to confirm capacity for water supply from Glenlatterach Water Treatment Works and recommends that applicant submit a Pre-Development Enquiry to allow Scottish Water to appraise the proposal. Scottish Water also confirms that there is no public waste water infrastructure within the vicinity of the site and therefore advises that applicant investigate private treatment options.

Environmental Health: No objection subject to a condition requiring that future detailed applications/ applications for matters specified in conditions are to have regard to MOD aircraft noise contours for Kinloss in place at that time and to contact the Environmental Health Manager to determine the need (or otherwise) for an accompanying Noise Impact Assessment including noise mitigation measures to protect amenity.

Contaminated Land: No objection.

Transportation Manager: No objection subject to conditions requiring provision of access with appropriate visibility splays, footways (both on and off-site), drainage, parking and the of completion of Blackstob Way to adoptable standard as per previous Road Construction Consent MC-RCC-0536.

Housing Strategy and Development Manager: No objection. Arrangements for delivery of affordable housing (6 units) with Housing and Property Services to be formalised in a Section 75 Agreement prior to issue of planning approval. Housing and Property will accept a commuted payment in lieu of 6 affordable units from this development, to be used in the provision of affordable housing elsewhere in the Forres housing market area.

Both the Council and Grampian Housing Association already own affordable housing stock in Kinloss, and although there are housing list applicants on the Council's Housing List who have expressed a preference for Kinloss, they are not in sufficient numbers to justify further capital investment in the village. Housing and Property are also concerned that Kinloss is remote from public services and lacking public transport. Conversely, housing demand for nearby Forres is buoyant with ready access to public services. These factors have led to the decision to seek a commuted payment rather than delivery on site. This approach is consistent with the Strategic Housing Investment Plan (SHIP) approved by Communities Committee on 17 December 2019 which states:

"In implementing the Affordable Housing Policy, Council's preference is for a minimum of 25% affordable housing units are provided on each site, using a housing mix of types and tenures determined by the Head of Housing and Property. A commuted payment will be sought from developers where:

- planning proposals are located in a (usually rural) area where there is **no evidence of housing need**, i.e. very few households registered on the Council's Housing List, or social housing tenants would have limited access to services e.g. public transport, health services, shops etc.
- the affordable housing requirement is **too small to be viable** for RSL partners to deliver, and/or provide a landlord service to.
- the planning proposals would require multi tenure/multi use provision under **one communal roof structure** e.g. a block of flats or mixed residential/commercial buildings. These proposals can present an increased investment risk to affordable housing providers due to the potential complications of communal repairs and maintenance throughout the life of the building. Each social housing landlord will make their own assessment of the business risks associated with communal repairs and maintenance."

A condition is also recommended to secure provision of three accessible units on the site.

Scottish Forestry: No objection. Notes that the site is designated 'R4 Damhead' for housing in the MLDP 2015 and that off-site compensatory planting will be provided (1.2ha) via a planning condition. Scottish Forestry also notes that the trees to be retained within the redline boundary are protected by the extant TPO and that this will provide a sound basis for maintaining the woodland character of the development site.

Scottish and Southern Energy: No comments received.

Findhorn and Kinloss Community Council: No comments received.

Fisher German LLP (Agent for CLH-PS, Pipeline Operator): Recommend/agree condition requiring submission/approval of a scheme identifying mitigation measures to

safeguard existing CLH-PS pipeline asset in the vicinity of the proposed foul water pipe. Awaiting formal consultation response.

OBJECTIONS-REPRESENTATIONS

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

[REDACTED]

Issue: Increased levels of traffic during construction and after completion generated by the development will be detrimental to road safety; site has poor access via Blackstob Way which is narrow and wide enough for only one vehicle along part of its length. The road and footpaths along Blackstob Way are unfinished and not suitable for additional vehicular and pedestrian traffic until they are complete, proposal will lead to parking disruption, the site is remote from nearest bus stop 0.77 miles to the west, many cars passing the junction of Blackstob Way onto the B9089 Burghead Road exceed the speed limit of 40mph at this location, to ensure that road is made up the site is more suited to a seasoned housing developer such as Tulloch rather than the land owner and individual plot owners.

Comment (PO): The proposal on this designated housing site with roads infrastructure and off-site footpath would accord with the requirements of the designation and is acceptable in principle in this location. The proposed access arrangements and resultant traffic generated by the proposal would be of acceptable levels and would not be detrimental to road safety. The Transportation Section considers that the proposed indicative layout is capable of complying with transport policy/road safety standards and has raised no objection subject to conditions requiring the provision of satisfactory access arrangements, parking, footpaths (both on and off-site) to Moray Council adoptable standards and completion of Blackstob Way to adoptable standards.

Issue: The proposed development will change the character of the area, which is currently peaceful, secluded and semi-rural. The development site located behind existing housing in a quiet rural area is not an appropriate.

Comment (PO): The proposal involves the development of a designated housing site as identified in the adopted Moray Local Development Plan 2015, alongside existing housing and as such is acceptable in principle in this location.

Issue: The site is subject of a Tree Preservation Order and queries how many trees will realistically be preserved if the development of 23 houses proceeds, which would be much closer together than the existing pattern of development in the area.

Comment (PO): The application is supported by a detailed Tree Survey Report which takes account of the Tree Preservation Order (TPO) and has been used to inform the Masterplan/indicative site layout. This shows that significant efforts have been made to retain as many trees as possible within the site while still delivering a viable scheme. Proposed significant additional tree planting on site will also be protected from removal by the existing TPO. Adherence to the report recommendations and layout in terms of tree retention and replanting shall be covered by a condition, to be satisfied by future detailed applications or applications for matters specified in conditions.

Issue: Some of the submitted supporting documentation is inaccurate, as it relates to the previous withdrawn application for 19 house plots and has not been updated.

Comment (PO): The supporting documents highlighted have been updated to include correct information and form of the application.

Issue: The proposed construction activities and volume of construction traffic will cause disturbance for residents, in terms noise and dust.

Comment (PO): Noise, dust and traffic impacts from construction works are temporary in nature and would not justify refusal of planning permission.

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 be subject to the Examination process and therefore will be given minimal weight.

The main issues are considered below.

Principle of residential development on Kinloss R4 designation and departure issue (MLDP 2015 - Policies H1, Kinloss R4, PP1, PP2, PP3, ER5 and E9)

The application site forms the Kinloss R4 Damhead site, a long standing designation identified for development in the Moray Local Development Plan 2015 with an indicative capacity of 25 houses.

Policy H1 Housing Land requires proposals on designated sites to be supported by sufficient information regarding the layout and development of the whole site in order to allow for consideration of servicing, infrastructure, landscaping provision, contributions, affordable and accessible housing provision, as well as to comply with designation requirements and relevant MLDP policies. Designation requirements in this instance include provision of an adoptable road to serve the site, a 1.8m wide footpath to link the site with the existing footpath to the northwest on the B9089 (along with a pedestrian crossing) and a satisfactory visibility splay at the junction of the site road into the B9098. Further requirements include the submission of a drainage impact assessment and ecology/habitat survey.

The proposal for 23 house plots on this designation is acceptable in principle. The submitted Master plan/indicative layout and supporting submissions provide sufficient information to allow assessment against policy H1 and designation requirements.

In terms of the Primary Policies the proposal would bring investment to the Kinloss area through construction of new homes in a sustainable location that makes efficient use of land and infrastructure and is supported by PP1 Sustainable Economic Growth and PP2 Climate Change. An acceptable Sustainability Statement has been submitted to meet PP2 requirements. The indicative layout and design elements are also considered to comply with PP3 Placemaking, which is discussed further below.

The site is located on an area of prime agricultural land (Class 3.1) , as identified in the Land Capability for Agriculture Maps of Scotland, 1983) and is subject to policy ER5 Agriculture of the MLDP 2015. This policy presumes against irreversible development on prime agricultural land (Classes 1, 2 and 3) unless the site is required for settlement expansion and there is no other suitable alternative. The proposed development on this residential designation as part of the expansion of Kinloss meets the above proviso of Policy ER5.

Part of the foul infrastructure will be located outwith the settlement boundary and designation, however, this will result in minimal visual impact as it will take the form of a below ground private communal shared Package Sewage Treatment Plant, which will largely maintain the appearance of this rural location. On this basis a departure from policy E9 is acceptable.

Placemaking - Siting/Layout, Design and Amenity (PP3, H1, IMP1 and E5)

The submitted Masterplan/indicative layout shows the proposed development served by a loop road that would circle the site and that would broadly reflect the pattern of existing housing to the north. Since the application is for planning permission in principle only the overall layout of the site and layout of individual plots are matters specified in conditions, but the general layout as shown is acceptable. A condition is recommended that would require a phasing plan to be submitted and agreed before any proposals for individual elements (roads and drainage) or plots come forward. This would allow the planning authority to retain control of the development and ensure that it is developed in a coherent manner with appropriate infrastructure as the plots are to be sold individually and

developed by different parties.

The design and materials of the individual houses are matters specified in conditions which are to be assessed as part of further detailed applications or applications for approval of matters specified in conditions. A design code has been prepared by the applicant to support the proposals. This includes requirements for houses to create character and identity, and reflect traditional Moray vernacular through designs that are simple and uncluttered. Dual frontage turn the corner buildings are identified on specified plots, car parking is shown indicatively to the side and rear of the majority of plots. Native hedgerow planting has been specified as one of the key boundary treatments with building materials including wet dash harl and slate proposed. It is recommended that the design code is conditioned to ensure that these elements are provided to deliver a high quality development.

All future detailed applications or applications for approval of matters specified in conditions will be required to fully address the impact on residential amenity in accordance with policy IMP1 Developer Requirements. All buildings must be sited and designed in a manner that does not adversely impact on the amenity of neighbours. Development that would result in unacceptable overlooking, loss of privacy or loss of light/overshadowing will not be supported.

Policy E5 requires a 15% open space allocation for new developments of this scale. The Masterplan identifies four areas within the site where existing trees would be retained, which in combination would meet this requirement in terms of area. A condition shall be attached requiring inclusion of this open space provision (together with maintenance arrangements) as part of the overall layout of the site, to be subject of a further standalone detailed application or application for approval of matters specified in conditions.

The indicative layout for the site and associated information regarding design, materials and detailing of houses has been the subject of a Quality Audit. The QA approach examines 12 criteria considered to contribute to place-making principles i.e. connections, public transport, safer environment, car parking, legibility/street hierarchy, character and identity, housing mix, access to facilities and amenities, natural features, open space, biodiversity, and landscaping.

A summary of the key findings is summarised within the table below.

DESIGN PRINCIPLE	COMMENTS
Connections	A loop road arrangement with a single vehicular access is accepted as being appropriate to the site conditions. Footpath connections have been provided creating linkages outwith the site.
Public Transport	Given the lack of public transport available in Kinloss, this design principle not considered applicable.
Safer Environment	The layout is compact with short streets which will encourage low vehicle speeds. The majority of houses overlook the street which provides good natural surveillance of the street.
Car Parking	Indicative details for plots have been submitted and show that the majority of plots have parking to the side and rear of the properties.
Legibility/Street Hierarchy	This design principle is not considered to be relevant as the proposed development does not have an extensive enough road

	network.
Character & Identity	The following design principles must be adhered to and conditioned as part of a design code. House designs reflect local traditional character, or an otherwise distinctive character. A variety of boundary treatments including mixed hedging would add value, diversity and identity. Dual frontage buildings.
Housing Mix	Affordable housing contributions are being sought through a commuted payment.
Access to Facilities and Amenities	There are limited services within Kinloss and these are not within the 400m to 800m of the site. Accessible house plot locations are identified and a condition will be applied requiring these to be provided on a plot closest to the entrance of the site.
Natural Features	The Tree Survey provided to support the application demonstrates that efforts have been made to minimise tree removal on site. Specimens of high value have been retained and incorporated into green spaces. 150 trees are proposed for removal. To mitigate tree removal, new planting is proposed within plots approximately 1.2 hectares (1320 trees). This will help strengthening green networks across the site.
Open Space	The location of the 4 green spaces across the site correlates with the retention of high value trees. These areas cumulatively meet the 15% open space requirement, but there are issues in terms of functionality as there are limited opportunities to encourage use of the spaces due to the number of trees.
Biodiversity	There are however a variety of ways that biodiversity can be embedded into the development. The proposed on site planting proposes a variety of native species including birch, ash, cherry, plum, hawthorn and hazel to enhance the diversity of species on site.
Landscaping	Efforts have been made to minimise tree removal on site. Retained trees will continue to be protected by the Tree Preservation Order (TPO) covering the site, this will also offer protection to the proposed enrichment planting and compensatory planting. Proposals for SUDS and drainage can be considered at detailed planning application stage with a view to enhancing biodiversity on site.

The proposal represents an acceptable form of development which satisfies the principles of good placemaking set out in SPP and MLDP policy PP3. The layout incorporating road and footpath connections into existing adjacent development and beyond would provide good accessibility and permeability. A submitted design code advocating good place making principles would guide the scale and form of development on the site and ensure that it relates satisfactorily with its surroundings. The proposed retention of all high value and majority of medium value trees on the site along with enrichment planting around the site perimeter would also aid with the retention of natural features, provide landscaping and open space and contribute to biodiversity.

Subject to conditions, addressing the above requirements the proposals would accord with the provisions of the R4 designation and policies PP3, PP2, H1 and IMP1.

Tree Removal (E4 Trees and Development, ER2 Development in Woodlands, Trees and Development Supplementary Guidance, Scottish Planning Policy 2014 and Scottish Government Policy on Control of Woodland Removal)

Policies E4 Trees and Development and ER2 Development in Woodlands set out that woodland removal will only be permitted where it would achieve significant and clearly defined additional public benefits, and where woodland is removed in association with development developers provide acceptable compensatory planting.

Scottish Planning Policy 2014 and Scottish Government Policy on Control of Woodland Removal provide further guidance for decisions on woodland removal, which are consistent with the aims of the above provisions and are material considerations.

The main group of trees within the northern and eastern area of the site is recorded in the National Forestry Inventory 2014.

In this case, although the application involves an element of woodland removal, the principle of developing the site along with removal of trees to accommodate residential development in this location has already been established through its designation in the Moray Local Development Plan 2015 for residential use. On this basis the proposals are not considered a departure from these policies (or the associated Government guidance), subject to the retention of as many trees as practicable and provision of compensatory planting to mitigate tree removal on a like for like basis in terms of area.

The submitted Tree Survey Report accompanying the application identifies 211 trees on site, with retention of 61 trees proposed across four concentrations/ green spaces on the site and within a number of plots, which include all High and 60% of Medium Value trees (as identified in the Survey). 150 trees are proposed to be removed which include trees classified as Unsuitable, Low or Medium value. Trees species on site include Scots pine, Silver birch, Sessile oak, Rowan, Sycamore, Willow and Cherry. The landscape proposals include additional woodland planting on site covering an area of approximately 1.2 hectares (equating to 1320 trees) in the gardens of plots and communal spaces which will result in a net gain of tree cover across the site, once established.

It is acknowledged that the applicant has made considerable efforts to retain as many trees as possible within the site (while still delivering a viable scheme) and has proposed significant additional tree planting on site that will be protected from removal by the existing Tree Preservation Order (TPO) covering the site. The applicant is also required and has agreed to provide 1.2 ha of compensatory woodland planting on their land holding within Moray. This scheme shall be covered by condition and approved in consultation with Scottish Forestry.

Following consultation Scottish Forestry has not objected to the proposal, having taken into consideration that the principle of development has been established by the residential designation in the Moray Local Development Plan 2015, retained woodland/new planting will be protected by the TPO and that the applicant has agreed to provide compensatory planting as set out above.

In light of the above, subject to compliance with conditions covering tree retention/planting on-site and compensatory planting off-site the proposal accords with policies E4 and ER2.

Affordable Housing (H8)

Policy H8 requires new housing developments of 4 or more houses to provide 25% of the units as affordable housing. A total of 23 house plots are proposed on this site and therefore a contribution of 6 units is required. In this case the Housing Strategy and Development Manager has agreed to take a commuted payment in lieu of the 6 units rather than delivery on site, to be used in the provision of affordable housing elsewhere in the Forres housing market area (i.e. Forres) where there is greater pressure for affordable housing. Additional factors to justify this approach, as highlighted by the Housing Manager include insufficient demand to justify capital investment in the village of Kinloss, the distance of the site from public services and lack of public transport. It has therefore been agreed that the affordable housing contribution can be made in the form of a commuted sum to be dealt with by a S75 legal agreement. Policy H8 is met.

Housing Mix/Accessible Housing (H9)

Policy H9 Housing Mix/Accessible Housing and associated Supplementary Guidance require proposals of 10 or more units to incorporate 10% of non-affordable housing to be accessible for wheelchair users. The submitted indicative layout shows the location of these units. To ensure compliance a condition requiring this provision, three units (two of which must be single storey) (with location plans identifying their location, detailed plans and Accessible Housing Compliance Statement) as part of any detailed application or application for matters specified in conditions shall be attached as recommended by the Housing and Property Section.

Access and Parking (Kinloss R4, T1, T2, T5, T7, PP3 and IMP1)

The proposal incorporates the necessary transport related infrastructure required by the site designation and related planning policies. This includes provision of an adoptable road to serve the site, a 1.8m wide footpath linking the site with the existing footpath to the northwest on the B9089 (along with a pedestrian crossing) and provision of a satisfactory visibility splay at the junction of the site road into the B9098.

The Transportation Section has assessed these elements and has raised no objection to the grant of permission subject to conditions as recommended regarding provision of access with appropriate visibility splays, footways (both on and off-site), drainage, parking and completion of Blackstob Way to adoptable standard.

Subject to compliance with of the above conditions, the proposal accords with the abovementioned relevant transportation policies.

Drainage, Flood Risk and Water Supply (EP5, EP7, EP10 and IMP1)

A Drainage Assessment (DA) has been submitted which outlines the indicative proposals for foul and surface water drainage.

Foul drainage will be directed into new sewers beneath the development roads which would connect into a private communal shared Package Sewage Treatment Plant along the southern boundary of the application site. This would then discharge via an outfall pipe into the Kinloss Burn approximately 300m to the south of the site at required treatment levels to be agreed and licenced by SEPA. A condition shall be attached requiring submission/approval of these details prior to commencement of any work on the site in consultation with SEPA.

Surface water drainage would comprise individual private soakaways for each plot, permeable driveways, roadside infiltration swales and a relocated soakaway. This would be designed to fully absorb and disperse all of the rainfall entering the site without the need to discharge any surplus flows beyond the boundary of the site, and has been assessed and confirmed as acceptable by the Flood Risk Management Section. A condition shall be attached requiring submission/approval and implementation of these details for each detailed application or application for matters specified in conditions.

The SEPA flood map indicates that the majority of the site is not at risk from surface water flooding, although small pockets identified as being at 'medium or high risk'. The submitted Drainage Assessment (DA) identifies that this is likely to be due to site topography and that this issue will be resolved with the introduction of hardstanding areas, roof areas, roads with source control devices for surface water and regrading of the site. The DA recommends that during construction, mitigation measures are employed to address any areas of concern i.e. ponding. This shall form of the basis of a further planning condition.

The houses would connect to the public water supply. Scottish Water has raised no objection in this regard and has provided advisory comments regarding detailed connection arrangements.

The abovementioned outfall pipe will also cross an existing fuel pipeline which runs to the south of the site. As agreed with the pipeline operator, a condition is recommended requiring submission/approval and implementation of a scheme identifying mitigation measures to safeguard this asset in consultation with the pipeline operator.

Subject to imposition of the above conditions the proposals comply with policies EP5, EP7, EP10 and IMP1.

Natural Environment (E1, E3, IMP1 and R4)

The site itself is not subject to any international, national or local environmental designations. The R4 designation identifies the requirement for walkover and photographic survey in support of any application. The results of a survey submitted with the previous withdrawn application found signs of protected species on site but no setts, dens etc. Given that habitats on site have remained largely unchanged since the survey and based on intervening visits by officers and SNH, these findings are considered to still be representative at this time. As a precautionary measure and as recommended by SNH pre-construction species surveys would be required within 6 months prior to development on each plot commencing, to ensure that if activity has changed on site it is identified species protection plans (and species licensing if necessary) can be developed within the time frame avoiding delays in construction programmes. This shall be addressed by a planning condition.

Noise Impacts (EP8 and IMP1)

The site currently falls within the 66dBA noise contour for the former RAF Kinloss airfield and is therefore subject to the requirements of policies EP8 Pollution, IMP1 Developer Requirements and Scottish Government PAN 1/2011: Planning and Noise which seeks to ensure that aircraft noise affecting new residential development is subject to detailed assessment via a Noise Impact Assessment and appropriately mitigated to provide satisfactory amenity levels for occupants.

Following consultation, the Environmental Health Section has raised no objection subject to a condition requiring any future detailed applications or applications for matters specified in conditions to be have regard to MOD aircraft noise contours in place at that time and to contact the Environmental Health Manager to determine the need (or otherwise) for an accompanying Noise Impact Assessment which identifies mitigation measures to protect amenity. On this basis, policies EP8 and IMP1 are met.

Developer Obligations (IMP3)

A Developer Obligations assessment has been carried out in accordance with Local Development Plan policy and supplementary planning guidance which has identified the need for contributions towards healthcare, primary education and sports and recreation facilities. The applicants have confirmed that they are agreeable to the contributions, which will need to be secured via a legal agreement prior to the issue of the planning consent.

Conclusion

On the basis of the above considerations and subject to the conditions recommended the proposal is acceptable.

REASON(S) FOR DECISION

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

The application represents an acceptable departure from policy E9 Settlement Boundaries on the basis whilst the private communal shared package sewage treatment plant is located out with settlement boundary it will result in minimal visual impact. In all other respects the proposal accords with the Moray Local Development Plan 2015 and there are no material considerations that indicate otherwise.

Author/Contact

Richard Smith

Ext: 01343 563256

Officer:

Principal Planning Officer

Beverly Smith

Development Management & Building Standards Manager

APPENDIX

POLICY

Adopted Moray Local Development Plan 2015

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.

R4: Damhead

This site extends to 3.4 hectares and has a maximum capacity for 25 houses. A Tree Preservation Order covers the site. The site has to be served by an adoptable road. A 1.8 metre footway shall be connected to the site linking with the existing footway. This will require a pedestrian crossing on the B9089. A minimum visibility splay of 4.5m x 95m to the west and 4.5m x 125m to the east shall be provided at the junction of the site road with the B9089.

A Drainage Impact Assessment is required.

A walkover and photographic survey of habitats is required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependant terrestrial ecosystems. A species survey and protection plan should accompany any planning application for development on the site.

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 IMP1 are 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 H8: Affordable Housing

Proposals for new housing developments of 4 or more units (including conversions) must provide 25% of the total units as affordable housing.

A higher percentage contribution may be appropriate 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.

Supplementary or other guidance will provide further details of this policy including the proportion of provision, the specification of wheelchair accessible housing and the exceptions that may apply.

Policy H9: Housing Mix/Accessible Housing

Proposals for multiple houses must meet the needs of smaller households, older people and other needs (e.g. extra care housing) identified in the Council's Housing Need and Demand Assessment.

All new residential developments must provide a range of housing of different types and sizes which should reflect the requirements of the Local Housing Strategy. Different house types should be well integrated, ensuring that the siting and design is appropriate to the location and does not conflict with the character of the local area.

Housing proposals of 10 or more units will be required to provide a proportion of wheelchair accessible housing. Flexibility may apply on less accessible sites and/or where an alternative acceptable housing mix is proposed.

Off site provision may be acceptable where sites do not have good access to local services and facilities and are not considered appropriate for housing for older people.

Supplementary or other guidance will provide further details of this policy including the proportion of provision, the specification of wheelchair accessible housing and the exceptions that may apply.

Policy E3: Protected Species

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

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

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

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

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

Policy E4: Trees and Development

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

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

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

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

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

Proposals affecting woodland will be considered against Policy ER2.

Policy E5: Open Spaces

Safeguarding Open Spaces

Development which would cause the loss of, or adversely impact on, areas identified under the ENV designation in settlement statements and the amenity land designation in rural groupings will be refused unless;

- The proposal is for a public use that clearly outweighs the value of the open space or the proposed development is ancillary to the principal use and will enhance use of the site for sport and recreation; and
- The development is sited and designed to minimise adverse impacts on the recreational, amenity and biodiversity value of the site; and
- There is a clear excess of the type of ENV designation within easy access in the wider area and loss of the open space will not negatively impact upon the overall quality and quantity of open space provision, or
- Alternative provision of equal or greater benefit will be made available and is easily accessible for users of the developed space.

Provision of new Open Spaces

Quantity

New green spaces should be provided to the following standards;

- Residential sites less than 10 units - landscaping to be determined under the terms of policies PP3 and IMP1 to integrate the new development.
- Residential sites 10-50 units and new industrial sites- minimum 15% open space
- Residential sites 51-200 units- minimum 20% open space

- Residential sites 201 units and above and Business Parks- minimum 30% open space including allotments, formal parks and playspaces within residential sites.

Quality

New green spaces should be;

- Overlooked by buildings with active frontages
- Well positioned, multi functional and easily accessible
- Well connected to adjacent green and blue corridors, public transport and neighbourhood facilities
- Safe, inclusive and welcoming
- Well maintained and performing an identified function
- Support the principles of Placemaking policy PP3.

Allotments

Proposals for allotments on existing open spaces will be supported where they do not adversely affect the primary function of the space or undermine the amenity value of the area and where a specific locational requirement has been identified by the Council. Consideration will include related aspects such as access and car parking and not just the allotment area itself.

Policy E9: Settlement Boundaries

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

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

Policy EP7: Control of Development in Flood Risk Areas

New development should not take place if it would be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere. Proposals for development in areas considered to be at risk from flooding will only be permitted where a flood risk assessment to comply with the recommendations of National Guidance and to the satisfaction of both the Scottish Environment Protection Agency and the Council is provided by the applicant. This assessment must demonstrate that any risk from flooding can be satisfactorily mitigated without increasing flood risk elsewhere. Due to continuing changes in climatic patterns, the precautionary principle will apply when reviewing any application for an area at risk from inundation by floodwater.

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

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

Areas within these risk categories will generally not be suitable:

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

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

Policy EP8: Pollution

Planning applications for developments that may cause significant pollution in terms of noise (including RAF aircraft noise), air, water and light emissions will only be approved

where a detailed assessment report on the levels, character and transmission of the potential pollution is provided by the applicant. The assessment should also demonstrate how the pollution can be appropriately mitigated. Where the Council applies conditions to the consent to deal with pollution matters these may include subsequent independent monitoring of pollution levels.

Policy 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 EP13: Ministry of Defence Safeguarding Areas

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

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

Policy ER2: Development in Woodlands

All woodlands

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

Protected Woodlands

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

Tree surveys and new planting

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

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

Policy ER5: Agriculture

The Council will support the agricultural sector by:

- a) Presuming against irreversible development on prime agricultural land (classes 1,2 and 3.1) unless the site is required for settlement expansion and there is no other suitable alternative.
- b) Supporting farm diversification proposals in principle and supporting business proposals which are intended to provide additional income/ employment on farms.

Proposals for agricultural buildings with a locational requirement will be subject to visual, landscape and amenity considerations and considered against the relevant environmental policies.

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 T6: Traffic Management

There is a presumption against new accesses onto a trunk road, and Transport Scotland will consider the case for such junctions where nationally significant economic growth or regeneration benefits can be demonstrated.

There will also be a presumption against new direct access onto other main/key routes (the A941 and A98) except where required to support the provisions of the development plan. Moray Council will consider the case for such junctions where significant regional economic growth benefits can be demonstrated. Consideration will be given to the traffic impact, appropriate road design and traffic management requirements.

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

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

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

- incorporate the route within the site layout and the routes amenity value must be maintained or enhanced; or
- provide alternative access that is no less attractive and is safe and convenient for the public to use.

Policy 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 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.

R3 Damhead 3.4 ha 25 units

- A Tree Preservation Order covers the site. Proposals must seek to maximise the retention of trees and be supported by a tree survey and tree protection plan.
- Site must be serviced by an adoptable road.
- A 1.8 metre footway must be provided connecting the site to the existing footway. This will require a pedestrian crossing on the B9089.
- A minimum visibility splay of 4.5m by 95m to the west and 4.5m by 125m to the east must be provided at the junction of the road to the site with the B9089.
- Drainage Impact Assessment (DIA) required.
- Phase 1 Habitat Survey required.
- Species Survey and Protection Plan required.

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) Alterations and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.
- i) Proposals must orientate and design buildings to maximise opportunities for solar gain

(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, paviers, 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.

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.

EP5 OPEN SPACE.

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

Development which would result in a change of use of a site identified under the ENV designation in settlement statements or amenity land designation in rural groupings to anything other than an open space use will be refused.

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

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

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

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

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

- ENV 1** Public Parks and Gardens
- ENV 2** Amenity Greenspace
- ENV 3** Playspace for children and teenagers
- ENV 4** Sports Areas
- ENV 5** Green Corridors
- ENV 6** Natural/Semi-Natural Greenspace
- ENV 7** Civic Space
- ENV 8** Allotments
- ENV 9** Cemeteries and proposed extensions
- ENV 10** Private Gardens and Grounds
- ENV 11** Other Functional Greenspace

b) Green Infrastructure and Open Space in New Development.

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

Open space provision in new developments must meet the accessibility, quality and quantity standards set out below and meet the requirements of policy PP1 Placemaking, EP2 Biodiversity, other relevant policies and any site specific requirements within the Settlement Statements. Developers must demonstrate through a Placemaking Statement that they have considered these standards in the design of the open space, this must

include submission of a wider analysis plan that details existing open space outwith the site, key community facilities in the area and wider path networks.

i) Accessibility Standard.

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

ii) Quality Standard.

Across a development open space must achieve a very good quality score of 75%. Quality will be assessed by planning officers against the five criteria below using the bullet point prompts. Each criterion will be scored on a scale of 0 (poor) to 5 (very good) with an overall score for the whole development expressed as a percentage.

Accessible and well connected.

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

Attractive and Appealing Places.

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

Biodiverse supporting ecological networks (see Policy EP2 Biodiversity).

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

Promotes activity, health and well being.

- Provides multifunctional open space for a range of outdoor physical activities reflecting user needs and location.

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

Safe, Welcoming and contributing to Character and Identity.

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

iii) Quantity Standard.

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

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

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

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

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

EP6 SETTLEMENT BOUNDARIES

Settlement boundaries are drawn around each of the towns, villages and rural groupings representing the limit to which these settlements can expand during the Local Development Plan period.

Development proposals immediately outwith the boundaries of these settlements will not be acceptable, unless the proposal is a designated "LONG" term development site which is being released under the terms of Policy DP3.

EP6 SETTLEMENT BOUNDARIES

Settlement boundaries are drawn around each of the towns, villages and rural groupings representing the limit to which these settlements can expand during the Local Development Plan period.

Development proposals immediately outwith the boundaries of these settlements will not be acceptable, unless the proposal is a designated "LONG" term development site which is being released under the terms of Policy DP3.

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.

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.

EP15 MOD SAFEGUARDING.

Development proposals must not adversely impact upon Ministry of Defence safeguarding operations. Details of consultation zones for Kinloss Barracks and RAF Lossiemouth and development types which will be subject to consultation with the Defence Infrastructure Organisation are available from Moray Council. The outer boundaries of the zones are shown on the Proposals Map.

WARD 08_17

20/00016/APP
13th January 2020

Amend condition 9(b) imposed on 19/00320/PPP to read as follows: All buildings shall have a maximum ridge height of 7.1m from finished floor level on Land To The North And West Of East And West Whins Findhorn Moray for Duneland Ltd

Comments:

- This application is being reported to committee because at the meeting of 10 December 2019 it was agreed that all further applications related to application reference 19/00320/PPP be reported to committee.
- The application was advertised for neighbour notification purposes.
- Three representations received.

Procedure:

- A S75 minute of agreement to be completed prior to issue of planning consent.

Recommendation

Grant Planning Permission – Subject to the following:

Conditions/Reasons

1. Condition 9 as attached to the application for planning permission granted under formal decision notice 19/00320/PPP is hereby varied and shall be substituted by the following: "That for any subsequent detailed application/application for Matters Specified in Conditions relative to this approval, the layout, design and landscaping of the development hereby approved shall satisfy the following requirements:-
 - a) All development shall be in accordance with the design principles set out in the approved Masterplan (except that buildings shall not be limited to a maximum of 1 ½ storey).
 - b) All buildings shall have a maximum ridge height of 7.1m"

Reason: To ensure an acceptable form of development, which relates satisfactorily to surrounding housing in terms of scale, design and character, and protects the amenity of neighbouring residents.

2. The development hereby approved shall accord with all other conditions of planning permission granted under formal decision notice 19/00320/PPP approved on the 4 November 2019 for planning permission in principle.

Reason: To avoid any ambiguity regarding the terms of the consent.

Reason(s) for Decision

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

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

List of Informatives:

None

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
02	Location plan
A101 B	Site plan and sections



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:

20/00016/APP

Site Address:

Land At North Whins

The Park Findhorn

Applicant Name:

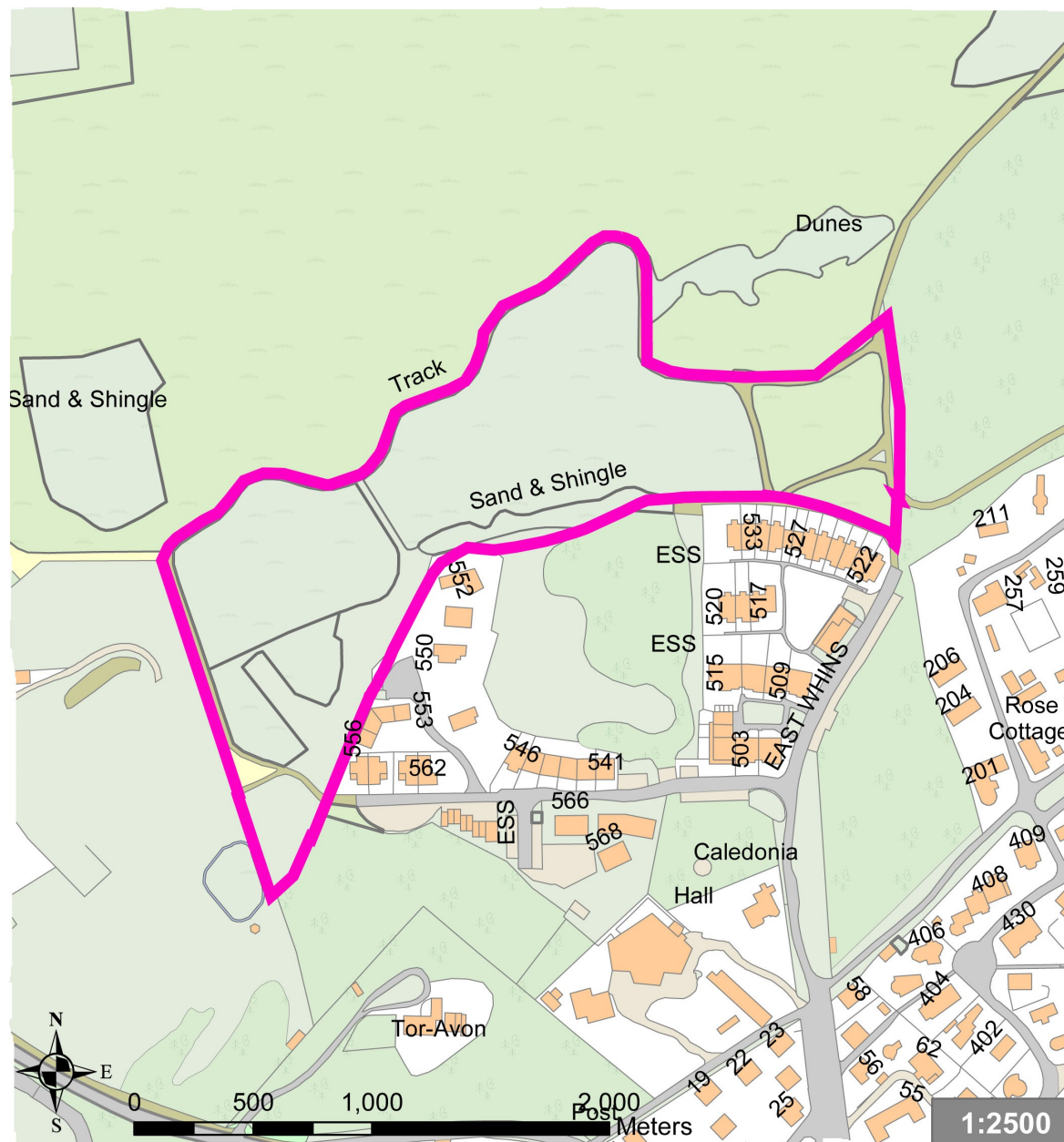
Duneland Ltd

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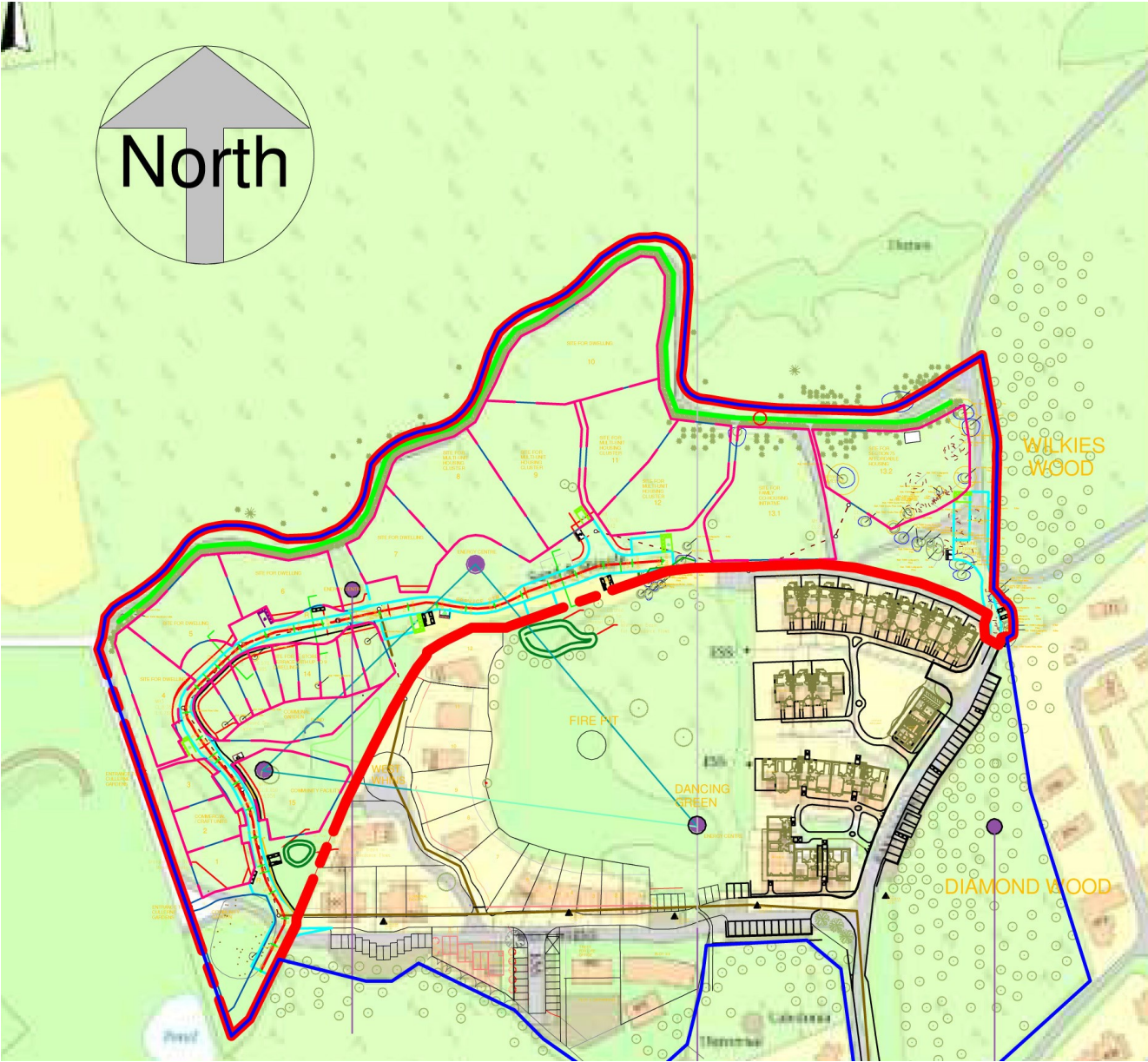
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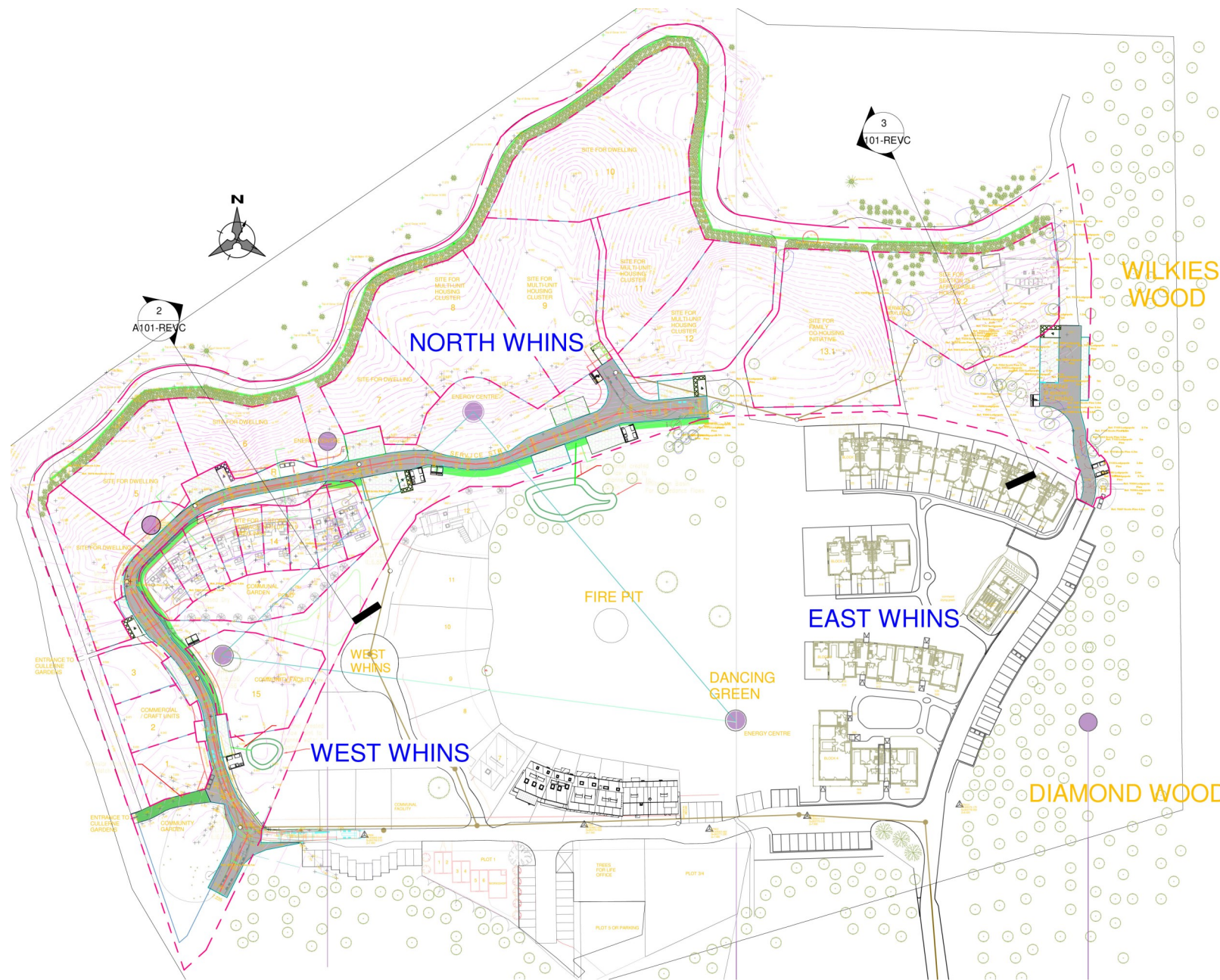
Location Plan

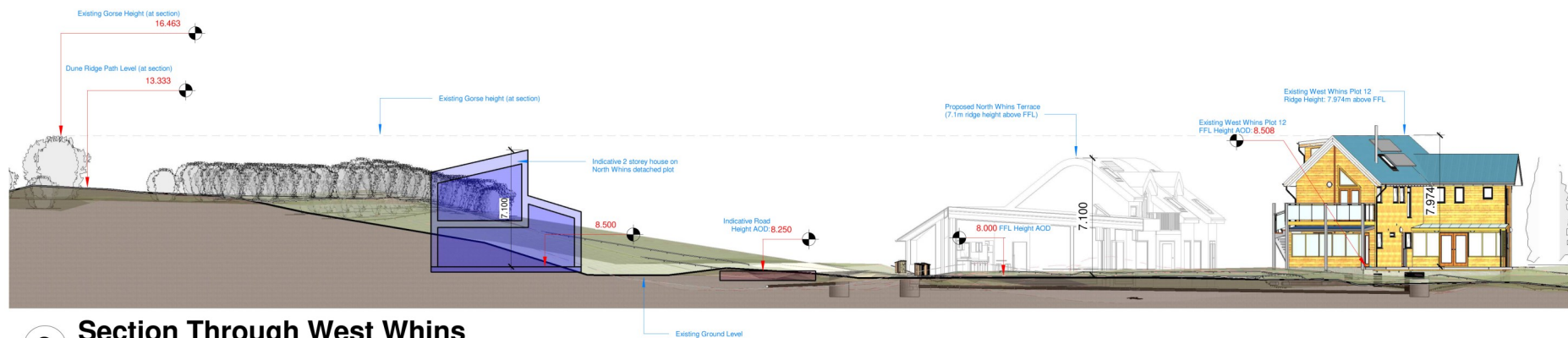


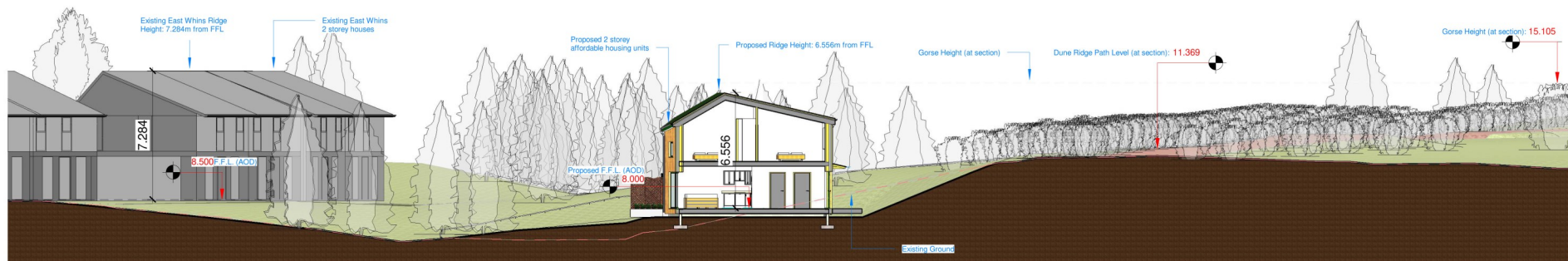
Site Location



Site plan







3 Section - Through East Whins
1 : 200









PLANNING APPLICATION: 20/00016/APP

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

THE PROPOSAL

- This application seeks to vary a condition of the planning permission in principle granted for 38 units, 3 craft units and associated infrastructure at North Whins within the park at Findhorn to allow buildings up to 7.1m to the ridge.
- The existing condition allows for buildings to be 1.5 storey only.
- Permission in Principle as granted on 4 November 2019.
- To date no further applications for any buildings have come forward.
- The application is accompanied by a Supporting Statement and a sectional drawing.

THE SITE

- The site is on dune land to the north of The Findhorn Foundation. The site curves round the northern part of the site around the existing development at East and West Whins and sites within the Findhorn settlement statement boundary.
- The site forms a natural bowl but is undulating with a rise to the dune-line to the north.
- There is an existing footpath around the northern edge of the site, beyond which are open area of open land.
- The site is bounded to the south by the 'East Whins' and 'West Whins' developments with a central communal area between the two.
- Cullerne Gardens is to the west of the site.
- There is woodland (known as Diamond Wood) to the east of the site.

HISTORY

20/00135/APP – Construct four studios and four two bedroom timber framed affordable housing units – pending consideration

19/01649/AMC - Approval of Matters Specified in conditions 3 (overall layout), 7 (sections) and 8 (landscaping) of 19/00320/PPP – pending consideration

19/01436/APP - Amend condition 9(b) imposed on 19/00320/PPP to read as follows: All buildings shall have a maximum ridge height of 15.7m above Ordnance Datum (AOD) (as amended) – withdrawn 14/01/20

19/00320/PPP - Erect 38 dwellinghouses and 3 craft/commercial units and a community facility – permitted 04/11/19

POLICY - SEE APPENDIX

ADVERTISEMENTS

- Advertised for neighbour notification purposes.

CONSULTATIONS

None

OBJECTIONS-REPRESENTATIONS

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

[REDACTED]

[REDACTED]

[REDACTED]

Issue: The masterplan states that development should not break the ridge line and this was repeated in the committee report on application reference: 19/00320/PPP.

Comment (PO): The master plan does include a recommendation that development should 'generally' not breach the dune ridge gorse. This statement relating to the committee report is incorrect. The report states that the requirement not to break the ridge line was too imprecise a requirement to form part of a condition. The intention of the original condition was to ensure development that relates well to its surroundings both in terms of the built development and the wider environment. Each application will be considered on its own merits. Care will be taken to consider the impact on the general amenity of the area and the AGLV beyond but as has been stated the requirement that development will not breach the ridge line is subjective and cannot be reasonably enforced.

Issue: The dune ridge varies in height, vegetation can be cut down or altered, breaching the ridge is a relative assessment based on viewpoint etc.

Comment (PO): This point is noted and this is why the original permission did not seek to control building heights in relation to the dune ridge. The original report made clear that this was an essentially subjective assessment that could not be enforced by the planning authority.

Issue: Indicative levels and sections have been supplied in the past

Comment (PO): A plan has been submitted with detailed levels across the site include spot heights along the dune ridge. An indicative section has been provided. This is necessarily indicative as the buildings shown are not yet approved or built.

Issue: The applicant's justification does not state how views will be protected.

Comment (PO): The supporting statement states that there is an intention to protect the current outlook from the dunes. It stresses that the intention of the application is to ensure development that relates well to the scale, design and character of the surrounding development and protect amenity. This is in line with the reason for attaching the original condition on the permission in principle.

Issue: It has been suggested that this application is purely to accommodate the proposed affordable housing. This should not be put ahead of environmental or amenity concerns.

Comment (PO): It is noted above that an application (20/00135/APP) for affordable housing on the site is currently under consideration. This proposal two storey and is 6.56m to the ridge. It would not comply with the condition as originally imposed but would be comfortably within the recommended parameters of the varied condition. The supporting statement indicates that the desire to amend the condition is based on a holistic approach to the site and aims to ensure a solution that works across the site.

Issue: The height restriction should be based on Ordnance Datum rather than ridge height.

Comment (PO): An application (19/01436/APP) to vary the condition to a figure based on Ordnance Datum (OD) was withdrawn at the request of the applicant. It is felt that a ridge height condition still provides reasonable control over the heights of buildings and is in keeping with the spirit of the original condition which restricted the height of the buildings only.

Issue: The site borders and AGLV.

Comment (PO): The site is immediately adjacent to the Findhorn and Burghead Coast Area Great landscape Value (AGLV). The importance of protecting key views to and from the AGLV is recognised. Individual applications will have to consider the impact on the AGLV particularly on those plots that directly abut the designated site. The amendment to the condition will not prejudice the consideration of the impact on the AGLV as part of any further application and will not lead to any adverse impact on the AGLV.

Issue: Care should be taken with the siting of buildings on individual plots to ensure that they are sited in a sensitive manner.

Comment (PO): Each application will be considered on its own merits. While applications must demonstrate compliance with the conditions of the permission in principle, the siting and design of each plot will be carefully considered to ensure that they take account of their surroundings.

Issue: Additional features such solar panels on a roof can be obtrusive and add additional height.

Comment (PO): This is a matter that could be considered as part of individual applications. On completion, any house would benefit from permitted development rights but class 2A of the General Permitted Development Order only allows additions to the roof that protrude by no more than 1m.

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.

The main issues are considered below.

Planning History

Planning Permission in principle (19/00320/PPP) for 38 houses, 3 craft/commercial units and a community facility with associated infrastructure was granted on 4 November 2019. That application was supported by a Masterplan document which identified a number of requirements for the development including providing broad design principles for the development of the site including the requirements that development shall not exceed the height of existing buildings, will generally not break the height of the gorse on the ridge and shall be limited to 1 ½ storey. The permission was subject to a number of conditions including condition 9 which reads as follows:

That for any subsequent detailed application/application for Matters Specified in Conditions relative to this approval, the layout, design and landscaping of the development hereby approved shall satisfy the following requirements:-

- a) All development shall be in accordance with the design principles set out in the approved Masterplan.*
- b) All buildings shall be single or 1 and a half storeys in design.*

The intention of the condition was to ensure that the broad design principles set out in the masterplan are reflected in the future development of the site. It was acknowledged in the report to committee on that application that the masterplan contained broad principles only. The requirement contained in the masterplan that development 'will *generally* not break the height of the gorse' was specifically identified in the report as a largely

subjective assessment that could not be consistently enforced. The gorse line varies across the ridge and there are sections where gorse cover is thin. The requirement for 1 ½ storey buildings was put forward by the applicant but was considered to be a reasonable restriction that would result in development that would be unobtrusive in the landscape and would be in keeping with surrounding development. This was added as an express condition to reinforce this requirement and distinguish it from the more general principles contained in the masterplan.

To date no further applications in relation to the permission in principle have come forward so no detailed proposals have been considered against the provisions of condition 9. However, an application (20/00135/APP) has been lodged for eight affordable housing units on plot 13.2. These are two storey and would not comply with the terms of the condition at present. They are 6.56m to the ridge therefore would comply with the varied condition. The detailed plans for the site continue to evolve and the applicant is now of the view that the 1 ½ storey restriction is unduly prescriptive and will prevent development that would otherwise be appropriate on the site.

Design & Visual Impact (PP3, H1 & IMP1)

The proposal is to substitute the 1 ½ storey requirement for a stipulation that no building shall measure more than 7.1m to the ridge. This figure has been put forward by the applicant. The proposed amended condition continues that but allows for different layouts provided that the ridge of the building is kept within an acceptable limit which was the intent of the original condition. In their supporting statement the applicant contends that this will allow for greater design flexibility in a way that continues to restrict the overall height of buildings. An indicative section has been provided which shows two sections through the site. One shows the proposed affordable housing on plot 13.2 which is currently the subject of a separate application (20/00135/APP). The proposed buildings are 6.56m to the ridge. The second section is taken further west showing indicative house types for both the terrace on plot 14 and a detached house on plot 6. Both are shown at 7.1 which is the maximum allowed under the terms of the revised condition. In each case the drawing also shows the nearest existing buildings at East and West Whins which are both higher than 7.1m to the ridge. This demonstrates that buildings of this scale can be accommodated on site in a way that relates well to both surrounding buildings and the topography. The condition would allow for significantly lower buildings but even one that was fully 7.1m to the ridge would be in keeping with the scale of neighbouring buildings. The application site sits below the level of the dune ridge and a building 7.1m to the ridge would not be conspicuous in this setting. It should be noted it would be possible to build a true 1 ½ storey building with a higher ridge. Furthermore there are already taller buildings in the adjoining development. The design of each building proposed on the site will be considered on its own merits but the height restriction proposed would allow sufficient control to ensure development was of a scale that was sympathetic to existing buildings and the wider landscape. The proposal will allow for sensitively designed development appropriate to the amenity of the area in accordance with policies PP1, H1 and IMP1.

Impact on the AGLV(E7)

It is noted in response to representations that the site is immediately adjacent to the Findhorn and Burghead Coast Area Great landscape Value (AGLV). The importance of protecting key views and prevent any adverse impact on the AGLV is recognised. This will form part of the assessment of further applications, but it is considered that the

proposed amended condition will serve to support that aim and there will be no significant adverse impact on the AGLV. The proposal accords with policy E7.

Impact on Residential Amenity (IMP1)

All further applications for development on the site will be considered on their own merits. All proposals will be required to consider residential amenity including issues such as overlooking, privacy, loss of light and overshadowing. All buildings must be sited and designed in a manner that does not adversely impact on individual or communal amenity. The proposed amended condition would ensure that development was a scale that was in keeping with surrounding development and will not adversely impact on the amenity of residents or the wider community.

Conclusion

The proposal to amend condition 9 will still allow the heights of buildings on the site to be controlled. The amended condition will ensure that all buildings provided on site are in keeping with the heights of existing buildings in the adjoining development and will not result in any unacceptable landscape or visual impacts. The proposal is considered to accord with policy and is recommended for approval.

REASON(S) FOR DECISION

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

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

**Author/Contact
Officer:**

Lisa MacDonald
Senior Planning Officer

Ext: 01343 563479

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

APPENDIX

POLICY

Adopted Moray Local Development Plan 2015

Moray Local Development Plan 2015 - Material Consideration

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 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 IMP1 are 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 E7: Areas of Great Landscape Value (AGLV) and impacts upon the wider landscape

Development proposals which would have a significant adverse effect upon an Area of Great Landscape Value will be refused unless:

- a) They incorporate the highest standards of siting and design for rural areas
- b) They will not have a significant adverse effect on the landscape character of the area, in the case of wind energy proposals the assessment of landscape impact will be made with reference to the terms of the Moray Wind Energy Landscape Capacity Study.
- c) They are in general accordance with the guidance in the Moray and Nairn Landscape Character Assessment.

New developments should be designed to reflect the landscape characteristics and special qualities identified in the Landscape Character Assessment of the area in which they are proposed.

Proposals for new hill tracks should ensure that their alignment minimises visual impact; avoids sensitive natural heritage features, avoids adverse impacts upon the local hydrology; and takes account of the likely type of recreational use of the track and wider network.

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.

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.

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) Alterations and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.
- i) Proposals must orientate and design buildings to maximise opportunities for solar gain

(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, pavements, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of service vehicles with hammerheads minimised in preference to turning areas 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.

EP3 SPECIAL LANDSCAPE AREAS AND LANDSCAPE CHARACTER.

i) Special Landscape Areas (SLA's).

Development proposals within SLA's will only be permitted where they do not prejudice the special qualities of the designated area set out in the Moray Local Landscape Designation Review, adopt the highest standards of design in accordance with Policy DP1 and other relevant policies, avoid adverse effects on the landscape and visual qualities the area is important for, and are for one of the following uses;

- a) In rural areas (outwith defined settlement and rural grouping boundaries);
 - i) Where the proposal involves an appropriate extension or change of use to existing buildings, or
 - ii) For uses directly related to distilling, agriculture, forestry and fishing which have a clear locational need and demonstrate that there is no alternative location, or
 - iii) For nationally significant infrastructure developments identified in the National Planning Framework.
- b) In urban areas (within defined settlement, rural grouping boundaries and LONG designations);
 - i) Where proposals conform with the requirements of the settlement statements, Policies PP1, DP1 and DP3 as appropriate and all other policy requirements, and
 - ii) Proposals reflect the traditional settlement character in terms of siting and design.
- c) The Coastal (Culbin to Burghead, Burghead to Lossiemouth, Lossiemouth to Portgordon, Portgordon to Cullen Coast), Cluny Hill, Spynie, Quarrywood and Pluscarden SLA's are classed as "sensitive" in terms of Policy DP4 and no new housing in the open countryside will be permitted within these SLA's.

Proposals for new housing within other SLA's not specified in the preceding para will be considered against the criteria set out above and the criteria of Policy DP4.

Where a proposal is covered by both a SLA and CAT or ENV policy/ designation, the SLA policy will take precedence.

ii) Landscape Character.

New developments must be designed to reflect the landscape characteristics identified in the Landscape Character Assessment of the area in which they are proposed.

Proposals for new roads and hill tracks associated with rural development must ensure that their alignment and use minimises visual impact, avoids sensitive natural

heritage and historic environment features, including areas protected for nature conservation, carbon rich soils and protected species, avoids adverse impacts upon the local hydrology and takes account of recreational use of the track and links to the wider network.



REPORT TO: MEETING OF THE PLANNING AND REGULATORY SERVICES COMMITTEE ON 25 FEBRUARY 2020

SUBJECT: 19/00156/S36 – ADDITIONAL INFORMATION SUBMITTED FURTHER TO THE INITIAL EIA REPORT RELATING TO ALTERNATIVE PROPOSED DEVELOPMENT CONSISTING OF ERECT 23 WIND TURBINES OF WHICH 15 TURBINES OF AN OVERALL HEIGHT FROM BASE TO TIP NOT EXCEEDING 149.9M AND THE REMAINING 8 TURBINES OF AN OVERALL HEIGHT FROM BASE TO TIP NOT EXCEEDING 175M. ASSOCIATED INFRASTRUCTURE INCLUDES EXTERNAL TRANSFORMER HOUSING, CRANE PADS, TURBINE FOUNDATIONS, ACCESS TRACKS, 2 SUBSTATIONS, UNDERGROUND ELECTRICITY CABLES AND ANEMOMETRY MAST AT ROTHES III WINDFARM, MORAY

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

1. REASON FOR REPORT

- 1.1 This report asks Committee to consider a consultation received in relation to an Electricity Act 1989 Section 36 application (which includes deemed planning permission) for a new windfarm. This Section of the Electricity Act relates to consenting onshore electricity generation. An additional consultation has been undertaken following submission of Environmental Impact Assessment Report Additional Information for changes to the windfarm originally submitted.
- 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 functions of the Council as Planning Authority.

2. RECOMMENDATION

2.1 It is recommended that the Committee:-

- i) consider and note the contents of the report, as set out in Appendix 1, including the conclusions regarding the planning merits of the EIA Additional Information which take into account the Moray Local Development Plan 2015 and all material considerations including the presence of existing neighbouring windfarms;

- ii) **respond to the further consultation request from the Scottish Government, maintaining an objection to the alternative proposed development on the basis of the recommendations set out in Appendix 1, in particular in terms of the considered unacceptable significant landscape and visual impacts that would arise from the position and height of proposed turbines on the site (including cumulative impact), transportation issues and the impact on tourism and recreational interests; and**
- iii) **consider whether any additional comments on the proposal should be submitted in relation to the Additional Information.**

3. BACKGROUND

- 3.1 The applicant Rothes III Limited (subsidiary company of Fred Olsen Renewables) has lodged an application for consent under Section 36 of the Electricity Act 1989 for the construction, operation and decommissioning of a proposed windfarm to be known as Rothes III 2.5km north of Archiestown. If granted, planning permission is deemed to be granted for the development (see Site Plan in **Appendix 2**). Moray Council objected in June 2019 to the proposal as originally submitted for 29 wind turbines consisting of 18 turbines of an overall height from base to tip not exceeding 225m, 8 turbines of an overall height from base to tip not exceeding 200m and 3 turbines of an overall height from base to not exceeding 149.9m. This in turn, triggered the need for a Public Local Inquiry (PLI) to determine the windfarm proposal.
- 3.2 In the approach to the PLI the applicants have submitted to the Directorate for Planning and Environmental Appeals (DPEA) 'Additional Information' (EIAR AI) to the original Environmental Impact Assessment Report which contains various amendments, updates and information which will be listed more fully in **Appendix 1**. Most notable was the presentation of an alternative proposed development as a fall back option which the applicants have submitted "in the event the Reporters are not persuaded as to the acceptability of the submitted proposed development". This alternative sees a reduction in numbers and heights of turbines, with other associated changes such as less tracks and infrastructure proposed. As described above the EIAR AI includes an alternative proposed development with 6 less turbines, and reducing the height of most turbines by 50m.
- 3.3 At this stage in the process, responsibility for collating statutory consultees responses, receipt of representations and determination now fall within the Inquiry process via the DPEA. In these circumstances the role of Moray Council, as planning authority, remains as a consultee rather than being the determining authority. The period for consultation for Moray Council expired in January 2020 but an extension to this period has been granted until late February to accommodate referral to the first available Planning and Regulatory Services Committee of the year.
- 3.4 The applicant has been clear that they still wish to proceed with the scheme as submitted, so the PLI convened will proceed on the basis of the Councils original objection, whether or not the Council separately objects or does not

object to the possible alternative proposed development. The EIAR AI gives the PLI Reporters an alternative proposal, should they not accept the assessment of the submitted proposal. In either case the Reporter would then put a recommendation before to Scottish Ministers for a final determination.

4. SUMMARY OF IMPLICATIONS

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

Promote economic development and growth and maintain and promote Moray's landscape and biodiversity.

(b) Policy and Legal

The application is made for consent under S.36 of the Electricity Act 1989 to Scottish Government. If consented, planning permission is deemed to be granted for the development. For planning purposes proposals require to be determined in accordance with the development plan unless material considerations indicate otherwise. If granted by Scottish Government, the responsibility for the discharge of (planning) conditions attached to the formal decision to grant consent will pass to Moray Council.

(c) Financial implications

Moray Council via its previous response is already committed to a Public Local Inquiry arranged by Scottish Government. Moray Council are already participating in the Inquiry process, inclusive of resultant costs, including officer, legal representation and consultant costs where required/appropriate.

At Inquiry, the applicant may seek an award of costs against the Council if it is considered the Council has acted unreasonably.

(d) Risk Implications

If the Council decide not to respond within the agreed period it would be open to Scottish Government to proceed and determine the application.

If deciding to object, the outcome of any Public Local Inquiry held to consider this proposed development is uncertain: it might uphold and support the Council's decision to object, but equally the objection could be dismissed and consent granted for the development - either in its original format or the proposed amendment subject of this report.

(e) Staffing Implications

Due to the progressed Public Local Inquiry, staff time and resources (planning and legal officers) are already required for preparation and attendance at the Inquiry.

(f) Property

None.

(g) Equalities/Socio Economic Impact

None.

(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, the Development Management and Building Standards Manager, the Transportation Manager, the Strategic Planning and Development Manager and Lissa Rowan (Committee Services Officer) have been consulted and comments received have been incorporated into the report.

5. CONCLUSION

- 5.1** From Appendix 1, the planning merits have been considered relative to current development plan policy and material considerations, including the wind energy supplementary planning policy guidance and wind energy landscape capacity study approved by the Council.
- 5.2** Whilst national policy provides support for renewable energy proposals the proposal is not considered to be in full accordance with the Moray Local Development Plan 2015 policies and guidance. Aspects of national guidance in relation to landscape impact have also been departed from.
- 5.3** Notwithstanding the material considerations advanced by the applicant (including matters identified in the submitted Additional Information Report) on balance, Officers would make the following recommendation that would form the basis of the further response to the DPEA in relation to the Additional Information (as stated in Appendix 1 and repeated below). Notwithstanding the reduction in the proposed alternative development, the previous grounds for objection as stated in para 5.4 remain very similar.
- 5.4** The alternative proposed development is contrary to Moray Local Development Plan 2015 policies PP1 Sustainable Economic Growth, T2 Provision of Access, ED7 Rural Business Proposals, ER1 Renewable Energy Proposals, E7 Areas of Great Landscape Value and Impacts Upon the Wider Landscape, IMP1 Developer Requirements, IMP2 Development Impact Assessments and Moray Onshore Wind Energy 2017 Policy Guidance and The Moray Wind Energy Landscape Capacity Study 2017 for the following reasons:-
- I.** Many of the turbines would be located close to the edges of, and outwith, the areas of potential for larger turbines within Landscape Character Type (LCT) 10. The proposed turbines would by virtue of their size and positions have significant adverse effects and dominate the smaller scale upland fringes in the Upper Knockando area and effect views from and character of the Spey Valley.
 - II.** The proposal would be inappropriate in terms of its significant adverse impacts on landscapes and views within Moray. Views from varying distances such as those from Ben Rinnes, Ben Aigen and the A95 south of Aberlour would excessively diminish the recreational

and visitor experience where the countryside would be overly populated with windfarm developments.

- III. The proposal would increase the influence of wind energy development in views north from within the Spey Valley Area of Great Landscape Value (AGLV). As development must not diminish the landscape quality within this designation the policy directly guides wind energy development proposals to compliance with the 2017 Moray Wind Energy Landscape Capacity Study (MWELCS). The proposal departing from the MWELCS therefore has an unacceptable impact upon the AGLV where the landscape would be detrimentally affected.
- IV. The proposed windfarm would result in complex and unacceptable cumulative views of wind energy development. These cumulative views are illustrated in the various Cumulative Zones of Theoretical Visibility figures. The proposed windfarm from varied locations within Moray would bring into view an agglomeration of windfarms, constructed or consented. This would result in significant adverse cumulative effects upon the landscape and upon visual amenity resulting in the creation of a windfarm landscape.
- V. The submitted information is inadequate to meet policies T2 and IMP2 as it is insufficient to enable Moray Council to consider; the feasibility of the proposed development in terms of the ability to deliver turbine components, the impact on the public road network and the identification of appropriate mitigation/modification or improvements necessary for the proposed development. Furthermore additional information would be required in relation to how the volumes of construction stone beyond that gleaned from on-site borrow pits have been calculated.

Author of Report: Neal MacPherson, Principal Planning Officer

Background Papers:

Ref: 19/00156/S36

APPENDIX 1

MORAY COUNCIL
Response to further Consultation issued by Scottish Government on
APPLICATION FOR S.36 CONSENT
ALTERNATIVE PROPOSED DEVELOPMENT TO ERECT 23 WIND TURBINES
WITH BLADE TIP HEIGHT BETWEEN 149.9 AND 175M METRES WITH
INSTALLED CAPACITY IN EXCESS OF 50MW AT ROTHES III WIND FARM,
MORAY

(MORAY COUNCIL REFERENCE 19/00156/S36)

INTRODUCTION

The applicant, Rothes III Limited has applied for consent under Section 36 of the Electricity Act 1989 for the proposed windfarm near the existing Rothes I & II windfarms, approximately 2.5km north of Archiestown, Moray.

The application will be determined by the Scottish Government Directorate for Planning and Environmental Appeals (DPEA) and not by Moray Council, as local planning authority.

In determining the Section 36 application, the views of Moray Council, as local planning authority are being sought by the Scottish Government: the Council's role in the process is therefore as a statutory consultee. As Moray Council has already objected to the submitted proposed development in June 2019 a Public Local Inquiry (PLI) has already been convened. The applicant has submitted to the Directorate for Planning and Environmental Appeals (DPEA) 'Additional Information' (EIAR AI) to the original Environmental Impact Assessment Report which contains various amendments, updates and information. The changes are listed below and these have triggered a further consultation period.

As the windfarm is already going to PLI the DPEA rather than the Scottish Government Energy Consents Unit (ECU) the DPEA is responsible for determining the proposal and taking account of all representations received, whether from the general public or interested parties, and for consulting with agencies and organisations (consultees). Internal consultation with relevant Services/Sections of the Council has been undertaken in order to provide a comprehensive response in responding to the consultation. The focus of this report is upon the considering the Additional Information as presented by the applicant in the Additional Information Report and other submissions.

The views of Moray Council submitted in June 2019 for the submitted proposal remain in place, with the below report clarifying any changes to that for the Additional Information and proposed alternative development where stated.

THE PROPOSED CHANGES WITHIN THE EIA ADDITIONAL INFORMATION

- Omission of 6 turbines (T17, 21, 24, 27, 28 & 29) reducing the overall number 23 wind turbines, 15 of a maximum height base to tip not exceeding 149.9m, 8 of a maximum height base to tip not exceeding 175m. This would see the omission of all originally proposed 200m and 225m turbines.
- The blade lengths may still be up 75m for the larger turbines.
- 8 of the 23 turbines will have mandatory aviation lighting (all turbines above 150m in height). The lighting is proposed to be radar activated and will become visible only when aircraft are in the vicinity.
- T15 has been moved to avoid an area of deep peat;
- Substation 2 has been moved to meet SSE requirements.
- The revised lay out and repositioning of turbine 15 will see the reduction in the amount of hill tracks and tree felling required. The alternative proposal would require 3.1km less new tracks to be formed compared to the submitted scheme.

THE SITE

- The site edged red remains as submitted, but the proposed alternative scheme through the omission of 6 turbines would now lie approximately 3km north of Archiestown (the submitted scheme is still 2.5km from Archiestown) and adjacent to the existing operational windfarms known as Rothes I and Rothes II.
- The development area remains at is approximately 1,779 hectares.
- Once operational the windfarm will be accessed via the existing Rothes I and Rothes II windfarm entrance onto the minor public road C13E where the existing windfarm site offices are. Construction deliveries would be concentrated upon the existing access onto the A941 at Gedloch and the anticipated delivery route of components is via Inverness-Elgin-Gedloch.
- The windfarm area site is not subject to any international, national, regional or local landscape, built environment or nature conservation designations, but there are several archaeological assets within the site. “Gull Nest” which is a biological Site of Scientific Special Interest (SSSI) lies immediately to the north east of the site. Groundwater dependent Terrestrial Ecosystems (GWDTE’s) are present on site.
- No part of the site would lie within the Area of Great Landscape Value (AGLV) designation which lies 5.5km to the south and south east and also lies approximately 16km north east of the Cairngorms National Park.
- The Burn of Rothes/Mannoch Road Core Path sits partly within the north eastern boundary of the windfarm site. A Right of Way from Upper Knockando towards Burnie also runs north-south through the site (known as the Lower Mannoch Road).
- Carn na Cailliche is a designated landmark hill within the adopted Moray Onshore Wind Energy 2017 Policy Guidance (MOWE). The site sits entirely within Landscape Character Type (LCT) 10 Upland Moorland and Forestry

identified within the Moray Wind Energy Landscape Capacity Study 2017 (MWELCS). Several of the turbines still lie outwith the area for potential for larger turbines as designated within the LCT.

- It is noted that the site boundary extends to cover the two possible access routes into the site, both leading to the public road network (A941 to the east and the C13E to the west).
- There are a number of windfarms (operational and consented) close to the proposed windfarm site. Most notably Rothes I and Rothes II are located immediately north of the proposed site and will be served by roads leading from Rothes II.

HISTORY

For the site.

17/01706/S36SCO - Environmental Impact Assessment (EIA) Scoping for Rothes III undertaken for Electricity EIA Regulations to establish the 'scope' and content of the EIA Report. Scoping Opinion issued by the ECU in November 2017. In this response the need to thoroughly demonstrate how very large turbine components could be delivered within any EIA Report was highlighted. The Scoping response also highlighted the limitations of this Landscape Character Type and asked the EIA Report to address/rationalise any deviation from this if higher taller turbines were proposed.

Relevant wind energy developments in the wider area.

01/02055/S36 - Construct and operate wind powered electricity generating station (28 turbines and ancillary equipment and works) at Paul's Hill, Ballindalloch, Banffshire. Approved by the Scottish Government in spring 2003. Moray Council did not object to the proposed windfarm. Rothes III would be located approximately 9km north east and east of this site.

02/02099/EIA - Construct 21 x 110m turbines at Hill of Towie, Knockan and McHattie's Cairn Drummur. This development was approved in 2005 at appeal and is located 12km east of Rothes III.

03/01426/S36 – Section 36 application to an extension to already consented windfarm (increase individual turbine capacity from 2mW to 2.3mW) at Paul's Hill windfarm comprises of 28 turbines, each 100m to blade tip. Pauls Hill has been operational for approximately 13 years.

04/02473/S36 - Section 36 application for a wind farm at Berry Burn, Altyre Estate, Forres, Moray. 29 turbines at 104m in height. Operational since 2014 and producing approximately 66mW. This windfarm is located approximately 9km to the west of the proposed site, with the proposed Clash Gour windfarm in the similar vicinity.

07/02800/S36 - Extension of wind farm at Rothes Wind Farm - consent granted under S.36 of the Electricity Act 1989 by Scottish Ministers for 18 turbines, 125m high to blade tip, 80m rotor diameter (Rothes II). Now operational located immediately north of the proposed windfarm. The proposed storage shed will be located within this windfarm, close to the existing welfare building/substation.

13/00053/EIA - Erect 12no wind turbines (rotor diameter 71m) at Hill of Glaschyle, Dunphail, Forres, Moray. Application allowed at Appeal by Ministers in April 2014 (see 15/01148/APP below). Located 14km west of the proposed windfarm.

13/00615/EIA - Erection of 4 wind turbines (110m high to blade tip (70m hub height, rotor diameter 80m)) and associated infrastructure at Kellas House, Kellas (consented but not yet constructed, works commenced). This is located 4km north of Rothes III.

13/02057/S36 - Erect 16 wind turbines (125m to blade tip) at Hill of Towie Windfarm, known as Hill of Towie II. Located immediately south of the existing Hill of Towie windfarm, these turbines were approved in 2017 but have yet to be constructed. They are located 11km east of Rothes III.

14/01087/EIA - Erection of wind farm comprising 6 wind turbines 126.5m high to tip and associated access track and ancillary infrastructure erection of 1no permanent anemometer mast temporary formation of construction compound and erection of 2 no temporary anemometer masts at Meikle Hill, Dallas (see 17/01003/APP below). This located 4km north west of Rothes III.

15/01148/APP - Section 42 application to amend Condition 4 of application 13/00053/EIA (as consented at appeal dated 18/03/2014) to allow for revised turbine model (from Enercon E70 to E82) increasing maximum blade tip height from 99.5m to 99.91m and increasing rotor diameter from 70m to 82m at Hill of Glaschyle, Dunphail, Forres. Approved by Committee in October 2015.

17/01003/APP - Variation of conditions 3, 7, 14, 20, 24 and 25 of planning permission 14/01087/EIA for Meikle Hill, Dallas. Approved by Committee in October 2017 and effectively extends permission for a further 5 year period. Not yet constructed.

17/01509/APP - Amend condition 8 (aviation lighting) of the associated permission to allow the use of infra-red lighting at Hill Of Glaschyle, Dunphail, Forres, Moray. Approved in December 2017. New lighting has now been implemented.

Pending applications

18/00523/S36 - Proposed wind farm comprising of 7 wind turbines 6 of a maximum height base to tip not exceeding 149.9m and 1 of maximum height not exceeding 134m external transformer housing site tracks crane pad foundations underground electricity cable control building temporary construction and compound 2 borrow pits

associated works/infrastructure and health and safety signage at Paul's Hill II Wind Farm, Ballindalloch. Located 8km south west of Rothes this proposed wind farm extension was considered at a Local Public Inquiry in September 2019 and the outcome is awaited.

18/01591/S36 - Erect 48 wind turbines with blade tip height between 130 and 176 metres with installed capacity in excess of 50MW at Clash Gour Wind Farm. This proposed windfarm located 7km west of Rothes III is currently with the Energy Consents Unit. Moray Council objected to this proposed windfarm in 2019. It too is now subject of a PLI.

A number of other windfarms exist within Moray further to the east and south east, which have all been given appropriate consideration in the recommendation put forward below.

In Scoping (EIA scoping has been undertaken for the following proposals).

Berryburn II scoping submitted to the Scottish Government for up to 10 turbines at a height up to 149.9m in height. This would constitute an extension to the existing Berryburn windfarm and would be located immediately adjacent to the proposed Clash Gour windfarm.

Within Highland

Cairn Duhie – Permission was issued by Scottish Ministers in October 2017 for 20 wind turbines at a height of 110m. This site lies 18km west of Rothes III within Highland. This site has recently been constructed.

Ourack – Up to 50 turbines, but no height specified at present. This site sits 10km south west of Rothes III and a scoping opinion was issued by the Energy Consents Unit in February 2016. No application has come forward to date but it is understood this proposal may yet come forward. A Scoping request has been submitted to the Scottish Government.

ADVERTISEMENTS

Advertisements will have been carried out originally by the ECU and subsequent advertisement was carried out circa December 2019 following submission of the EIA Additional Information by the applicant.

CONSULTATIONS (Response to AI only)

Strategic Planning and Development;–

Scottish Planning Policy (SPP)

SPP sets out a series of “Policy Principles” including:-

- A presumption in favour of development that contributes to sustainable development;

- and
- Planning should direct the right development to the right place.

In terms of onshore wind energy developments, Paragraph 161 of SPP requires that planning authorities should set out a spatial framework in the development plan which identifies those areas that are likely to be the most appropriate for onshore wind farms as a guide for developers and communities, following the approach set out in Table 1 of SPP. Table 1 is a form of sieve / constraints mapping identifying:-

- Group 1: Areas where wind farms will not be acceptable.
- Group 2: Areas of significant protection – Recognising the need for significant protection, in these areas wind farms may be appropriate in some circumstances. Further consideration will be required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation. Includes national and international designations, other nationally important mapped environmental interests and community separation for consideration of visual impact.
- Group 3: Areas with potential for wind farm development – Beyond Groups 1 and 2, wind farms are likely to be acceptable, subject to detailed consideration against identified policy criteria.

The Wind Farm Spatial Framework within the Moray Local Development Plan (MLDP) 2015 complies with Paragraph 161 of the SPP and identifies areas with potential for wind farm development. This is a broad-brush approach, offering the same approach for all scales of turbines above 35m to blade tip height and covers a significant land area of Moray, approximately 40% of the MLDP area. The proposed turbine locations overlaid on top of the Spatial Framework highlight that 23 of the turbines are consistent with the framework, but 6 turbines to the north-west are not. The overlay of the alternative proposed turbine locations highlight that 17 are consistent with the framework whilst 6 turbines to the north-west are not.

However, the limitations of the very strategic Spatial Framework are recognised and

Paragraph 162 of SPP further requires that local development planning authorities “should identify where there is strategic capacity for wind farms, and areas with the greatest potential for wind development”. To address the requirements of Paragraph 162 and in accordance with Policy ER1 (with wording inserted by the Reporter into the LDP2015 Examination), the Council has more refined Policy Guidance Maps within the approved Supplementary Guidance (Map 1), which highlight that 18 of the turbines are consistent with potential development areas for extension and repowering, but 11 turbines to the south are not. The overlay of the alternative proposed turbine locations highlight that 18 are consistent with potential development areas for extension and repowering whilst 5 turbines to the south are not.

The proposal is not considered to support the principles of SPP highlighted above, constituting an unsustainable approach and the wrong scale and extent of development, as detailed below.

Renewable Energy (ER1)

Policy ER1 Renewable Energy Proposals sets out a comprehensive set of criteria to assess the details of the proposal against, with assessment of some criteria determined by consultee responses.

Proposals must be compatible with policies to safeguard and enhance the built and natural environment. They must also avoid or address any unacceptable significant adverse impacts including landscape and visual impacts, impact on peat land hydrology and watercourse engineering.

Policy ER1 is considered to be consistent with SPP having been subject to Examination and a hearing procedure as part of the preparation of the MLDP 2015. This was reflected in the Reporter's findings in the MLDP 2015 Examination Report which added wording to Policy ER1 stating:-

"Further detail on the above assessment process will be addressed through supplementary guidance to include:-

- Peat mapping once this becomes available.
- Detailed mapping of constraints.
- Guidance on areas with greatest potential for small/ medium and large scale wind farms."

The policy requires that the "proposal addresses the [Moray Onshore Wind Energy Policy] Guidance set out in the Moray Windfarm Landscape Capacity Study". The proposed development is considered to fail the test that "the landscape is capable of accommodating the development without significant detrimental impact on the landscape character or visual amenity", for the reasons outlined below.

The proposal is also considered to be contrary to the requirement that "the proposal is appropriate to the scale and character of its setting, respects the main features of the site and the wider environment and addresses the potential for mitigation". The proposal is therefore contrary to Policy ER1.

Sustainable Economic Development (Policy PP1)

Policy PP1 Sustainable Economic Growth states that proposals will be "supported where the quality of the natural and built environment is safeguarded." While the proposal would provide a sustainable renewable energy source, the sustainability of the proposal has to be considered in its wider context and in this case, the scale, extent and resultant landscape and visual impact is considered to be an unsustainable proposal in terms of Moray's natural heritage. The proposal is therefore contrary to Policy PP1.

Woodland (Policies E4 and ER2)

Bar the western section (containing 7 turbines on the open hill ground of Carn na Cailliche), the site is covered predominately in commercial conifer plantation.

The proposed development will require the total removal of approximately 252.8ha of woodland (infrastructure, windfarm edges and peat land). Of the woodland to be felled, 65.75ha will not be replanted, therefore constituting woodland removal requiring

compensatory planting. The alternative proposal reduces felling by 5.85ha. This decreases the compensatory planting requirement by 2.58ha to 63.17ha.

The Scottish Government's Control of Woodland Removal Policy (CWRP) states that development which involves the 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. The Applicant has not provided a statement to demonstrate such a justification to support woodland removal.

The Applicant proposes 65.75ha (63.17ha for the alternative proposal) of compensatory planting. A Compensatory Planting Plan, including details of the proposed planting and its maintenance over the entire lifespan of the development, must be submitted to the approval of Scottish Forestry and Moray Council.

The Applicant states that areas of Sitka spruce and Lodgepole pine crops planted on wet deep infertile peat were to be removed. The size of this area is contradictory referred to within Chapter 11: Forestry of the Environmental Impact Assessment Report (EIAR) Volume 2 as being 80.6ha (para. 11.3.8) and then 100ha (para. 11.10.2). Subsequently, this area is identified as 80.38ha within the Additional Information (Chapter 11, para 11.3.11). In accordance with the CWRP, this woodland removal is acceptable without a requirement for compensatory planting as it will allow for peatland restoration work which will benefit carbon sequestration and improve habitats for capercaillie and black grouse.

Until such time as adequate justification has been provided for the proposed woodland removal, the proposal is contrary with Policies E4 Trees and Development (and associated Supplementary Guidance) and ER2 Development in Woodlands.

Officer note – see Observations section re compensatory planting

Areas of Great Landscape Value (AGLV) and impacts upon the wider landscape (Policy E7)

The proposal will have a significant adverse effect on part of the Spey Valley AGLV and on the wider landscape and the proposal is therefore considered to be contrary to Policy E7 (see below).

Policy E7 also requires proposals which involve the creation of new hill tracks to ensure that their alignment minimises visual impact, avoids sensitive natural heritage features, avoids adverse impacts upon the local hydrology and takes account of the likely type of recreational use of the track and wider network.

As part of the MLDP 2020 Proposed Plan, the current AGLVs are being replaced with a suite of Special Landscape Areas (SLA's). The Council's appointed Landscape Advisor considers that the Spey Valley SLA would be significantly and adversely affected by the proposal (see below).

Waterbodies (Policy EP6)

There are a number of waterbodies on, and in the immediate vicinity, of the site. Further information has been requested in relation to watercourse crossings and run-off. As it has not been demonstrated that there will be no adverse impacts upon the water environment throughout construction, operation and decommissioning, the proposed development is contrary to Policy EP6 Waterbodies.

Built Heritage (Policy BE1, BE2 and BE5)

The proposal must ensure that any development does not take place in a location likely to have a negative impact on a scheduled building or monument, a national or local designation, a listed building or any sites of archaeological importance. There are a number of archaeology sites and listed buildings within a 10km radius of the proposed site.

The Aberdeenshire Council Archaeology Service has been consulted and has confirmed that the mitigation is appropriate for the proposed development work. They have requested that conditions be applied for the provision of an Archaeological Written Scheme of Investigation (WSI), a programme of archaeological works and, if required, a Post-Evacuation Research Design (PERD). On the basis that these conditions are applied to any consent, the proposal complies with Policies BE1 Scheduled Monuments and National Designations, BE2 Listed Buildings and BE5 Battlefields, Gardens and Designed Landscapes.

Moray Onshore Wind Energy Policy Guidance and Landscape Capacity Study (2017)

Moray Council's overall strategy for considering wind turbine developments is set out on page 7 of the Supplementary Guidance approved by the Scottish Government. The strategy sets out a balanced approach between promoting wind energy development and safeguarding Moray's natural and built heritage, with bullet points 3 and 5 stating:-

- There is very limited scope to accommodate further large scale wind turbine developments in Moray in landscape and visual terms.
- There are limited opportunities for the expansion and or/ repowering of existing wind turbine developments within certain landscapes in Moray.

The proposed turbines are located within the Upland Moorland Forestry (10) landscape character type (LCT) identified within the Landscape Capacity Study (LCS) which was approved as a technical appendix to the Policy Guidance which was approved in 2017, following minor modifications from the Scottish Government, as Supplementary Guidance forming part of the statutory MLDP 2015.

As referred to above, Policy Guidance Map 1 for Large Typologies identifies areas of greatest potential within LCT10 for Very Large Typologies, with the guidance stating:-

"Very Large Typologies to 150m - Some limited scope has been identified for very large turbines up to 150m high to be accommodated in this more extensive upland landscape." However, this is stressed as being limited and should comply with the siting requirements for the Large Typology (80-130m), which are:-

"Turbines should be set well back into the core of upland areas, avoiding ridges and hills which form immediate skylines to the adjacent smaller scale settled Rolling Farmland and Forest and Forest with Valleys, Narrow Farmed Valleys and the Broad Farmed Valley.....Adverse effects on views from the minor road between Dallas and

Knockando should be minimised by siting turbines well back from the diverse moorland and regenerating native woodland which provides an attractive feature particularly seen to the west of this route. Significant cumulative effects on the Dava Way and on the A95, which is well used by tourists, should be avoided. Turbines of this size should be sited to minimise cumulative effects.....”

The Wind Energy Policy Guidance recognises that the LCS has identified a limited number of areas where there is scope for extensions to and clustering of, wind farms. As identified above, 18 of the proposed turbines are within such an area. The Guidance states that proposed extensions should incorporate the same design principles as the adjacent wind farms(s) with turbines the same scale, size and colour, which the proposal does not comply with. The proposed wind farm should not impact upon the existing windfarm setting and the extension should respect the focal points of the landscape. While some of the proposed turbines are located within an area identified as having potential for extension and repowering, it is clearly stated that there is “limited scope to accommodate the large or very large scale development typologies” in this landscape.

The LCS and Supplementary Guidance have identified some scope for turbines up to 150m in height in LCT10 and LCT11 (Open Rolling Uplands). The Guidance and LCS do not identify any scope for turbines of more than 150m to blade tip within Moray landscapes, stating that if turbines which exceed the heights identified in the LCS are proposed, the onus would be on the applicant to demonstrate how the impacts of the proposal on the key constraints and any significant adverse effects can be mitigated in an effort to show a proposal can be supported.

A number of turbines are located on the open hill ground of Carn na Cailliche, a landmark hill. Landmark hills are described in the LCS as being both highly visible and easily recognisable landmarks with many forming the immediate backdrop to settlements, small scale valleys and the coast. Some of these hills form visual buffers to less prominent upland areas and are important in visually containing operational wind farm development from more settled valleys. The landmark hills are highly sensitive to wind turbine development sited on or near them as this would be visually prominent in views from roads and settlement within adjacent well settled landscapes and would detract from their distinctive form and character. Although less well-defined, Carn na Cailliche is important in the containment it provides to operational wind farm developments sited within the lower-lying upland core. With additional development of significantly larger turbines to the north, there is potential for significant adverse cumulative landscape and visual impacts.

To interpret the strategic level guidance and mapping within the Supplementary Guidance and LCS, the Council’s appointed Landscape Adviser has undertaken a detailed review of the proposal and alternative proposal and concluded:-

Proposed Development

- The LCS identifies some scope to accommodate turbines up to 150m high in this LCT, although it also advised that turbines should be set well back into the interior of these uplands to minimise landscape and visual effects on more settled, smaller scale upland fringes and adjacent valleys.
- LCT10 has a simple and expansive character which reduces sensitivity to larger wind turbines, it cannot be considered in isolation and it is not huge in extent and lies

adjacent to smaller settled areas which have an increased sensitivity to larger wind turbines.

- The very large scale turbines of this proposal are sited too close to the more sensitive settled fringes of the LCT10 in the Upper Knockando area and to the Spey Valley. As a consequence the proposal would have significant adverse effects on the appreciation of the character of these landscapes, including part of the Speyside AGLV and the candidate Spey Valley SLA. This proposal would diminish the special landscape of the Spey Valley. Significantly affecting local people and tourists, many of whom are attracted to the area because of its associations with whisky production.
- This proposal would also make a major contribution to significant adverse cumulative effects in a scenario which includes the proposed Clash Gour and Paul's Hill wind farms.

Alternative Proposed Development

- The alternative proposed development would reduce effects from the north across the Moray coastal plain as the full extent of turbines would often not be seen and there would be greater compatibility in size with the adjacent Rothes I and II turbines.
- The Landscape Adviser considers the effects of the alternative proposed development on Viewpoint 13 would not be significant from this viewpoint.
- The reduced spread and size of turbines of the alternative proposed development seen in Viewpoint 5 would also result in effects not being significant. Although there would still be adverse effects from this viewpoint, which could have been further minimised by further lowering the heights of turbines 19, 23 and 20, this view is relatively fleeting and already features some detractive elements which reduces sensitivity to some degree. The consented Hunt Hill wind farm, if built, would also result in a significant cumulative effect when seen together with this proposal.
- Close views from the Upper Knockando area would be improved due to the removal of 6 southerly turbines together with turbine height reductions limits the extent of turbines visible. This is demonstrated in Viewpoint 11; however a greater degree of visibility of the wind farm is likely to occur further west on this road and forest felling could also reveal much more of the wind farm in future.
- From elevated views such as Ben Rinnes and Ben Aigan, the smaller turbines of the alternative proposed development will appear more compatible with the size of the existing Rothes I and II wind farms (and other wind farms in the vicinity) and this would be likely to reduce the magnitude of change to some degree although effects would remain significant.

Notwithstanding the improvements made in reducing landscape and visual effects in some areas, the alternative proposed development will still result in significant adverse effects on:-

- LCT10 - The proposal would substantially extend wind farm development and introduce larger turbines to this landscape. The alternative proposal would have a less dominant effect than the original proposal on the smaller scale lower settled hill fringes in the Upper Knockando area although up to 23 turbines may still be visible from the south-western part of this LCT.
- The *Broad Farmed Valley* LCT (the Spey Valley) - Within approximately 8km of the proposal, operational wind farms are already visible on containing skylines; however this proposal would be more prominent than those developments.
- On part of the Spey Valley AGLV and the Spey Valley SLA.
- On views from the A95, east of Aberlour and from the settled south-eastern slopes of

the Spey Valley – Although the overwhelming dominance of the original proposed development would be reduced, the proximity and size of the turbines to these views would result in major and significant adverse impacts from settlement and roads in this area. The perception of the Spey Valley landscape would be likely to be adversely affected for both local people and the many tourists who use the A95 route to Moray and when undertaking whisky distillery tours.

- Views from part of the intimately scaled inner Spey Valley, as represented by Viewpoint 18 at Blacksboat Bridge crossing the Spey.
- Views of the proposal from the B9102 road between the junction near Blacksboat Bridge and north-east Cardhu and from the southern section of the minor road between Upper Knockando and Dallas – Although the alternative proposed development would result in a reduction in the number and extent of turbines visible from this route, effects would still be significant and adverse and forest felling may also increase visibility. An additional visualisation from the B9102 (close to the entrance to Paul's Hill Wind Farm) is requested to allow for a better appreciation of likely visibility in this area.
- Views from Ben Rinnes (which is very popular with walkers) and Ben Aigan – Seen together with the operational wind farms of Dorenell, Hill of Towie, Rothes I and II, Paul's Hill and Berry Burn, the proposal would result in significant adverse impacts on the appreciation of the Moray landscape.

MLDP 2020 Proposed Plan

At its special meeting on 18 December 2018, the Planning & Regulatory Services Committee approved the MLDP 2020 – Proposed Plan and agreed that it be treated as a material consideration, with limited weight at this time, for development management purposes as of 1 February 2019. Subsequently, at its special meeting on 25 June 2019, the Committee approved the submission of the Proposed Plan for examination by Scottish Ministers and agreed to give greater weight to sites within the Proposed Plan which are not subject to the Examination process for development management purposes as of 1 August 2019.

The Proposed Plan can be viewed at www.moray.gov.uk/proposedplan2019.

The Examination Report is anticipated to be published at the end of March 2020. Greater weight will be given to policies and site designations leading up to adoption, which is projected for June 2020.

Policy ER1 has largely been carried forward as Policy DP9 Renewable Energy in the Proposed Plan with some minor wording changes.

As stated above, the current suite of AGLVs will be replaced with a suite of SLAs, which have been identified in the Proposed Plan with a new policy to support them. In terms of the Spey Valley SLA, the Moray Local Landscape Designation Review identifies sensitivities to change including “wind energy development sited in adjacent upland areas and visible on prominent skylines which would affect the character and views from this well settled and visited valley”. Development proposed in the surrounding upland areas should minimise the landscape and visual impacts on the SLA.

Conclusion from Development Plans

The proposal and alternative proposal are not considered to support the principles of SPP highlighted above, constituting an unsustainable approach and the wrong scale and extent

of proposal, contrary to the guiding principle of promoting the right development in the right place.

The proposal and alternative proposal is considered to be contrary to a number of policies in the MLDP 2015 (see above table) as they would result in unacceptable significant landscape, visual and cumulative effects. The Council's strategy recognises that Moray has limited further scope to accommodate large scale turbines as a result of the significant contribution the current operational and consented wind farms will make towards national targets for renewable energy generation.

Whilst the alternative proposal is a significant improvement, the proposal would still diminish the special landscape of the Spey Valley and, would introduce very large turbines in relatively close proximity to the Spey Valley. The proposal and alternative proposal is considered to be unsustainable, resulting in unacceptable negative impacts upon Moray's landscape. No opportunities for wind turbines greater than 150 metres to blade tip were identified in the Guidance or LCS, as it was considered that Moray's landscape had no capacity for such a scale of development.

Access Manager - No change to previous comments, although the possible enhancements to the proposed link and loop using windfarm tracks linking SP20 and SP21 near Archiestown no longer appears to be promoted for the alternative proposed development. A Public Access Management Plan and Construction Method Statement would be required for either option.

Environmental Health – Further to the original consultation response, consideration was given to the implications for noise of the alternative proposed development. The conditions imposed can be adjusted to account for the proposed alternative in the event it progresses, where noise levels would be anticipated to reduce from the nearest noise sensitive properties. Slight changes to the conditions (or tables therein) would need to be provided in the event of approval or either scheme.

In the event of approval other Environmental Health conditions would need to be imposed such as confirmation of the hours of operation, vibration and blasting (if proposed).

Environmental Health, Private Water – No change to previous comments.

Environmental Health, Contaminated Land - No change to previous comments.

Aberdeenshire Archaeology Service - No change to previous comments.

Transportation Manager – Transportation note the revised Abnormal Load Assessment (AIL Assessment) provide the following additional comments

1. The assessment is based on a maximum turbine blade length of 63.45m therefore any part of the development with a turbine blade length in excess of 63.45m would be unacceptable to Moray Council Transportation.

2. Reference is made in Chapter 4 refers to split blade technology, however no detail of this in the Abnormal Loads Assessment. Para 4.3.3 of Chapter 4 of Volume 2 Additional Information Report states that “There is continuing development in turbine blade technology and it is expected that there will be split blade options for 150m rotor diameter turbines at the time of procurement, if the development is consented.” This suggests turbine blades in excess of 63.45m are being considered, however this has not been assessed and as stated above, any proposals above 63.45m would be unacceptable without further assessment to demonstrate its acceptability
3. The revised assessment no routes component delivery vehicles via Reiket Lane in Elgin which passes over the Reiket Lane railway bridge. No assessment has been undertaken to demonstrate that the vertical profile for abnormal load swept paths can be accommodated on this route. There is a potential risk that loads with large axle spacing and low slung loads may ground out. Transportation would require further information to consider the suitability of the proposed route and until the details confirm it is acceptable, would need to object to the proposals. The additional information required would also include assessment of other components e.g. tower sections which could be affected by the vertical alignment.
4. Para A12.1.65 of the Abnormal Load assessment states that height and weight restrictions along the route will be confirmed as part of the post consent work. This is not acceptable to Transportation. Whilst a structural assessment may not be necessary at this stage we would require a desk based assessment of the current restrictions in order to consider the principles.
5. The assessment does not take into account the new signalise pedestrian crossing currently under construction on the A96 at Dr Grays hospital in Elgin. This would be a matter for Transport Scotland to comment on, but it is important to acknowledge this significant change on the delivery route which vehicles will have an impact on.

Transportation considers that the additional information submitted remains inadequate to comply with policies T2 and IMP2 of the Moray Local Development Plan 2015. The information is insufficient to enable officers to consider the feasibility of the proposed development in terms of the ability to deliver turbine components, the impact on the public road and the identification of appropriate mitigation/modification or improvements necessary for the proposed development.

Developer Obligations - No change to previous comments. None sought for wind energy proposals. Community Benefit considered separately to the planning system.

Moray Flood Risk Management (MFRM) – No change to previous comments. The site is not susceptible to any significant flooding and following consideration of the

information provided the MFRM team raise no objection. A condition would be required for the final, definitive designs and calculations of all watercourse crossings to MFRM team to confirm that post development run-off rates do not exceed pre-development run-off rates, or increase the risk of flooding to surrounding watercourses, or downstream. Evidence required showing that any development on the site does not affect the flow of the watercourses changing the catchment of the watercourse.

Building Standards – No change to previous comments. A Building Warrant will be required for the control building and the foul water treatment.

REPRESENTATIONS

All objections/representations have been submitted directly to Scottish Government Energy Consents Unit, and subsequently to the DPEA who are now the determining Authority. It is understood that 384 representations (and 1 supporting comment) from the public have been received in relation to the proposals. These and any subsequent public comments in relation to the EIAR AI will be considered by the DPEA and do form part of the Moray Council consideration (as consultee to the Section 36 process).

OBSERVATIONS

The proposed Rothes III Windfarm seeks consent under Section 36 of the 1989 Electricity Act and also a direction under Section 57(2) of the Town and Country Planning (Scotland) Act 1997 as amended for the development to be deemed to be granted.

This report focuses upon the changes/further options brought about by the Additional Information beyond the original EIA Report. The previous response to the submitted proposal from Moray Council is sustained (given the submitted proposal is still sought).

As the Moray Council is a consultee for the Section 36 process, some matters within the Observations will be assessed differently had it been assessed as a planning application where the Moray Council are the determining authority. Matters such as, for example, impact on aviation and the water environment will be informed by direct consultation with the Ministry of Defence or SEPA, as they will be consulted separately and will reply directly to the ECU/DPEA. Similarly detailed consideration of ornithology will be best commented upon by consultees such as the RSPB and SNH. The Councils consideration of some matters will therefore be less involved where the ECU/DPEA are consulting directly themselves on particular areas of interest best addressed by other specialist consultees.

Legislative Context

For consent under Section 36 of the Electricity Act 1989, the decision-making process specified under Section 25 and 37 (2) of The Town & Country Planning (Scotland) Act 1997, as amended is not a statutory requirement. However, the local development plan would remain a significant material consideration, but does not take primacy as would be in the case of a planning application. It and all other material considerations are given the appropriate weighting in the consideration of the Section 36 consultation requests from the ECU/DPEA. This is inclusive of attaching weight to the more recent guidance and legislation on climate change.

On 18 December 2018, at a special meeting of the Moray Council Planning and Regulatory Services Committee, the Proposed Plan was approved as the “settled view” of the Council and minimal weight will be given to the Proposed Plan, with the 2015 MLDP being the primary consideration. Its policies are included for reference at the end of this Appendix for reference, in general terms the policy position and criteria for renewable energy proposals relatively similar between the current and proposed local development plans.

Relationship of proposal to national renewable energy policy/guidance

International and UK policy frameworks are generally supportive of renewable energy proposals which help to facilitate a transition to a low carbon economy. National Planning Framework (NPF3) for Scotland sets out the spatial strategy for Scotland's development. NPF3 makes specific reference to onshore wind energy having an important role in delivering the commitment to a low carbon energy generation.

The Climate Change (Scotland) Act 2009 places a duty on public bodies to act sustainability and meet emissions targets including a requirement to achieve at least an 80% reduction in greenhouse gas emissions by 2050 (over 1990 levels). Subsequent legislation on climate change, inclusive of actions identified within Protecting Scotland's Future: the Government's Programme for Scotland 2019-2020 are considered when arriving at view on the proposed additional information and alternative proposed scheme for Rothes III.

The commitment to the creation of a low carbon place is reiterated in Scottish Planning Policy. The applicants submissions regard national policy as being significant and supportive of this proposal where this development, as a proven technology providing a source of safe and locally produced renewable energy for many years, will make a significant contribution towards renewable energy production at the national and local level. Whilst it is noted that some targets have been met for renewable energy production it is noted that the Scottish Governments guidance in pursuit of renewables has not diminish support for renewable energy proposals.

Scottish Planning Policy (SPP) requires that “planning should direct the right development to the right place”, which is an important issue in this proposal. The policy principles set out for “Delivering Heat and Electricity” in SPP *include*;

- Support the transformational change to a low carbon economy, consistent with national objectives and targets.....
- Support the development of a diverse range of electricity generation from renewable energy technologies- including the expansion of renewable energy generation capacity and the development of heat networks
- Guide developments to appropriate locations and advise on the issues that will be taken into account when specific proposals are being assessed.

(SPP) requires planning authorities to set out in the development plan a spatial framework identifying those areas that are likely to be most appropriate for onshore wind farms as a guide for developers and communities, following a set methodology (para 161). This has been done through the spatial framework included within the Moray Local Development Plan 2015, with the proposal site partially located within an area with potential for wind farm development of turbines over 35m to tip height, with no upper height limit identified. This is a broad-brush approach required to comply with Scottish Planning Policy and covers approximately 40% of the Moray Local Development Plan Area.

SPP (para 162) recognises the limitations of the strategic spatial framework and further requires that local development planning authorities should identify where there is strategic capacity for wind farms and areas with the greatest potential for wind development.

Following Examination of the Proposed Moray Local Development Plan 2015 (MLDP), the wording of the policy was amended by the Reporter to state that “further detail on the above assessment process will be addressed through supplementary guidance to include:

- Peat mapping once this becomes available
- Detailed mapping of constraints
- Guidance on areas with greatest potential for small/ medium and large scale wind farms.”

The detailed mapping of constraints and guidance on areas with greatest potential is set out in the Moray Onshore Wind Energy Guidance 2017 (MOWE), with the proposal site located partially within an area identified as having opportunities for extension and repowering. Of note, the 2017 MOWE was approved following consultation and an amendment introduced by the Scottish Government and is therefore in accordance with current national guidance.

Renewable Energy Proposals (ER1)

Policy ER1 Renewable Energy Proposals sets out a comprehensive set of criteria to assess the details of the proposal against, with assessment of some criteria determined by consultee responses. The policy in recognising the contribution of renewable energy to wider national carbon reduction targets and benefits to the local economy view favourably wind energy proposals subject to criteria discussed below.

Proposals must be compatible with policies to safeguard and enhance the built and natural environment. They must also avoid or address any unacceptable significant adverse impacts including landscape and visual impacts, traffic, tourism/recreation interests, impact on peat land hydrology and watercourse engineering. These matters will be addressed below under the relevant headings, many of the criteria within ER1 have been satisfied or can be satisfied via condition in the event that the development was ultimately consented.

The applicant has advised that the grid connection point and precise route of cabling has not yet been determined, although this has influenced the re-positioning of one of the substation buildings within the EIAR AI currently under consideration. As stated in the supplementary guidance, grid connections should be considered when the project is at an early stage so that the environmental effects can be considered fully. The Council's preference is for connections to be underground. Where undergrounding is deemed unviable, the alternative options must be supported fully by evidence that clearly shows that the alternative option chosen is the best method of connection. As no details have been provided in respect of connection to the grid, the environmental effects cannot be assessed, although given the size of the proposed windfarm this may likely be subject of a separate Electricity Act Section 37 application. If this were the case, Moray Council would be consulted.

Landscape and Visual Impact Assessment for EIAR AI (PP1, ER1 and IMP1)

MLDP Policy ER1 Renewable Energy Proposals favourably considers renewable energy proposals where they meet set criteria, including the need to safeguard the built and natural environment and avoid or address any unacceptable significant landscape and visual impacts. The policy states that the council is likely to support onshore wind turbine proposals in areas with potential (as identified in the Spatial Framework) subject to detailed consideration through assessment of the details of the proposal, including its benefits and the extent to which it avoids or mitigates any unacceptable significant adverse impact.

Policy IMP1 Developer Requirements requires any development to be sensitively sited, designed and serviced, and integrated into the surrounding landscape.

Landscape and Visual Impact Assessment (LVIA) for onshore energy proposals in Moray is assessed by the Moray Onshore Wind Energy 2017 Policy Guidance

(MOWE) and The Moray Wind Energy Landscape Capacity Study 2017 (MWELCS) which is a technical appendix to the MOWE.

Detailed mapping of constraints and guidance on areas with greatest potential is set out in the Moray Onshore Wind Energy (MOWE) Policy Guidance 2017. This is adopted Supplementary Guidance forming part of the statutory Local Development Plan and the Landscape Capacity Study is a material consideration, referenced in policy ER1.

The Strategy within the Guidance states that Moray enjoys a very high quality and diverse natural and built environment, which must be safeguarded from inappropriate developments.... and “there is very limited scope to accommodate further large scale wind turbine developments in Moray in landscape and visual terms.”

Moray Council have been involved in the consultation process, commenting on design iterations at pre-scoping to application stage. Comments made by the Council on the developing proposal are summarised in Table 3-1 of the EIA Report. The key concerns of the Council were the size of the turbines and their location towards the edges of more extensive upland areas where they would significantly and adversely affect recreational routes, roads and settlement. It is noted that subsequently modifications to the design and layout were made, prior to application to improve aspects of the matters raised. The extent to which the current design is acceptable is discussed below. The Scottish Onshore Wind Energy Statement 2017 (SOWE) states that the Scottish Government expects developers of such projects to make every effort to find opportunities to collaborate, and to reduce potential local landscape impacts. At the pre application stage and scoping stage the applicants were told that turbines as high as 225 metres would likely be of an excessive height and would impact upon the local landscape.

Design of the alternative proposed development

The AI report describes the design of the alternative proposed development in Section 3. Paragraph 3.3.1 sets out the design strategy adopted although it is noted that the text does not address Moray Council's reasons for objection on specific landscape and visual impacts in listing very general design strategy principles which are applicable for all wind farm developments. Paragraph 3.3.2 does, however, state that consultees responses were considered when identifying possible alternatives and the Landscape and Visual Impact Assessment set out in Section 8 also lists key objections in Table 8.1. Figure 3.1 illustrates constraints on the site only and does not also include wider landscape and visual constraints in the area surrounding the development, for example, minimising intrusion on views from the Spey Valley or Upper Knockando area. The removal of turbines 17, 21, 24 and 27 is justified as being due to capercaillie activity although reductions in the height of turbines are not similarly attributed to the need to reduce landscape, visual and cumulative effects.

Despite the lack of acknowledgement by the applicant of the severity of the landscape and visual effects of the original proposed development, there is much written about the reduction in landscape and visual effects that would be associated

with the alternative proposed development in the Non-Technical Summary and main AI report.

Key differences between the proposals

The alternative proposed development would reduce effects from the north across the Moray coastal plain as is evident in representative A1 Viewpoints 2 and 13. This is because the full extent of turbines would often not be seen and there would be greater compatibility in size with the adjacent Rothes I and II turbines. Moray Council's landscape consultant considered the effects of the original proposed development to be significant and adverse from Viewpoint 13, Duke of Gordon Monument in Elgin, but concludes that the effects of the alternative proposed development would not be significant from this viewpoint.

The reduced spread and size of turbines of the alternative proposed development seen in Viewpoint 5 A95 east of Craigellachie would also result in effects not being significant. Although there would still be adverse effects from this viewpoint, which could have been further minimised by further lowering the heights of turbines 19, 23 and 20, this view is relatively fleeting and already features some detractive elements which reduces sensitivity to some degree. The consented Hunt Hill wind farm, if built, would also result in a significant cumulative effect when seen together with this proposal.

There would also be improvement in close views from the Upper Knockando area where removal of 6 southerly turbines together with turbine height reductions limits the extent of turbines visible. This is shown in Viewpoint 11 on the B9102 west of Archiestown although it should be stressed that a greater degree of visibility of the wind farm is likely to occur further west on this road and forest felling could also reveal much more of the wind farm in future.

From elevated views such as Ben Rinnes and Ben Aigan, the smaller turbines of the alternative proposed development will appear more compatible with the size of the existing Rothes I and II wind farms (and other wind farms in the vicinity) and this would be likely to reduce the magnitude of change to some degree although effects would remain significant.

Remaining significant landscape and visual effects

Notwithstanding the improvements made to the scheme in terms of reducing landscape and visual effects in some areas, the alternative proposed development would still incur significant adverse effects on:

- The *Upland Moorland and Forestry* LCT within which the proposal is located. While the operational Rothes I and II wind farms are located in this LCT, this proposal would substantially extend wind farm development and also introduce larger turbines to this landscape. The alternative proposal would have a less dominant effect than the original proposal on the smaller scale lower settled hill fringes in the Upper Knockando area although up to 23 turbines may still be visible from the south-western part of this LCT.
- The *Broad Farmed Valley* LCT (the Spey Valley) within approximately 8km of the proposal. While operational wind farms are already visible on containing

skylines in views from parts of the *Broad Farmed Valley* LCT, this proposal would be more prominent than those developments.

- On part of the Spey Valley Area of Great Landscape Value (AGLV) and the Spey Valley candidate Special Landscape Area which will replace the Spey Valley AGLV.
- On views from the A95, east of Aberlour and from the settled south-eastern slopes of the Spey Valley, where although the overwhelming dominance of the original proposed development would be reduced, the proximity and size of the turbines to these views would result in major and significant adverse impacts from settlement and roads in this area. The perception of the Spey Valley landscape would be likely to be adversely affected for both local people and the many tourists who use the A95 route to Moray and when undertaking whisky distillery tours.
- Views from part of the intimately scaled inner Spey Valley, as represented by Viewpoint 18 at Blacksboat Bridge crossing the Spey. The comments made by Moray's landscape consultant on the original proposed development provides further detail on the nature of impact at this location.
- Views of the proposal from the B9102 road between the junction near Blacksboat Bridge and north-east Cardhu and from the southern section of the minor road between Upper Knockando and Dallas. Although the alternative proposed development would result in a reduction in the number and extent of turbines visible from this route, effects would still be significant and adverse and forest felling may also increase visibility. The ZTV map still shows for this section of the B9102 19 or more turbines visible to varying degrees.
- Views from Ben Rinnes (which is very popular with walkers) and Ben Aigan where this proposal, seen together with the operational wind farms of Dorenell, Hill of Towie, Rothes I and II, Paul's Hill and Berry Burn, would result in significant adverse impacts on the appreciation of the Moray landscape.

Lighting of turbines

8 of the alternative proposed turbines would have aviation lighting. The proposed installation of radar activated lighting would significantly reduce the duration of lighting visible. Lighting, when visible, will be likely to contribute to significant adverse effects experienced particularly from close views. In general, the effects of lighting will be more marked when seen in a context where existing lighting levels are low, for example in the sparsely settled Upper Knockando area.

Effects on residential properties

The revised Residential Visual Amenity Assessment (RVAA) considers effects on residential properties lying up to 3km from the proposed wind farm. It is noted that with the omission of turbines and reduction in height there have been substantive reductions in significant visual effects to the closest properties.

Although reduced there remains other properties lying up to around 7km within the Spey Valley where significant adverse effects on visual amenity may occur. These properties lie on north-west facing slopes above Aberlour and in the Upper Knockando area.

Cumulative landscape and visual effects

The above conclusions on the key landscape and visual effects of the alternative proposed development consider a baseline which includes all existing wind farms. Consented and proposed wind farms are considered in this section of the report.

Effects of this proposal with existing and consented wind farms

There would be significant adverse effects on the *Broad Farmed Valley* and *Upland Moorland and Forest* LCTs if the consented Hunt Hill wind farm and the alternative proposed development were to be constructed. Significant cumulative effects would also occur from views to the south-east across the Spey Valley.

Effects of this proposal with existing, consented and other proposed wind farms

The consented Hunt's Hill and proposed Paul's Hill II and Clash Gour wind farms have the greatest potential to incur significant adverse cumulative effects with the Rothes III proposal. The combined cumulative effect of all these developments would be significant on:

- The character of part of the *Broad Farmed Valley* and the *Upland Moorland and Forest* and on part of the Speyside AGLV/Spey Valley SLA
- Sequential views from minor roads in the Upper Knockando area affecting visual amenity from the B9102 and from minor roads (which are often used by local walkers and cyclists) and from dispersed properties. The ZTV shows views of turbines would still remain for the alternative proposed development.
- Views from the A95 between Aberlour and Ballindalloch where this proposal would be seen sequentially and simultaneously with baseline wind farms and the proposed Clash Gour and Paul's Hill II wind farms on the uplands back-dropping the Spey Valley to the north and north-west – this proposal would make the greatest contribution to significant adverse cumulative effects in this scenario.
- Views from elevated viewpoints such as Ben Aigan and Ben Rinnes where the combined extent of operational, consented and application-stage wind farm developments seen in almost 270-degree views from both hills would result in a perception of Moray's uplands being largely occupied by wind farms.
- Views and the appreciation of the character of the River Spey, which weaves through a narrow floodplain and is tightly contained by steep wooded slopes, where this proposal would be seen sequentially from minor roads with the proposed Clash Gour wind farm (Clash Gour ES Viewpoint 10 at Carron) and also the Paul's Hill II proposal, from more open sections of the valley floor.

LVIA Conclusions

The proposed development would be located in the *Upland Moorland and Forestry* LCT. The MWELCS found some scope to accommodate turbines up to 150m high in this LCT although it also advised that turbines should be set well back into the interior of these uplands to minimise landscape and visual effects on more settled, smaller scale upland fringes and adjacent valleys.

The omission of six of the most southerly turbines and lowering of turbine heights would result in a reduced magnitude of change when compared with the original proposal. The alternative proposed development would be more compatible with the smaller turbines within the adjacent Rothes I and II wind farms, reducing effects from the coastal plain of Moray in the north of the LVIA study area and from elevated views such as from Ben Rinnes and Ben Aigan.

While there is a significant improvement from Viewpoint 11 west of Archiestown, the ZTV indicates that there could still be visibility of up to 23 turbines in the Upper Knockando area. Additional visualisations (photomontage) from the B9102 would have proved useful to gauge the extent of view of the alternative scheme.

Significant adverse effects are likely to be associated with most wind energy developments and while the alternative proposed development is a significant improvement on the original development, it would still diminish the special landscape of the Spey Valley, significantly and adversely affecting both local people who live and work in the area and tourists, many of whom are attracted to the area because of its associations with whisky production. Existing wind farms can be seen from the Spey Valley but these are either distant and located on less distinctive skylines (such as the Hill of Towie wind farm) or have been successfully sited to minimise effects (for example Paul's Hill wind farm which benefits by being partially screened by Roy's Hill). The existing Rothes I and II wind farms are both barely visible from the Spey Valley. This proposal, despite being less dominant than the original proposal, would introduce very large turbines in relatively close proximity to the Spey Valley.

This proposal would also make a major contribution to significant adverse cumulative effects, principally experienced from the A95 – and likely also the B9102 - in a scenario which includes the proposed Clash Gour and Paul's Hill II wind farms.

Impact on residential amenity including noise, shadow flicker (ER1, EP8, EP12, IMP1)

SPP paragraph 164 states that “individual properties and those settlements not identified within the development plan will be protected by the safeguards set out in the local development plan policy criteria for determining windfarms and development management considerations accounted for when determining individual applications.” This for Moray is reflected in the material considerations in the form of the MOWE and the MWELCS which seek to direct wind energy development into the interior of Landscape Character Types.

It is noted that with the omission of turbines have added 500m or so to the distance from the nearest properties to the south, including the settlement of Archiestown. The size of the alternative proposed development and its elevation may still affect

their visual amenity in what is currently a location distant from or obscured from wind energy development. Generally however properties south of the windfarm are orientated southward, away from the windfarm location. The scale of the alternative proposed closest turbines will likely affect the external amenity of these properties had it not been that the properties are surrounded by woodland and are most cases orientated away from the windfarm location. These impacts may be further informed by any representations submitted directly from occupants of relevant properties to the ECU/DPEA.

Whilst Additional Information submission show night views of less aviation lighting, the intent to use radar activated lighting, which only comes on when aircraft are within proximity to the windfarm means they will be less often illuminated at night. When illuminated the impact will still be significant as referred to above.

In the event of approval, the Environmental Health Manager (informed by additional input from an independent noise consultant) would seek various conditions to be attached relating to noise, hours of construction, amplitude modulation effect, hours of any blasting required at borrow pits, vibration from the borrow pit operating. The parameters in terms of noise limits identified within the EIAR AI note that for the alternative proposed scheme would take turbines further from residences and similarly bespoke conditions could ensure no nuisance was caused.

The proposed turbines being lowered and reduced in number would not give rise to concerns over shadow flicker

In the event of approval being granted it is recommended construction working hours between 0700 – 1900 hours, Monday to Friday and 0700 – 1600 hours on Saturdays only. Allowances for working outwith those hours would only be permitted with prior agreement with the council on the grounds of operational constraints and necessity.

While construction traffic using the existing site access would use the same public road as some neighbours to the site, the construction traffic would only be for a temporary period, with the residences near Gedloch Quarry most likely to be affected. While the construction phase would see the locality becoming much busier, this would only be for the construction and decommissioning periods of the development. Any extended passing places and widening on the Gedloch road to the site are likely to occur further into the forestry plantation. It should be acknowledged that the road is already a forestry haul route.

Given the increased distance of the proposed excavations for the alternative proposed development and other construction activities from the sensitive receptors such as dwellings or other public/occupied buildings, air quality matters, assessed under policy EP12, such as dust will not be significant for the proposed development.

The amenity impact as such does not depart from these aspects of policies ER1 and IMP1 but effects such a noise could be sufficiently controlled so as not to impact

upon residential properties. This does not detract from other assessments on wider visual amenity and recreation discussed elsewhere in this report. It is noted in Chapter 17 of the original EIA Report that the proposed schedule of mitigation should minimise impacts to residents, especially during the construction phase. It is presumed that similar steps would be taken for the alternative proposed development if developed.

Impact on natural environment (E1, E2, E3, EP10, ER1 and IMP1)

In relation to policy E1 Natura 2000 Sites and National Nature Conservation Sites and E2 Local Nature Conservation Sites and Biodiversity there are no international, national or local environmental designations are present. The alternative proposed development site would still sit close to the 'Gull Nest' biological SSSI immediately north of the site which is a blanket bog.

As noted in the proposals section above in the upland windfarm area of the application site, there are no national, regional or local environmental designations. The merit of the location of open countryside and the habitat it provides has however been considered in the original EIA Report and the implications of reduced scheme addressed in the EIAR Additional Information Report. The report does consider the ecological, soil, geological and water environment implications upon the site and it is noted that SEPA, SNH and other consultees with specialists in peat land flora and fauna are being consulted independently by the ECU/DPEA. The removal of 6 turbines and associated tracks (and repositioning of T15 to avoid peat) will lessen the impact of the development on the environment of the alternative proposed development proceeds.

Policy E3 Protected Species seeks to ensure proposals do not have an adverse effect on protected species. The EIA Report identifies a variety of species upon or using the site and most notably as moorland these were mainly birds species including raptors observed. Chapter 6 Ecology and Chapter 7 Ornithology Assessment refer to the various species surveys that were undertaken, including the water environment. Groundwater Dependent Terrestrial Ecosystems are discussed in Chapter 10: Hydrology, Geology and Hydrogeological.

It is noted that extensive survey work has been undertaken, and SEPA, SNH and the RSPB are best placed to comment if necessary on the alternative proposed development. The proposed mitigation measures including a Habitat Management Plan (HMP) that would be prepared and agreed with various consultees in the event of approval of either development outcome. Within the Chapter 17 of the EIA Report, the applicant bring together a suite of mitigation which is presumed would apply to the alternative proposed development if approved.

As referred to earlier in the report, national guidance encourages the development of renewable energy for a variety of reasons. Reduction of the reliance upon fossil fuel power generation is clearly to the benefit of the wider environment, including that of

the natural environment within Moray. Notwithstanding the physical impact of the new sections of track, borrow pits, cable laying and turbines foundations, the wider benefits of increased electricity generation conform to national policies and guidance on climate change. Weight is attached to this consideration for the alternative proposed development also.

Flood Risk and surface water drainage (EP5, EP6, EP7, EP10 and IMP1)

The site is not identified on SEPA's flood maps as being at risk from flooding, other than localised breaches of banks at the head waters of the Burn of Rothes and the Leanoch Burn (leading to Glenlatterach). The focus of consideration may be as to how the development affects drainage and water courses downstream. In terms of the requirements of policy EP5 Surface Water Drainage Sustainable Urban Drainage Systems (SUDS) no definitive designs have been submitted for each crossing. It is noted that the applicants have submitted pre-development peak flow rates for the main water courses within and relevant to the site.

Chapter 10 of the original EIA Report 'Hydrology, Geology and Hydrogeology' considers the impact on surface water and the windfarm has been laid out to keep all turbines at least 50m from any watercourses although there will be a reduction for six to four water crossings under the alternative proposed development. These water crossings are illustrated in the technical appendix and are designed to ensure the crossing account for any 1:200 flood event plus climate change. No departure from Policy EP6 Waterbodies is anticipated where the above approach is followed. The Moray Flood Risk Management Team would seek a condition to consider the definitive designs and calculations for the water crossings to ensure that the proposals do not alter watercourse run-off rates. It is noted that water crossings would be designed to ensure water flow was not impeded, and that details of the location of crossing is included in original EIA Report Appendix 10.6 Water Crossing Assessment. It is also suggested that Culverts will be likely means of crossing the watercourses.

The EIA Report chapter refers to various imbedded and proposed mitigation measures that would be identified in any detailed Construction Environmental Management Plan. This would cover matters such as pollution prevention, runoff and sediment management, site drainage and management of concrete works. While the approach is detailed in the EIA Report, the definitive detail for each turbine base would need to be shown once any micro-siting had been determined. A condition to this effect would be required if the development were to be approved. The principals and approach contained within the EIA Report and appendices, the imbedded mitigation in layout design, in addition to the condition referred to would ensure compliance with policy EP5 Surface Water Drainage Sustainable Urban Drainage Systems (SUDS).

The mitigation measures proposed and best practice adopted would also seek to protect Groundwater Dependent Terrestrial Ecosystems (GWDTE) interests are protected. MFRM would require a condition confirming that post development run-off rates do not exceed pre-development run-off rates, or increase the risk of flooding to surrounding watercourses, or downstream (which would aid control of impacts on the water environment). The mitigation measures identified in Chapter 17 of the EIA Report specifically seek to protect GWDTE and the appointed Ecological Clerk of Works would monitor these areas during construction. It is noted that in terms of GWDTE that SEPA have been separately consulted by the ECU who will give the matter more specialised response.

It is noted that the proposed substation and welfare building would propose to use a new septic tank and soakaway. The consideration of individual septic tank and soakaways is now dealt with more thoroughly under Building Standards Regulations, and if the proposal is to commence then there would be a need for a Building Warrant for the proposed building which would include the design and specifications of the proposed foul drainage. No departure from policy EP10 Foul Drainage has therefore been identified.

Water Supplies (EP4)

Policy EP4 Private Water Supplies seeks to ensure that development provides evidence of wholesome and adequate supply to be provided. The applicant has assessed the likely impact on any private water supplies within a 3km radius of the proposed development, and this is shown in chapter 10 Hydrology, Geology, Hydrogeological Assessment. A Private Water Risk Assessment was also undertaken and this is included in the original EIA technical appendix 10.7. It is noted that several private water supplies could be affected, but mitigation relating to this possible impact is provided in the proposed mitigation measures in the EIA Report Chapter 17 including if temporary supply interruption occurred. Looking at the source and type of water supplies the predictions of any risk to these private supplies being low or negligible is a fair assessment.

The councils Environmental Health Manager have not objected to the proposals, subject to a precautionary condition in the event of approval that would seek appropriate remedial action in the event that a private water supply is affected or disturbed (this would be applicable to the alternative proposed development also). The EIA Report proposes inclusion of this matter within the Construction Environmental Management Plan and commitment to emergency supply if significant effects on water supplies are found to occur. A condition to this effect is recommended by the Environmental Health Private Water Supplies team. The applicant has not been clear as to the source of water to be used in the proposed two substation/welfare buildings and these indicative layout do show a supply being required.

It is further noted that SEPA would comment on this matter also as separate consultee to the ECU.

Notwithstanding clarity on water supplies to the development, the EIA Report recommended mitigation, or as supplemented by the EIAR AI submissions would allow for compliance with the requirements of the relevant policy EP4.

Impact on cultural heritage (BE1, BE2, BE5, ER1)

It is acknowledged from the EIAR AI that the alternative proposed development would be less intrusive on the site in terms of archaeology. Upon the site the archaeology is confined at present to the historic Mannocho Road, boundary cairns and the location of historic farmsteads/enclosure. Many of these features have been obscured by intervening forestry planting. The Council's Archaeologist has not objected but has recommended a condition (in the event of approval of either the proposed or alternative developments) that would ensure that any archaeology uncovered is properly assessed and recorded. This would be particularly where the proposed development seeks to excavate along, across or adjacent to the Lower Mannocho Road which is old road more liable to be host to finds. There are no Scheduled Monuments within the application site. The proposals are considered to accord with Policy BE1 Scheduled Monuments and National Designations and other related policies subject to the appropriate archaeological conditions.

In terms of Policy BE2 Listed Buildings the potential impact on the setting of Listed Buildings or their curtilage visible potentially visible from the proposed development as further assess under Chapter 9 Cultural Heritage Assessment or the EIAR AI Report which identifies that through a reduced number of turbines and turbine heights minimal visual impact upon the listed building would occur. The alternative proposal are therefore considered to comply with policy BE2. The ECU/DPEA will also receive separate advice on heritage matters directly from Historic Environment Scotland (HES). There are no battlefields within the immediate or wider locality of the proposed windfarm that would be affected, and therefore the proposal complies with policy BE5 which addresses the protection of such heritage features.

Access and traffic impacts, (T2, T5, ER1 and IMP1)

The change to delivery route is noted, as are the changes to the Abnormal Loads Assessment, which supersedes the submitted version and now relates to both the submitted proposal and alternative proposed development. Chapter 12 and related appendices of the Additional Information Report, like Chapter 12 of the original EIA Report still do not provide sufficient information for Moray Council as Roads Authority to conclude the development would be capable of delivery on the public road network, or whether road network assets to be temporarily moved or over-run would not be unacceptably affected. Within the consultation response detailed above from the Transportation Manager, there are queries or missing information within the revised Abnormal Loads Assessment.

The proposed Additional Information is considered at present to departure from policies T2 Access and traffic related aspects of policies ER1 Renewable Energy Proposals and IMP1 Developer Requirements.

Of note if the windfarm were approved a number of conditions would be required from the Transportation Manager regarding road improvements, abnormal loads movements and routes, a Construction Traffic Management Plan, a Wear and Tear Agreement and provision of passing places and road widening. If approved a Road Bond/Security prior to the commencement of any part of the development, evidence shall be provided to confirm that a Bond or other financial security has been agreed by both parties.

Paths and access T7, ER1 and IMP1)

Both ER1 and IMP1 require new development to public access through new developments to be enhanced or protected. Within policy ER1 particularly wind energy proposals have the potential to enhance and improved public access to upland areas.

In relation to policy T7: Safeguarding & Promotion of Walking, Cycling, & Equestrian Networks it considers the impacts of movement through and past the site. It is acknowledged that the proposed access track network, and that of the adjoining Rothes I and II windfarm has/would improve access into the upland area around Cairn Uish.

Chapter 16 of the AI Report refers to few matters having changed around the issue of non-motorised access across the site although notably the AI no longer refers to the previous measures to provide parking, signage, new and resurfaced paths and to provide a new circular path linking the southern core paths which will connect core path (SP21 with SP20 as defined in the Core Paths Plan). This is unfortunate but may be due to the removal of some of the southern turbines (and associated tracks) from the alternative proposed development.

Impacts on Right of Way will be reduced by the reduction in the number of turbines and path crossings, and the reduction in the heights of turbines would be a perceived improvement for some using the site in comparison to the submitted scheme.

Subject to final approval of any Public Access Management Plan and Construction Method Statement, the proposal would therefore comply with policy T7.

Impact on agricultural land/soil resources/minerals (ER1, ER4, ER5 and ER6)

Policies ER1 Renewable Energy Proposals, ER4 Minerals, ER5 Agriculture and ER6 soil resources presume against the loss of agricultural land, or impacting unduly upon area of peat and other carbon rich soils. ER4 considers borrow pits and is generally favourable towards them where the meet certain criteria discussed below.

Policy ER4 acknowledges that there are benefits to borrow pits where the winning of materials on site can significantly reduce the need to import materials from beyond the site. The operational, community and environmental benefits of allowing borrow pits to be located on site must be demonstrated. The formation of many new tracks, proposed formation of the turbine and crane pads, and upgrading of existing tracks have led to permission being sought for up to 6 borrow pits on site. It is noted that these borrow pits would be positioned across the site and are all located in well positioned inconspicuous locations. The technical assessment of borrow pits is contained and updated in technical appendix 10.4 Borrow Pit Report of the EIAR AI inclusive of reference to their restoration following completion. It is acknowledged that the reduced alternative proposed development, would witness less minerals being excavated or imported to site. A condition requiring their restoration would be required in the event of approval.

The land subject of the proposal is host to heathland and forestry and is of no agricultural merit, so no departure from policy ER5 will arise where no prime agricultural land will be lost. This conclusion would not change with the alternative proposed development.

This alternative proposed development, albeit reduced, would still see the introduction of turbines foundations, crane pads etc. into areas up upland peat, and it is noted that turbine 15 would be relocated to avoid deeper peat. Merit has been attached to the intended restoration of an area of 80-100 hectares of peatland that is currently unproductive forestry.

It is intended to submit Construction Environmental Management Plan (CEMP), and modifications to the Peat Stability Risk Assessment have been submitted by the applicant, which propose monitoring of peat stability and compliance with best practice and mitigation proposed being adhered too. It is noted that other consultees such as SEPA with greater expertise in hydrology and peat are already involved in commenting upon proposals for Rothes III and are in communication with the DPEA. Therefore in relation to soil resources the proposal would not conflict with the requirements of policy ER6 Soil Resources and it is anticipated that the DPEA would attach any conditions deemed necessary to ensure compliance with the assessment if permission were granted.

Impact upon Woodland (ER2, E4, MOWE, Trees and Development SG, Moray Woodland and Forestry Strategy SG and Scottish Government Control of Woodland Removal Policy)

Policy ER2 Woodlands (in line with the Scottish Government policy) permits removal of woodland where it can be demonstrated that its loss is clearly outweighed by social or economic benefits at national/regional/local level, and if compensatory planting has been agreed. Policy E4 Trees and Development protects trees/woodland and where this is removed in association with development, the provision of compensatory planting (also supported by the MOWE). The Council's Supplementary Guidance 'Trees and Development' (2015) confirms that

compensatory planting should be provided on a like for like basis and will be required for development proposals resulting in the loss of woodland exceeding 0.1ha.

Adopted supplementary guidance 'Moray Woodland and Forestry Strategy (2017)' contains further advice in this regard and seeks to protect and enhance the woodlands in Moray.

Chapter 11 Forestry of the EIAR AI has been considered in association with the original the original EIA Report chapters and appendices. This chapter summarises the changes to Forestry that would result from an alternative proposed development layout, which ultimately see a need for less windfarm related felling with the reduction in turbines and associated infrastructure corridors. This would account for just over 10 hectares of woodland not requiring to be felled for the windfarm.

The applicants whilst not providing a specific compensatory planting plan, have identified an area within the site to host the 63.17ha of compensatory tree planting required for those areas of productive forestry are being removed for turbines and infrastructure corridors.

The Moray Council previously objected to a wind energy proposal on grounds of lack of detail to the Hill of Towie II windfarm where the compensatory planting details were omitted from the EIA submission and departed from the Forestry Commission guidance associated with the Scottish Government's Control of Woodland Removal Policy and its associated guidance stating that complex compensatory planting proposals should be dealt with at the application stage and not addressed afterward by condition. Following later submissions to the Public Inquiry the Reporter decided not to uphold this objection by the Council, and ultimately approved compensatory planting information submitted to the Inquiry. It is noted for Rothes III that the applicant has stated the compensatory planting would be within the designated compensatory planting area, or within the wider site, so would at least remain within the locality of the windfarm.

Given that the Reporter for Hill of Towie II Inquiry ultimately allowed the matter of compensatory planting to be addressed at a later stage, during the Inquiry, it is not recommended that for Rothes III this matter is again raised as grounds for objection. Full compliance with policies E4 Trees and Development (and associated Supplementary Guidance) and ER2 Development in Woodlands where all definitive details of compensatory planting, areas deforested for peat restoration and windblow replanting is not however possible.

It is noted that Scottish Forestry (formerly the Forestry Commission) will be separately consulted on the Section 36 and will inform the DPEA on this matter also. If the windfarm were to be approved for either the submitted or alternative proposals, conditions about compensatory planting, and all felling, restoration and replanting could be discussed.

Social and economic issues (ED7, IMP1)

Policy ED7 Rural Business Proposals is supportive of rural business developments where there is a locational justification, sufficient infrastructure capacity, no adverse

impact on natural and built heritage, and appropriate controls over siting, design, landscape and visual impact and emissions. In terms of a locational justification as the proposed windfarm would share some of its existing infrastructure with Rothes I and Rothes II in terms of the site access, and in a location where wind energy development is already present this matter requires little further consideration. The site does also lie partially in an area with acknowledged potential for windfarm development.

The alternative proposal development does meet other criteria within this policy where the development would generate construction and business activity in the area as described in the updated socio economic assessment within the EIAR AI Report Chapter 15 Socio-economic context. The merit of which would be most notable during the construction period where more personnel would be present on site and the applicant states that the development would create employment and opportunities for the duration of the operation of the windfarm. The applicant makes reference to the benefits the proposed shared ownership scheme community fund payments. These matters will be discussed below, but weight must be attached to the economic benefit of a development of this scale.

The matter of socio economic implications for tourism and recreation was discussed within the original consultation response, and whilst the alternative proposed development would see a reduction in visual and cumulative impact it is clear however that not all reaction users/tourists would view such development negatively, but where an accumulation of wind energy development arises, this does impact upon the sense of natural landscape that visitors do cite as one of the reasons for coming to Moray.

Policy ED7 d) does require consideration to be given to siting, design, landscape and visual impact of proposed rural development. The applicant makes the case the development would improve tourism in terms of enhanced access to the countryside, and the implementation (via community benefit) of enhanced facilities for recreation and tourist purposes. These points are valid, although community benefit itself is not a material consideration, and there will be members of the public who enjoy visiting windfarms and utilising the improved access they create.

Consideration must also be given however to what impact upon tourism will occur from an accumulation of wind energy development upon the landscape. The section above on Landscape and Visual Impact Assessment details the implications upon landscape and does acknowledge the reduced effects of the alternative proposed development so do not require to be re-iterated. Fundamentally, where upland in central and north Moray would increasingly become a windfarm landscape this would detract from the experience and enjoyment of the countryside that would be the appeal to many visitors and to those using the countryside for recreation. Successive views from locations such as that from the A95 south of Aberlour, clearly illustrate that the dominance of wind energy developments has reached a critical stage where

their prevalence would detract the natural landscape in which they are set. The Moray landscape is approaching saturation, where visitors or those pursuing outdoor recreation have little choice in locations not influenced by the presence of wind energy developments. This conclusion would remain even for the alternative proposed development.

For the landscape and visual concerns identified above the proposal cannot be considered to comply with all the requirement of policy ED7.

Aviation Issues (ER1, EP13 and IMP1)

MLDP Policy ER1 seeks to ensure that renewable energy proposals avoid any impacts resulting from aviation and defence constraints including flight paths and aircraft radar.

The EIAR AI Report still acknowledges potential effects of the wind farm upon aircraft activity including radar systems and there has been a history in Moray of radar conflict. It is noted that the MoD have suggested a condition in their latest response to the DPEA and it is noted such conditions in relation to the proposals at Rothes III. Aviation conflict would be reduced with a reduction in heights and numbers of turbines, and the resultant reduction in aviation lighting would be welcomed. While aviation conflict is a specific issue within policy ER1, the Council ordinarily relies upon the expertise of the MoD and other aviation bodies to form a view on the matter. As the Ministry of Defence, National Air Traffic (NATS) and Inverness Airport have been directly consulted by the ECU this element of compliance will be left for DPEA to determine upon.

Period of consent and arrangements for decommissioning and site restoration (ER1)

Development of this nature has a limited lifespan and permission is sought for a 35 year period and if permitted it would fall to the DPEA to determine the period of energy production commencement. The EIAR AI also seeks a 35 year consent and refers to Chapter 4 of the original EIA Report which addresses decommissioning and site reinstatement, which would see the preparation of a restoration scheme prior to decommissioning. The DPEA would condition appropriate decommissioning requirement or provision of a bond to ensure that the development is in place only for the operational lifetime of the equipment and the site is appropriately restored at the end of that period, the proposal is considered to comply with the restoration requirements of Policy ER1.

Planning Obligations and community investment opportunities (IMP3)

No planning obligations contribution are due as such development would not have any impact on community facilities, schools etc. Separate to this it was decided by the Planning and Regulatory Services Committee on the 18th October 2012 to

remove the pursuit or contribution of funds to "Community Benefit Funds" from the development management system.

The setting up of a community benefit fund should not be a matter that influences the planning decision and would be arranged separate to the planning process in the event that permission is granted. This approach is highlighted in Annex A 'Defining a Material Consideration' of the Circular 3/2013: Development Management Procedures.

The applicants are separately offering community groups the opportunity to invest a 'Shared Ownership Opportunity' scheme that would see communities investing in and sharing the profit from the development. This matter being an opportunity for individual communities may have positive outcomes, but it is difficult to attach any material weight too at this stage. It is therefore being treated as a separate matter to the consideration of the Section 36 consultation. This is consistent with the decision by Scottish Ministers in relation to Section 36 Pencloe Wind Energy Ltd decision in East Ayrshire in December 2018 where community shared ownership was not taken into account.

Conclusion

The alternative proposed development, although smaller than the submitted Rothes III scheme, would still represent a significant renewable energy development for Moray. The scheme is in line with aspects of local and national policy on the expansion of renewable energy including its contribution to renewable energy targets and the furtherance of a sustainable rural economy within Moray. The applicants Additional Information Report shares conclusions with the submitted EIA Report, that conclude the objectives of the Scottish Energy Strategy 2017 (SES) need to be considered against (and outweigh) the acknowledged significant landscape and visual impacts of the proposal. The SES does state that achieving renewables targets "can be done in a way which is compatible with Scotland's magnificent landscapes, including our areas of wild land. This means that the relevant planning and consenting processes will remain vitally important." This therefore clearly attributes weight to the need to achieve compatibility with landscape interests. The alternative proposed development whilst a substantive improvement in terms adverse impacts still fails to achieve the balance and compatibility with landscape interests sought in the SES.

Similarly the Scottish Onshore Wind Energy Policy Statement 2017 (SOWE) states that "the Scottish Government acknowledges the way in which wind turbine technology and design is evolving, and fully supports the delivery of large wind turbines in landscapes judged to be capable of accommodating them without significant adverse impacts." Even by the assessment of the applicants own Landscape and Visual Impact Assessment significant effects will occur using the

height of turbines proposed. The Moray Councils own review of this LVIA is that effects are greater than the applicants has suggested (see LVIA assessment above).

The SOWE also acknowledges “the technology shift towards larger turbines may present challenges when identifying landscapes with the capacity to accommodate larger scale development, as not all will be suitable.” The alternative proposals location, sat above rural Speyside in an area visited for its rural whisky industry and natural landscape one such unsuitable location.

At height of up to 175m it would be wrong to understate the weight that should be attached to issues beyond the clear benefits of onshore wind energy production. The socio economic factors benefits including employment generation having been specifically born in mind in arriving at the recommendation below.

This is not simply a case of the local authorities’ local wind energy guidance and capacity assessment verses national agreed targets for renewables. This recommendation has considered a broad range of issues including the national position of needing to move away from fossil fuel energy production. The alternative proposed development would remedy some of the original design flaws, and reduce the impact of others, but does not unfortunately go far enough.

The development will not adversely impact on heritage, public access or noise matters, subject to appropriate measures and conditions being put in place. It is noted that more specific technical responses relating to hydrology, ornithology, ecology and aviation will be separately addressed by other more specialist consultees to the Section 36/PLI process. For clarity, whist objecting to the alternative proposed development, Moray Council does not have an objection solely to the proposed repositioned substation building submitted as part of the AI.

In this case, for the reasons identified above the alternative proposed development (by virtue of their size and location) would still have a detrimental impact upon the landscape character of this part of Moray and upon tourist and recreational interests. Moray is clearly host to a number of wind energy developments, but the capacity of the landscape and the need to preserve the natural landscape for the benefits of other interests means that wind energy proposals must not dominate the landscape (inclusive of views from the AGLV).

On balance, the benefits of the alternative proposed development would not outweigh the detrimental landscape and visual impact in addition to the Transportation concerns. Officers consider that the potential for larger turbines identified within the 2017 Moray Wind Energy Landscape Capacity Study (MWELCS) should be re-visited by the applicant. This results in a departure from T2, ED7, E7, ER1, IMP1 and IMP2 where the alternative proposed development would not be sensitively sited, designed and serviced, and integrated into the surrounding landscape, preventing a negative landscape and visual impact.

Recommended decision to Committee

The alternative proposed development is contrary to Moray Local Development Plan 2015 policies PP1 Sustainable Economic Growth, T2 Provision of Access, ED7 Rural Business Proposals, ER1 Renewable Energy Proposals, E7 Areas of Great Landscape Value and Impacts Upon the Wider Landscape, IMP1 Developer Requirements, IMP2 Development Impact Assessments and Moray Onshore Wind Energy 2017 Policy Guidance and The Moray Wind Energy Landscape Capacity Study 2017 for the following reasons:-

I. The turbines would be located close to the edges of the areas of potential for larger turbines within Landscape Character Type (LCT) 10. The proposed turbines would by virtue of their size and positions have significant adverse effects and dominate the sensitive settled landscapes lying on the upland fringes in the Upper Knockando area and effect views from and character of the Spey Valley.

II. The proposal would be inappropriate in terms of their significant adverse impacts on landscapes and views within Moray. Views from varying distances such as those from Ben Rinnes, the A95 south of Aberlour would excessively diminish the recreational and visitor experience where the countryside would be overly populated with windfarm developments.

III. The proposal would increase the influence of wind energy development in views north from within the Spey Valley Area of Great Landscape Value (AGLV). As development must not diminish the landscape quality within this designation the policy directly guides wind energy development proposals to compliance with the 2017 Moray Wind Energy Landscape Capacity Study (MWELCS). The proposal departing from the MWELCS therefore has an unacceptable impact upon the AGLV where the landscape would be detrimentally affected.

IV. The proposed windfarm would result in complex and unacceptable cumulative views of wind energy development. These cumulative views are illustrated in the various Cumulative Zones of Theoretical Visibility figures. The proposed windfarm from varied locations within Moray would bring into view an agglomeration of windfarms, constructed or consented. This would result in significant adverse cumulative effects upon the landscape and upon visual amenity resulting in the creation of a windfarm landscape.

V. The submitted information is inadequate to satisfy policies T2 and IMP2 as it is insufficient to enable Moray Council to consider; the feasibility of the proposed development in terms of the ability to deliver turbine components, the impact on the public road and the identification of appropriate mitigation/modification or improvements necessary for the proposed development. Furthermore additional information would be required in relation to how the volumes of construction stone beyond that gleaned from on-site borrow pits has been calculated.

RELEVANT POLICIES OF THE 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 (e.g. farm shop) will generally be acceptable.

Policy E1: Natura 2000 Sites and National Nature Conservation Sites

Natura 2000 designations

Development likely to have a significant effect on a Natura 2000 site which is not directly connected with or necessary to its conservation management must be subject to an appropriate assessment of the implications for its conservation objectives. Proposals will only be approved where the appropriate assessment has ascertained that there will be no adverse effect on the integrity of the site.

In exceptional circumstances, proposals that could affect the integrity of a Natura site may be approved where;

- a) there are no alternative solutions; and

- b) there are imperative reasons of over-riding public interest including those of a social or economic nature, and
- c) if compensatory measures are provided to ensure that the overall coherence of the Natura network is protected.

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

National designations

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

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

Policy E2: Local Nature Conservation Sites and Biodiversity

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

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

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

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

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

Policy E3: Protected Species

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

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

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

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

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

Policy E4: Trees and Development

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

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

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

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

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

Proposals affecting woodland will be considered against Policy ER2.

Policy E6: National Parks and National Scenic Areas (NSA)

Development that affects National Parks or National Scenic Areas will only be permitted where:

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

Policy E7: Areas of Great Landscape Value (AGLV) and impacts upon the wider landscape

Development proposals which would have a significant adverse effect upon an Area of Great Landscape Value will be refused unless:

- a) They incorporate the highest standards of siting and design for rural areas

- b) They will not have a significant adverse effect on the landscape character of the area, in the case of wind energy proposals the assessment of landscape impact will be made with reference to the terms of the Moray Wind Energy Landscape Capacity Study.
- c) They are in general accordance with the guidance in the Moray and Nairn Landscape Character Assessment.

New developments should be designed to reflect the landscape characteristics and special qualities identified in the Landscape Character Assessment of the area in which they are proposed.

Proposals for new hill tracks should ensure that their alignment minimises visual impact; avoids sensitive natural heritage features, avoids adverse impacts upon the local hydrology; and takes account of the likely type of recreational use of the track and wider network.

Policy BE1: Scheduled Monuments and National Designations

National Designations

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

Local Designations

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

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

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

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

Policy BE2: Listed Buildings

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

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

Enabling development may be acceptable where it can be shown to be the only means of retaining a listed building(s). The resulting development should be of a high design quality protecting the listed building(s) and their setting and be the minimum necessary to enable its conservation and re-use.

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

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

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

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

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

EP4: Private Water Supplies

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

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

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

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

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

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

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

Policy EP6: Waterbodies

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

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

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

Policy EP7: Control of Development in Flood Risk Areas

New development should not take place if it would be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere. Proposals for development in areas considered to be at risk from flooding will only be permitted where a flood risk assessment to comply with the recommendations of National Guidance and to the satisfaction of both the Scottish Environment Protection Agency and the Council is provided by the applicant. This assessment must demonstrate that any risk from flooding can be satisfactorily mitigated without increasing flood risk elsewhere. Due to continuing changes in climatic patterns, the precautionary principle will apply when reviewing any application for an area at risk from inundation by floodwater.

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

- a) In areas of little to no risk (less than 0.1%) there will be no general constraint to development.
- b) Areas of low to medium risk (0.1% to 0.5%) will be considered suitable for most development. A flood risk assessment may be required at the upper end of the probability range (i.e. close to 0.5%), and for essential civil infrastructure and most vulnerable uses. Water resistant materials and construction may be required. Areas within this risk category will generally not be suitable for civil infrastructure. Where civil infrastructure must be located in these areas or is

being substantially extended, it should be designed to be capable of remaining operational and accessible during extreme flooding events.

- c) Areas of medium to high risk (0.5% or above) may be suitable for:
- Residential, institutional, commercial and industrial development within built up areas provided flood protection measures to the appropriate standard already exist and are maintained, are under construction, or are a planned measure in a current flood management plan;
 - Essential infrastructure within built up areas, designed and constructed to remain operational during floods and not impede water flow;
 - Some recreational, sport, amenity and nature conservation uses, provided appropriate evacuation procedures are in place and
 - Job related accommodation e.g. for caretakers or operational staff.

Areas within these risk categories will generally not be suitable:

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

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

Policy EP8: Pollution

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

Council applies conditions to the consent to deal with pollution matters these may include subsequent independent monitoring of pollution levels.

Policy EP9: Contaminated Land

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

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

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

Policy 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 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 ER1: Renewable Energy Proposals

All Renewable Energy Proposals

All renewable energy proposals will be considered favourably where they meet the following criteria:

- i) They are compatible with policies to safeguard and enhance the built and natural environment
- ii) They do not result in the permanent loss or damage of agricultural land
- iii) They avoid or address any unacceptable significant adverse impacts including:
 - Landscape and visual impacts
 - Noise impacts
 - Electromagnetic disturbance
 - Impact on watercourse engineering

- Impact on peat land hydrology
- Electromagnetic disturbance
- Impact on watercourse engineering
- Traffic Impact
- Ecological Impact
- Impact on tourism and recreational interests

Onshore wind turbines

In addition to the assessment of impact outlined above the following considerations will apply:

a) The Spatial Framework

Areas of Significant Protection*: where the council will apply significant protection and proposals will only be appropriate in circumstances where any significant effects on the qualities of these areas can be substantially overcome by siting, design and other mitigation.

Areas with Potential: where the council is likely to support proposals subject to detailed consideration.

* This protection will also apply to areas with carbon rich soils, deep peat and priority peatland habitat. This constraint is not currently included on the spatial strategy mapping but will be addressed through Supplementary Guidance once the relevant data becomes available.

b) Detailed Consideration

The proposal will be determined through assessment of the details of the proposal, including its benefits, and the extent to which it avoids or mitigates any unacceptable significant adverse impact. Detailed assessment** of impact will include consideration of the extent to which:

Landscape and visual impact:

- The proposal addresses the Guidance set out in the Moray Windfarm Landscape Capacity Study
- The landscape is capable of accommodating the development without significant detrimental impact on landscape character or visual amenity
- The proposal is appropriate to the scale and character of its setting, respects the main features of the site and the wider environment and addresses the potential for mitigation.

Cumulative Impact

- Any detrimental impact from two or more wind energy developments and the potential for mitigation is addressed.

Impact on local communities

- The proposal addresses any detrimental impact on communities and local amenity including the impacts of noise, shadow flicker, visual dominance and the potential for associated mitigation.

Other

- The proposal addresses any impacts arising from location within an area subject to potential aviation and defence constraints including flight paths and aircraft radar.
- The proposal avoids or adequately resolves other impacts including on the natural and historic environment, cultural heritage, biodiversity; forest and woodlands; and tourism and recreational interests- core paths, visitor centres, tourist trails and key scenic routes.
- The proposal addresses any physical site constraints and appropriate provision for decommissioning and restoration.

** Further detail on the above assessment process will be addressed through supplementary guidance to include:

- Peat mapping once this becomes available
- Detailed mapping of constraints
- Guidance on areas with greatest potential for small/medium and large scale wind farms.

Biomass

Proposals for the development of commercial biomass facilities will be supported if the following criteria are met.

- Proposals should confirm which form of biomass will fuel the plant and if a mixture of biomass is proposed then what percentage split will be attributed to each fuel source.
- Proposals can demonstrate that they have taken account of the amount of supply fuel over the life of the project.
- When considering woody biomass proposals the scale and location of new development is appropriate to the volume of local woodfuel available.

- The location must have suitable safe access arrangements and be capable of accommodating the potential transport impacts within the surrounding roads network.
- A design statement should be submitted, which should include photomontages from viewpoints agreed by the Council.
- There should be a locational justification for proposals outwith general employment land designations. The proposed energy use, local heat users and connectivity of both heat users and electricity networks should be detailed. Proposals which involve potential or future heat users will not be supported unless these users can be brought online in conjunction with the operation of the plant.
- Details of the predicted energy input and output from the plant demonstrating the plant efficiency and utilisation of heat should be provided.
- Where necessary appropriate structural landscaping must be provided to assist the development to integrate sensitively.
- The criteria set out in relation to other renewables should also be met.

The Council will consult with the Forestry Commission Scotland (FCS) to help predict potential woodfuel supply projections in the area.

Policy ER2: Development in Woodlands

All woodlands

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

Protected Woodlands

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

Tree surveys and new planting

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

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

Policy ER3: Safeguarding Mineral Reserves

The Council will safeguard all existing workable mineral reserves/operations from incompatible development which is likely to prejudice it unless;

- There are no alternative sites for development, and
- The extraction of mineral resources will be completed before development commences.

Policy ER4: Minerals

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

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

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

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

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

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

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

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

Proposals should be accompanied by an Extractive Waste Management plan.

Policy ER5: Agriculture

The Council will support the agricultural sector by:

- a) Presuming against irreversible development on prime agricultural land (classes 1,2 and 3.1) unless the site is required for settlement expansion and there is no other suitable alternative.
- b) Supporting farm diversification proposals in principle and supporting business proposals which are intended to provide additional income/ employment on farms.

Proposals for agricultural buildings with a locational requirement will be subject to visual, landscape and amenity considerations and considered against the relevant environmental policies.

Policy ER6: Soil Resources

Where peat and other carbon rich soils are present disturbance to them may lead to the release of carbon dioxide contributing to the greenhouse gas emissions. Developers should assess the likely effects associated with any development work and aim to mitigate any adverse impacts arising.

For major developments, minerals and large scale (over 20MW) renewable energy proposals, development will only be permitted where it has been demonstrated that unnecessary disturbance of soils, peat and any associated vegetation is avoided. Evidence of the adoption of best practice in the movement, storage, management and reinstatement of soils must be submitted along with any relevant planning application, including if necessary measures to prevent the spread of invasive non-native species.

Major developments, minerals and large scale renewable energy proposals on undisturbed areas of deep peat (defined as 1.0m or more) will only be permitted for these uses where:

- a) the economic, social and/or environmental benefits of the proposal outweigh any potential detrimental effect on the environment (in particular with regard to the release of carbon dioxide into the atmosphere); and
- b) it has been clearly demonstrated that there is no viable alternative.

Where development on undisturbed peat is deemed acceptable, a peat depth survey must be submitted which demonstrates that the areas of deepest peat have been avoided. Where required, a peat management plan must also be submitted which demonstrates that unnecessary disturbance, degradation or erosion of peat is avoided.

Large scale commercial peat extraction will not be permitted.

Policy T2: Provision of Access

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

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

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

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

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

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

Significant travel generating proposals will only be supported where:

- Direct links to walking and cycling networks are available;
- Access to public transport networks would involve walking no more than 400m;

- It would not have a detrimental effect on the capacity of the strategic road and/or rail network; and
- A Transport Assessment identifies satisfactory mechanisms for meeting sustainable transport requirements and no detrimental impact to the performance of the overall network.

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

Policy T5: Parking Standards

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

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

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

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

- incorporate the route within the site layout and the routes amenity value must be maintained or enhanced; or
- provide alternative access that is no less attractive and is safe and convenient for the public to use.

Policy 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 (LIKELY RELEVANT POLICIES)

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. "

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. Alterations and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.
- i) Proposals must orientate and design buildings to maximise opportunities for solar gain

(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, pavements, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of service vehicles with hammerheads minimised in preference to turning areas and to provide adequate space for the collection of waste and movement of waste collection vehicles.
 - g) The road and house layout in urban development should allow for communal refuse collection points where the design does not allow for individual storage within the curtilage and / or collections at kerbside. Communal collection points may either be for the temporary storage of containers taken by the individual householder or for the permanent storage of larger containers. The requirements for a communal storage area are stated within the Council's Kerbside Collection Policy, which will be a material consideration.
 - h) Road signs should be minimised designed and placed at the back of footpaths to reduce street clutter, avoid obstructing pedestrian movements and safeguarding sightlines.
 - i) Within communal parking areas there will be a requirement for electric car charging points. Parking spaces for car sharing must be provided where a need is identified by the Transportation Manager.
- iii) Water environment, pollution, contamination.

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

DP5 BUSINESS & INDUSTRY

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

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

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.

DP8 TOURISM FACILITIES & ACCOMMODATION.

Proposals which contribute to Moray's tourism industry will be supported where they comply with relevant policies. All proposals must demonstrate a locational need for a specific site.

Development built as tourism/holiday accommodation shall be retained for this purpose and will not become permanent residences. Conditions will be applied to planning consents to control this aspect.

To integrate caravan, chalet and glamping developments into their rural setting, stances/pitches will be required to have an informal layout and be satisfactorily landscaped to ensure development is screened and discrete. Provision within sites for touring caravans/campers and tents must be included.

Proposals for hutting will be supported where it is low impact, does not adversely affect trees or woodland interests, or the habitats and species that rely upon them, the design and ancillary development (e.g. car parking and trails) reflects the wooded environment and the proposal complies with other relevant policies. Proposals must comply with 'New Hutting Developments - Good Practice Guidance on the Planning, Development and Management of Huts and Hut Sites' published by Reforesting Scotland.

Proposals for tourism facilities and accommodation within woodlands must support the proposals and strategy set out in the Moray Woodlands and Forestry Strategy.

DP9 RENEWABLE ENERGY.

a) All Renewable Energy Proposals.

All renewable energy proposals will be considered favourably where they meet the following criteria:

- i) They are compliant with policies to safeguard and enhance the built and natural environment.
- ii) They do not result in the permanent loss or damage of agricultural land.
- iii) They avoid or address any unacceptable significant adverse impacts including:

- Landscape and visual impacts.
- Noise impacts.
- Air quality impacts.
- Electromagnetic disturbance.
- Impact on water environment.
- Impact on carbon rich soils and peat land hydrology.
- Impact on woodland and forestry interests.
- Traffic impact-mitigation during both construction and operation.
- Ecological Impact.
- Impact on tourism and recreational interests.

b) Onshore wind turbines.

In addition to the assessment of the impact outlined above the following considerations will apply:

i) The Spatial Framework.

Areas of Significant Protection (Map 2): where the Council will apply significant protection and proposals will only be appropriate in circumstances where any significant effects on the qualities of these areas can be substantially overcome by siting, design and other mitigation.

Areas with Potential (Map 1): where wind farms are likely to be acceptable subject to detailed consideration against policy criteria, the Moray Onshore Wind Energy Supplementary Guidance and the Moray Wind Energy Landscape Capacity Study.

ii) Detailed Consideration.

The proposal will be determined through assessment of the details of the proposal, including its contribution to renewable energy generation targets and effect on greenhouse gas emissions, net economic impact, including socio-economic benefits such as employment, associated business and supply chain opportunities and the extent to which it avoids or mitigates any unacceptable significant adverse impact. Detailed assessment of impact will include consideration of the extent to which:

iii) Landscape and visual impact:

- The proposal addresses the Guidance set out in the Moray Windfarm Landscape Capacity Study and Moray Onshore Wind Energy Supplementary Guidance.
- The proposal is capable of accommodating the development without significant detrimental impact on landscape character or visual amenity.
- The proposal is appropriate to the scale and character of its setting, respects the main features of the site and the wider environment and addresses the potential for mitigation.

iv) Cumulative impact.

- Any detrimental impact from two or more wind energy developments and the potential for mitigation is addressed.

v) Impact on local communities.

- The proposal addresses any detrimental impact on communities and local amenity including the impacts of noise, shadow flicker, visual dominance and the potential for associated mitigation.

vi) Other.

- The proposal addresses any impacts arising from the location within an area subject to potential aviation and defence constraints including flight paths and aircraft radar.
- The proposal avoids or adequately resolves other impacts including on the natural and historic environment, cultural heritage, biodiversity, forest and woodlands and tourism and recreational interests- core paths, visitor centres, tourist trails and key scenic routes.
- The proposal addresses any physical site constraints and appropriate provision for decommissioning and restoration.

c) Biomass.

Proposals for the development of commercial biomass will be supported if the following criteria are met.

- Applicants must confirm which form of biomass will fuel the plant and if a mixture of biomass is proposed then what percentage split will be attributed to each fuel source.
- Proposals must demonstrate that they have taken account of the amount of supply fuel over the life of the project.
- When considering wood biomass proposals, the scale and location of new development is appropriate to the volume of local woodfuel available. Sources of fuel must be identified and must be sustainable.
- The location must have suitable safe access arrangements and be capable of accommodating the potential transport impacts within the surrounding roads network.
- A design statement must be submitted, which should include photomontages from viewpoints agreed by the Council.
- There must be a locational justification for proposals outwith general employment land designations. The proposed energy use, local heat users and connectivity

of both heat users and electricity networks must be detailed. Proposals which involve potential or future heat users will not be supported unless these users can be brought online in conjunction with the operation of the plant.

- Details of the predicted energy input and output from the plant demonstrating the plant efficiency and utilisation of heat must be provided.
- Where necessary appropriate structural landscaping must be provided to assist the development to integrate sensitively.

The criteria set out in relation to other renewables must also be met.

The Council will consult with the Forestry Commission Scotland (FCS) to help predict potential woodfuel supply projections in the area.

DP10 MINERALS.

a) Safeguarding Mineral Reserves.

The Council will safeguard all existing workable mineral reserves/ operations from incompatible development which is likely to prejudice it unless;

- There are no alternative sites for development; and
- The extraction of mineral resources will be completed before development commences.

b) Mineral Operations.

Proposals for mineral extraction will be acceptable in the following circumstances, subject to compliance with other relevant LDP policies;

- Extension to existing operation/ sites.
- Re-opening of a dormant quarry.
- A reserve underlying a proposed development where it would be beneficial to extract prior to development.

Proposals for new and extensions to existing mineral sites, which contribute to the maintenance of at least a 10 years supply of permitted reserves of construction aggregates in Moray will be supported, subject to meeting the terms of Policy DP1 and other relevant policies.

Proposals for borrow pits will be supported, subject to compliance with other relevant policies, to allow the extraction of minerals near to or on the site of associated development (e.g. wind farm and roads construction, forestry and agriculture) provided it can be demonstrated that the

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

All mineral development proposals must avoid or satisfactorily mitigate impacts. In determining proposals, the Council will give consideration to the requirements of Policy DP1. Additional mitigation may be required for renewables at existing quarries.

Proposals must be accompanied by an extractive Waste Management Plan.

c) Restoration and aftercare.

Operators must provide details of their proposed programme of restoration (including the necessary financing, phasing and aftercare of the sites). In some circumstances, the Council may require a financial guarantee/ bond. Restoration programmes must reinstate the site at the earliest opportunity when excavation has ceased.

Restoration must be designed and implemented to the highest standard. After uses must result in environmental improvement and add to the cultural, recreational or environmental assets of the area.

EP1 NATURAL HERITAGE DESIGNATIONS.

a) Natura 2000 designations.

Development likely to have a significant effect on a Natura 2000 site and which is not directly connected with or necessary to the conservation management of that site must be subject to an appropriate assessment of the implications for its conservation objectives. Proposals will only be approved where the appropriate assessment has ascertained that there will be no adverse effect on the integrity of the site.

In exceptional circumstances, proposals that could affect the integrity of a Natura 2000 site may be approved where:

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

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

b) National designations.

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

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

c) Local Designations

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

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

d) European Protected Species

European Protected Species are identified in the Habitats Regulations 1994 (as amended in Scotland). Where a European Protected Species may be present or affected by development or activity arising from development, a species survey and where necessary a Species Protection Plan should be prepared to accompany the planning application, to demonstrate how the Regulations will be complied with. The survey should be carried out by a suitably experienced and licensed ecological surveyor.

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

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

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

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

EP2 BIODIVERSITY

All development proposals must 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.

EP3 SPECIAL LANDSCAPE AREAS AND LANDSCAPE CHARACTER.

i) Special Landscape Areas (SLA's).

Development proposals within SLA's will only be permitted where they do not prejudice the special qualities of the designated area set out in the Moray Local Landscape Designation Review, adopt the highest standards of design in accordance with Policy DP1 and other relevant policies, avoid adverse effects on the landscape and visual qualities the area is important for, and are for one of the following uses;

a) In rural areas (outwith defined settlement and rural grouping boundaries);

- i) Where the proposal involves an appropriate extension or change of use to existing buildings, or
- ii) For uses directly related to distilling, agriculture, forestry and fishing which have a clear locational need and demonstrate that there is no alternative location, or
- iii) For nationally significant infrastructure developments identified in the National Planning Framework.

b) In urban areas (within defined settlement, rural grouping boundaries and LONG designations);

- i) Where proposals conform with the requirements of the settlement statements, Policies PP1, DP1 and DP3 as appropriate and all other policy requirements, and
- ii) Proposals reflect the traditional settlement character in terms of siting and design.

c) The Coastal (Culbin to Burghead, Burghead to Lossiemouth, Lossiemouth to Portgordon, Portgordon to Cullen Coast), Cluny Hill, Spynie, Quarrywood and Pluscarden SLA's are classed as " sensitive" in terms of Policy DP4 and no new housing in the open countryside will be permitted within these SLA's.

Proposals for new housing within other SLA's not specified in the preceding para will be considered against the criteria set out above and the criteria of Policy DP4.

Where a proposal is covered by both a SLA and CAT or ENV policy/ designation, the SLA policy will take precedence.

ii) Landscape Character.

New developments must be designed to reflect the landscape characteristics identified in the Landscape Character Assessment of the area in which they are proposed.

Proposals for new roads and hill tracks associated with rural development must ensure that their alignment and use minimises visual impact, avoids sensitive natural heritage and historic environment features, including areas protected for nature conservation, carbon rich soils and protected species, avoids adverse impacts upon the local hydrology and takes account of recreational use of the track and links to the wider network.

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.

EP10 LISTED BUILDINGS.

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

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

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

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

Enabling development may be acceptable where it can be shown to be the only means of retaining a listed building (s). The resulting development should be of a high design quality protecting the listed building (s) and their setting and be the minimum necessary to enable its conversion and re-use.

EP11 BATTLEFIELDS, GARDENS AND DESIGNED LANDSCAPES.

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

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

The Council will consult Historic Environment Scotland and the Regional Archaeologist on any proposals which may affect Inventory Sites.

EP12 MANAGEMENT AND ENHANCEMENT OF THE WATER ENVIRONMENT.

a) Flooding.

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

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

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

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

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

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

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

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

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

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

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

Where development is permitted, measures to protect against or manage flood risk will be required and any loss of flood storage capacity mitigated to achieve a

neutral or better outcome. Water resistant materials and construction must be used where appropriate. Land raising and elevated buildings on structures such as stilts are unlikely to be acceptable 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.

EP16 GEODIVERSITY AND SOIL RESOURCES.

Where peat and other carbon rich soils are present disturbance to them may lead to the release of carbon dioxide contributing to the greenhouse gas emissions. Applications should minimise this release and must be accompanied by an assessment of the likely effects associated with any development work and aim to mitigate any adverse impacts arising.

Where areas of important geological interest are present, such as geological Sites of Special Scientific Interest (SSSI) or Geological Conservation Review (GCR) sites are present, excavations or built development can damage, destroy and/or prevent access to the irreplaceable geological features. Development should avoid sensitive geological areas or otherwise demonstrate how the geological interests will be safeguarded.

For major developments, minerals and large scale (over 20MW) renewable energy proposals, development will only be permitted where it has been demonstrated that unnecessary disturbance of soils, geological interests, peat and any associated vegetation is avoided. Evidence of the adoption of best practice in the movement, storage, management and reinstatement of soils must be

submitted along with any relevant planning application, including, if necessary, measures to prevent the spread of invasive non-native species.

Major developments, minerals and large scale renewable energy proposals on areas of peat and/or land habitat will only be permitted for these uses where:

- a) The economic, social and/or environmental benefits of the proposal outweigh any potential detrimental effect on the environment (in particular with regard to the release of carbon dioxide into the atmosphere); and
- b) It has been clearly demonstrated that there is no viable alternative.

Where development on peat is deemed acceptable, a peat depth survey must be submitted which demonstrates that the areas of deepest peat have been avoided. Where required, a peat management plan must also be submitted which demonstrates that unnecessary disturbance, movement, degradation or erosion of peat is avoided and proposes suitable mitigation measures and appropriate reuse.

Commercial peat extraction will not be permitted.



**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON
25 FEBRUARY 2020**

SUBJECT: PLANNING PERFORMANCE FRAMEWORK 2018/19

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

1. REASON FOR REPORT

- 1.1 To inform the Committee the Planning Performance Framework (PPF) for 2018/2019 was submitted to the Scottish Government (SG) on 31 July 2019, covering the period from 1 April 2018 to 31 March 2019. This report provides a summary of feedback received from the Scottish Government on 12 February 2020 with specific reference to the Performance Markers Report and Red, Amber, Green (RAG) ratings for the 2018/2019 submission.
- 1.2 This report is submitted to Committee in terms of Section III E (1) of the Council's Scheme of Administration relating to exercising the statutory functions of the Council as Planning Authority.

2. RECOMMENDATION

2.1 It is recommended that the Committee:-

- (i) **note the Planning Performance Framework submitted to the Scottish Government on 31 July 2019 (Appendix 1);**
- (ii) **note the feedback report received from the Scottish Government on 12 February 2020 (Appendix 2);**
- (iii) **authorise the Head of Economic Growth & Development to submit the Planning Performance Framework for 2019/2020 to the Scottish Government by the end of July 2020 (or any other date that may be set);**
- (iv) **note that the Planning Performance Framework will be reported to the first available Planning & Regulatory Services Committee following receipt of the feedback; and**
- (v) **note the Planning Performance Framework 2018/19 will be circulated to all developers, stakeholders and internal services**

seeking comment/feedback to assist with continuous improvement to be fed back into the PPF for 2019/20.

3. BACKGROUND

- 3.1 The Council has prepared PPF reports for the last eight years with the latest one covering 2018/19 submitted in July 2019. The main purpose of the PPF is to provide Ministers, Councils and the public with a better understanding of how a planning authority is performing and delivering high quality development on the ground.
- 3.2 In 2017/18 the Council received fourteen green awards and one amber. The amber award was due to one legacy case being undetermined compared to none being carried over the previous year.
- 3.3 The PPF submitted for 2018/19 is attached at **Appendix 1** and follows the updated template issued by the SG with a greater emphasis on the use of case studies to illustrate how key performance markers are met in Moray.
- 3.4 As part of the SG's feedback a summary of performance is included covering the last seven years since the PPF was introduced (tables below). This shows how year on year the number of key markers have been changed to green as well as avoiding slipping back into red.

Marker		2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018 – 19
1	Decision making timescales							
2	Processing arrangements							
3	Early collaboration							
4	Legal agreements							
5	Enforcement charter							
6	Continuous improvement							
7	Local development plan							
8	Development plan scheme							
9	Elected members engaged early (pre-Main Issues Report - MIR)		N/A	N/A	N/A	N/A		N/A
10	Stakeholders engaged early (pre-MIR)		N/A	N/A	N/A	N/A		N/A
11	Regular and proportionate advice to support applications							
12	Corporate working across services							
13	Sharing good practice, skills and							

	knowledge							
14	Stalled sites/legacy cases							
15	Developer Contributions							

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

2012-13	3	6	6
2013-14	2	5	6
2014-15	1	4	8
2015-16	1	3	9
2016-17	0	1	12
2017-18	0	1	14
2018-19	0	0	13

Decision Making Timescales (weeks)

	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2018-19 Scottish Average
Major Development	55.7	98.2	13.1	20.0	16.9	16.5	8.9	32.5
Local (Non-Householder) Development	20.0	13.5	8.5	7.5	7.2	6.6	6.5	10.7
Householder Development	10.1	7.1	5.8	6.3	5.7	5.3	5.3	7.2

4. FEEDBACK FROM SCOTTISH GOVERNMENT – PPF 2018/19

- 4.1 Written feedback was received on 12 February 2020 from the Minister for Local Government, Housing and Planning to the Council's Chief Executive, enclosing a feedback report fifteen 'Performance Markers'.
- 4.2 The letters states "I believe that good progress continues to be made by authorities. Although there has been a small drop in the number of green ratings awarded this year and there remains some variation across some authorities and markers. I have been particularly impressed by the speed of determination of major applications in some authorities. This is an exciting time for the planning system in Scotland with the preparation of the National Planning Framework 4 (NPF4) underway and the changes to the development planning and management systems to follow".
- 4.3 The Performance Markers Report 2018/19 sets out the fifteen performance markers, each one receiving either a red, amber or green RAG rating. Thirteen markers have been given a green rating and two are not applicable.

This is the first time all markers that have been scored have been given a green award.

- 4.4 One of the key markers relates to decision-making that requires Local Planning Authorities to demonstrate continuous reduction in average timescales for all development categories and is worthy of noting its green status. Householder applications remained at an average of 5.3 weeks; Local applications (non-householders) have reduced from 6.6 weeks to 6.5 weeks and major application average timescales has reduced to 8.9 weeks. Major applications are important to the Moray economy and the majority are covered by processing agreements which assist in determining them timeously and continue to be the number one priority.
- 4.5 One of the other key markers worthy of highlighting relates to the Development plan scheme which is on track for adoption within the five year cycle and is managed through the use of regular project meetings with deadlines set. Having an up to date Local Development Plan is essential to Moray's economy.

5. SUMMARY OF IMPLICATIONS

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

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

(b) Policy and Legal

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

(c) Financial implications

There are no direct financial implications arising from this report.

(d) Risk Implications

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

(e) Staffing Implications

No staff implications as a result of this report.

(f) Property

None.

(g) Equalities/Socio Economic Impact

There are no equalities issues arising from this report.

(h) Consultations

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

6. CONCLUSION

- 6.1 The Planning Performance Framework submitted to the Scottish Government for 2018/19 and the associated feedback received demonstrates that continuous improvements have been made in decision making timescales (below the Scottish National Average), the Local Development Plan is on track for adoption within the programmed timescale and over the last 12 months continuous improvements have been made improving the quality of the planning service supporting economic growth.**

Author of Report:

Beverly Smith
Development Management & Building Standards
Manager

Background Papers:

Ref: Appendix 1
Appendix 2

Planning Performance Framework 2018/2019
Feedback letter dated 11 February 2020 from Scottish
Government

PLANNING PERFORMANCE FRAMEWORK

8

ANNUAL REPORT 2018 - 2019





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FOREWORD

As Chair of the Planning & Regulatory Services Committee I am delighted to endorse the Planning Performance Framework for 2018/19, as the last 12 months has seen significant progress on preparing the new Local Development Plan for Moray and seen a number of significant major planning applications determined, supporting economic growth and creating much needed homes and employment opportunities for people in Moray, as well as the infrastructure to support growth.

The new Local Development Plan has progressed from Main Issues Report stage through to Proposed Plan, winning a national award for the Youth Engagement film made by Buckie High School pupils. A number of private and affordable housing projects have been built and the new Moray Sports Centre is nearing completion.

A number of case studies have been included in this report, which cover a range of topics and demonstrate how Moray Council provides a high quality planning service and how it works in partnership with a number of key agencies and stakeholders. The case studies include work we have completed on Masterplans approved at Bilbohall, Elgin and Kinloss Golf Course, a review of local landscape designations, delivery of a first phase of development at Elgin South, engagement and training

events for Community Councils and Elected Members and how we continue to streamline our processes to improve the quality of service delivered.

Service improvements and actions have been identified and I look forward to the further changes to the planning system which the new Planning (Scotland) Bill will introduce, with one of our case studies explaining our participation in a pilot Gatecheck process to prepare an Evidence Report as a replacement for the Main Issues report in future.



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

PART 1

Qualitative Narrative and Case studies

1.1 QUALITY OF OUTCOMES

Delivering high quality and sustainable development is a key aspiration of both national and local planning policies and the Council has continued to work with partners to ensure improvements in outcomes are secured. A key aspect has been the work that has continued on longer term masterplans, development briefs and the Quality Audit process which are all tools the Council use to help raise the standards of design in places that are being created. Project meetings have also played a large part of our work over the last 12 months, especially with Elgin South which encompasses the delivery of a sports centre and primary school as the first phase of this large development which also includes large scale private and affordable housing elements.

CASE STUDY 1 BILBOHALL MASTERPLAN

LOCATION: Bilbohall, Elgin

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

Quality of Outcomes,
Quality of service and engagement

KEY MARKERS: 7, 11

Local Development Plan
Production of regular and proportionate policy advice

KEY AREAS OF WORK:

Design, Conservation, Environment,
Greenspace, Masterplanning, Housing
Supply, Interdisciplinary Working,
Collaborative working, Placemaking

STAKEHOLDERS INVOLVED:

Moray Council Housing, Planning,
Transportation and Consultancy Services,
Grampian Housing Association, Scotia
Homes.



OVERVIEW: The Bilbohall Masterplan sets out the shape and form that development will take on sites identified for development in the south west of Elgin in the Moray Local Development Plan 2015. The Masterplan and associated appendices were approved as Supplementary Guidance to the LDP2015 by the Planning and Regulatory Services Committee on 13th November 2018.

The Masterplan was produced through a collaborative process with the Moray Council and the Bilbohall Consortium, which comprises the various landowners of the masterplan area's respective sites. Bilbohall provides an opportunity to create an attractive, high quality, mixed tenure residential neighbourhood.

The Masterplan sets out design principles for the development of Bilbohall, which consists of sites R3, R4, R12, OPP7 and CF2 designated in the LDP2015. The design principles must be reflected in planning applications for these sites. The masterplan ensures a strategic approach is taken to the provision of the built form, infrastructure, tenure integration, transportation and connections to surrounding areas, open space, recreation, walking and cycling and the integration of landscape, woodland and structure planting.

The Masterplan provides for a residential development of around 380 houses, of which 56% are proposed to be affordable.

GOALS: The goals were to prepare a Masterplan which covered a number of site designations to the south west of Elgin and embraced Designing Streets principles to provide a high quality housing development within a high quality and diverse landscape setting, adjacent to a local wetland wildlife site and including rounded, sometimes wooden knolls as key features. The goal was to provide more than 50% affordable houses across the site and to ensure that the development would be financially viable.

OUTCOMES: The Masterplan is now approved as supplementary guidance and sets the framework for approximately 380 houses split into different character zones. The Consortium are now moving forward to procure detailed design and build phase.

NAME OF KEY OFFICER

Eily Webster, Senior Planning Officer
eily.webster@moray.gov.uk



CASE STUDY 2

ELGIN SOUTH, ELGIN

LOCATION AND DATES:

Elgin, 2018/19

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

Quality of outcomes, Quality of Service & Engagement

KEY MARKERS: 2, 3 and 12

KEY AREAS OF WORK:

- Process Improvement
- Corporate Working
- Master Planning
- Affordable Housing
- Interdisciplinary Working
- Project Management

STAKEHOLDERS INVOLVED:

Head of Service, Planning, Transportation Officers, Flood Risk Management Officers, Legal Officers, Affordable Housing Manager, Education Project Officer, Developers Project Team

OVERVIEW: Delivery of the first phase of a Major development which has been the subject of a Masterplan and early delivery of housing and a primary school.

GOALS: To ensure a coordinated project managed approach was adopted to ensure the requirements set out in both planning conditions and S.75 legal agreements were adhered to and ensure that communication through the holding of regular monthly meetings with agreed actions prevented any stalling in terms of implementation.

OUTCOMES: High quality development on the ground in a short timescale assisted by a project managed approach by ensuring all internal services were working together to deliver the same outcome.

NAME OF KEY OFFICER

Jim Grant, Head of Development Services
jim.grant@moray.gov.uk

Beverly Smith, Development Management & Building Standards Manager
beverly.smith@moray.gov.uk

Gary Templeton, Principal Planning Officer
gary.templeton@moray.gov.uk





CASE STUDY 3

KINLOSS GOLF COURSE MASTERPLAN

LOCATION AND DATES:

Kinloss Golf Course, Kinloss, Moray

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

Quality of outcomes, Quality of Service & Engagement

KEY MARKERS: 7, 11

Local Development Plan
Production of regular and proportionate policy advice.

KEY AREAS OF WORK:

Design, Environment, Greenspace, Masterplanning, Housing Supply, Rural Housing, Interdisciplinary Working, Collaborative Working, Placemaking.

STAKEHOLDERS INVOLVED:

General public and key agencies

OVERVIEW: Kinloss Golf Course is an identified development hotspot due to the cumulative build-up of housing on the edges of the golf course. To promote a more sustainable pattern of growth and to help address the landscape and visual impacts associated with this build-up of houses, the

area was identified as a new rural grouping with a requirement for the preparation of a Masterplan.

The purpose of the Masterplan is to promote a sensitively sited, high quality rural residential/tourism development that provides a framework for the long term maintenance of the existing woodland and assists in the delivery of the economic diversification of the golf course.

The Masterplan has been subject to public consultation and an event was jointly hosted by Moray Council, Kinloss Golf Course and MAKAR to engage with existing residents living within the Masterplan area and surrounding neighbours.

GOALS: The goal is to create a unique high quality development with distinct character, where development sits in a rich diverse woodland setting. Sustainable development is promoted through clustering rural development and creating an exemplar in contemporary sustainable timber design and offsite construction. The development will also deliver long term enhancement of the existing woodland and the creation of a new community woodland.

OUTCOMES: The Masterplan is now approved as supplementary guidance and sets a framework for the delivery of 20 rural housing plots, 16 holiday cabins and 6 glamping pods within the wooded setting of the golf course.

A design code has been embedded within the Masterplan, key features of which include a timber first policy, whereby all buildings must be timber framed and substantially timber clad. Houses must be positioned to work with the contours of the site, avoiding exposure on any ridgeline and views from the A96. New housing must be a contemporary interpretation of traditional rural housing, utilising high quality roofing materials including slate and turf (living roof). There is also a requirement for a neutral muted colour palette to complement the natural woodland setting.

A woodland management plan supports the Masterplan to deliver significant enhancement of the amenity, cultural, environmental and economic value of the woodland by integrating the woodland with sustainably constructed buildings. The proposed new woodland planting will result in a net increase in woodland cover across the Masterplan area.

A first phase planning application is expected in summer 2019.

NAME OF KEY OFFICER:

Emma Gordon, Planning Officer

Email: emma.gordon@moray.gov.uk

Neil Sutherland, MAKAR Ltd

Email: neil@makar.co.uk

Examples of homes within woodland in Northern Scotland



CASE STUDY 4

STYNIE ROAD MOSSTODLOCH

LOCATION AND DATES:

Stynie Road, Mosstodloch

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

Quality of outcomes

KEY MARKERS: 3, 12

Early collaboration with applicants and consultees on planning applications.

KEY AREAS OF WORK:

Environment, Health and Well-being, Greenspace, Interdisciplinary working, Housing Delivery, Placemaking.

STAKEHOLDERS INVOLVED:

Moray Council officers from Planning, Housing and Transportation, Springfield Properties plc.

OVERVIEW: Officers from Planning, Housing and Transportation worked closely with Springfield Properties plc on the design for this site. Mosstodloch has seen very limited housing development in recent times and Council officers were keen to promote a more Designing Streets approach to this site which is designated in the Local Development Plan. Officers wished to promote aspects of the emerging Moray Local Development Plan 2020 policies, notably in promoting a designing streets approach to the road and active travel connections, more multi benefit greenspace, integrating natural SUDs into the design, planting for biodiversity, sensory garden adjacent to housing for older residents and ensuring open spaces provided safe, inclusive links into the countryside, providing opportunities to rest and reflect, provision of colour and variation in planting within open space.



Ensuring the children's play area will be provided in the first phase has been a significant shift away from delayed provision of play provision. Character and identity has been improved through identification of character areas, through variation in materials and use of colour and through street design and landscaping.

OUTCOMES: Planning consent has been granted for a first phase of affordable housing. Officers worked together to secure a different design and layout approach, with high quality, multi- functional open spaces which promote health and well-being and biodiversity.

NAME OF KEY OFFICER:

Gary Templeton, Principal Planning Officer
gary.templeton@moray.gov.uk





CASE STUDY 5

LOCAL LANDSCAPE DESIGNATIONS AREA REVIEW

LOCATION AND DATES:

Moray

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

Quality of Service and Engagement
Culture of Continuous Improvement

KEY MARKERS: 7, 11

Local Development Plan
Production of regular and proportionate policy advice, for example through supplementary guidance on information required to support applications.

KEY AREAS OF WORK:

Local Development Plan, Environment, Landscape.

STAKEHOLDERS INVOLVED:

General public, Scottish Natural Heritage, Moray Council planning staff.

OVERVIEW: The 7 Areas of Great Landscape Value identified in the Moray Local Development Plan 2015 carry on from the previous plans and identify broad brush areas which have no recorded evidence base setting out their reasons for designation. The AGLV designations also created some overlap, duplication and confusion with other local landscape designations, including the Coastal Protection Zone, Countryside Around Town areas and Pluscarden Special Areas of Control. This has been a long running problem which has undermined the designations. Planning officers were keen to address this issue and set up a working group with SNH staff who

prepared a brief for the work. Carol Anderson, landscape consultant was commissioned to review the suite of designations and propose one set of local landscape designations.

A draft report identifying a suite of Special Landscape Areas was reported to the Planning and Regulatory Services Committee on 18th September 2018 and was then made available for public consultation for 6 weeks, which included a drop in exhibition. Responses were reported back to Committee on 18th December, when a number of minor changes were made and the Committee agreed that the new Special Landscape Areas be included in the Proposed Plan.

GOALS: Remove duplication between local landscape designations
Identify Moray's special landscapes and their reasons for designation
Raise awareness of the importance of Moray's diversity of landscapes

OUTCOMES: A new suite of Special Landscape Areas has been incorporated into the Proposed Plan.
Recorded evidence base explaining the reasons for designation.

NAME OF KEY OFFICER

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

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

CASE STUDY 6

56-66 MID STREET, KEITH 2005 - 2018

LOCATION AND DATES:

56-66 Mid Street, Keith – 2005 - 2018

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

Culture of continuous improvement
Governance
Quality of Outcomes

KEY MARKERS: 2 & 3

KEY AREAS OF WORK:

- Development Management processes
- Planning Applications
- Conservation
- Design
- Interdisciplinary Working and Collaborative Working

STAKEHOLDERS INVOLVED:

Local developers, Authority Planning Staff, Authority Other Staff, Historic Environment Scotland (CARS)

OVERVIEW: This was an historic case that had stalled over the detail and quality of the proposal to re-develop 8 existing buildings at the top of Mid Street/Reidhaven Square including demolition of sub-standard outbuildings to rear to create additional residential and retail units. A series of detailed pre-application discussions the scheme was amended before being re-submitted. There were further changes to the design, materials and also to the design of the flats to the rear so that the final form of development would preserve and enhance the listed buildings and the wider conservation area.



OUTCOMES: This scheme highlights the benefits of investing staff resources into pre-application discussions and is essential to delivering high quality development in the right place. The result saw 8 Category B listed buildings removed from the Buildings at Risk Register and, as a key priority site of the Keith CARS project, contribute significantly to the regeneration of Mid Street. Without extensive pre-application discussions and engagement with key stakeholders the scheme presented would not have gained planning and listed building consent. The importance of accurately defining the heritage impact of the development was critical to the success of the project. Having one point of contact and ensuring that the Planning Officer providing the pre-application advice and then making a recommendation on the application is essential to delivering development on the ground.

NAME OF KEY OFFICER

Craig Wilson, Planning Officer
(Listed Buildings and Conservation Areas)
craig.wilson@moray.gov.uk

Major developments that have been delivered on the ground during 2018/19 include Macallan Distillery, housing (affordable and private housing) schemes in Forres, Elgin and Buckie. A major wind farm, Dorenell has nearly been completed delivering a major S.36 project of 50 wind turbines.

The case study on Youth Engagement, featured in PPF7, won an award at the Scottish Awards for Quality in Planning in 2018. The project showcased a short film made by Buckie High School pupils regarding the local planning issues in Moray. Consultation on the Main Issues Report was completed at the end of March and a report summarising the consultation and responses received was considered at a special meeting of the Planning and Regulatory Services Committee on 25th September 2018. These responses helped shape and inform the Proposed Plan which was approved at a special meeting of the Planning and Regulatory Services Committee on 18th December 2018 and then made available for public consultation between 7th January and 15th March.

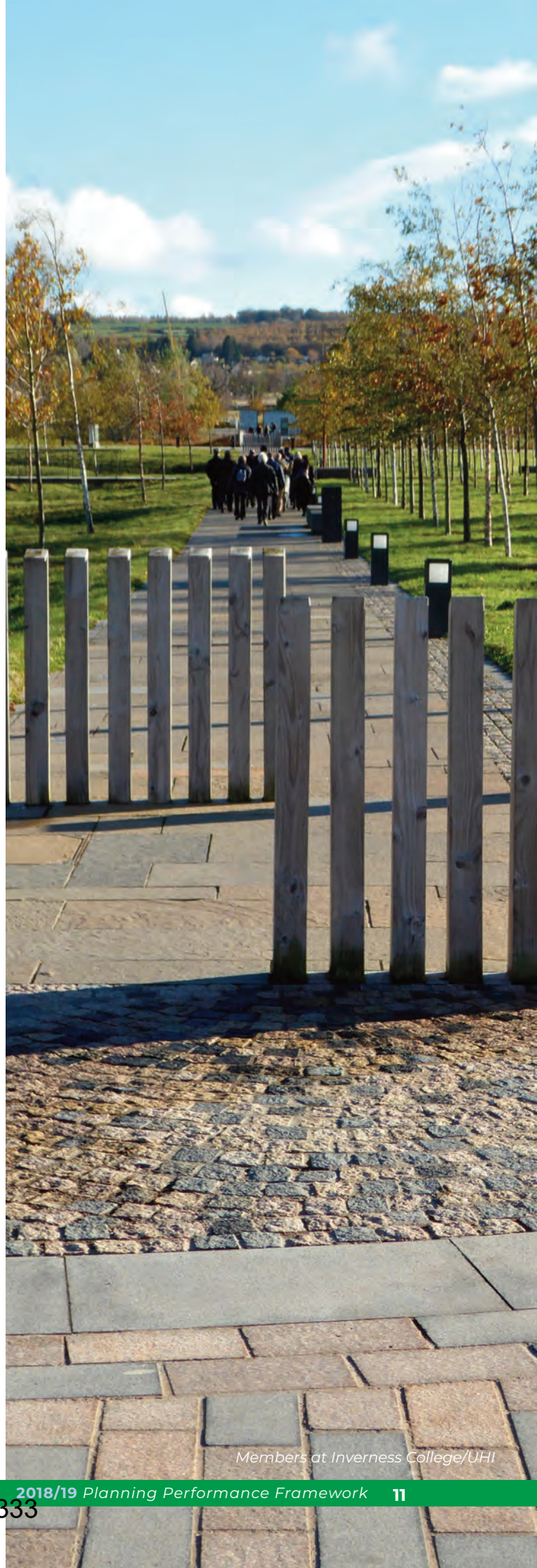
Consultation on the Proposed Plan involved a series of 5 drop in exhibitions at main towns around Moray and a series of meetings with key stakeholders and statutory consultees. 366 responses to the Proposed Plan were received which were reported to a special meeting of the Planning and Regulatory Services Committee on 25th June 2019 and the Proposed Plan and unresolved objections will be submitted during summer 2019 to Scottish Ministers with a request for an Examination. This is ahead of the schedule identified in the 2018 and 2019 Development Plan Scheme, principally due to a streamlined process introduced for registering and responding to representations and to fewer objections being submitted than anticipated, which could be partially attributed to carrying out neighbour notification at Main Issues Report stage and Proposed Plan stage.



1.2 QUALITY OF SERVICE AND ENGAGEMENT

We have engaged with a number of our partners over the last twelve months with both internal service departments such as our affordable housing and flood risk management teams with a specific focus on delivering affordable housing sites. In addition we have held two evening training sessions for all our Community Councils to explain how we deal with planning applications and how to make sure their role is effective. As part of the engagement we produced a guide for Community Councillors use explaining how the planning system operates and their role fits into it.

The planning service offers to meet early in the design process with developers to front load the application process and in some cases this has helped with a more streamlined process and better quality of outcomes. Through the Quality Auditing process, officers engage with developers to identify mitigation actions required to ensure applications achieve the requirements of the Placemaking policy in the Local Development Plan 2015. Officers also engage with potential inward investors in helping to identify potential sites.



Members at Inverness College/UHI

CASE STUDY 7

COMMUNITY COUNCIL ENGAGEMENT & TRAINING EVENT

LOCATION & DATES

Elgin High School 17 & 23 April 2019

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

Quality of service and engagement
Culture of continuous improvement
Community Engagement
Governance
Quality of Outcomes

KEY MARKERS: 12 and 13

KEY AREAS OF WORK:

Community Engagement
Corporate Working
Sharing knowledge with Community
Councils

STAKEHOLDERS INVOLVED:

Community Councils, Community Liaison,
Transportation, Development Management,
Enforcement & Building Standards Officers

OVERVIEW: Engagement with Community
Council and the provision of training took
place over two evenings through the use of
presentations, workshops and Q & A sessions.

GOALS: Improve engagement with
community councils and provide a guide to
the planning system aimed at helping
community councils to understand the role
they play in the planning system.



OUTCOMES: Sharing of
knowledge/information with Community
Councillors and developing relationships to
assist with governance and procedures.
Understanding how transportation officers,
planning, enforcement and building
standard officers all work together in the
public interest. A guide for Community
Councillors to the planning system was
produced and added to the web site.

NAME OF KEY OFFICERS:

Jane Martin, Community Liaison Officer
jane.martin@moray.gov.uk

Beverly Smith, Development Management &
Building Standards Manager
beverly.smith@moray.gov.uk

CASE STUDY 8

PILOT GATECHECK

LOCATION & DATES: September 2017 to June 2018

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

Quality of Outcomes, culture of continuous improvement

KEY MARKERS: 7, 10, 12, 13

KEY AREAS OF WORK

Local Development Plan

- Cross sector stakeholders, including industry Agencies and Scottish Government, engaged early (pre-MIR) in development plan preparation.
- Corporate working across services to improve outputs and services for customer benefit (for example: protocols: joined up services: single contact: joint pre-application advice).
- Sharing good practice, skills and knowledge between authorities.

STAKEHOLDERS INVOLVED:

Scottish Government Planning Division, DPEA Reporters Unit, Homes for Scotland, Scottish Forestry, SEPA, SNH, Moray Council Planning, Transportation, Moray Council Education, Transport Scotland, Joint Community Councils, HIE.

OVERVIEW: The Council worked in partnership with the above stakeholders as part of a pilot for the new Gatecheck procedure being introduced through the Planning (Scotland) Bill. A working group was set up with regular meetings held in Aviemore to explore the possible purpose and process for a Gatecheck, as a form of ensuring that a robust and up to date evidence base was in place prior to planning



authorities progressing through the next stages of the Local Development Plan process. The Working Group consisted of planners from Moray Council and Scottish Government, an officer from Homes for Scotland and a Reporter from the DPEA. This group engaged with a larger group of key stakeholders to test the evidence and support the pilot project.

A procedure drawing was prepared setting out the steps the Gatecheck would go through, a sample Gatecheck report was prepared with a workshop for key stakeholders. A presentation on the pilot project was given at the National Development Plans Forum in April 2018.

GOALS: To trial and pilot a Gatecheck process, what the process might look like, who might be involved and what evidence would be scrutinised.

OUTCOMES: Procedural drawing of Gatecheck process.
Sample Gatecheck Evidence Report chapters.
Shared learning and understanding.

NAME OF KEY OFFICERS:

Gary Templeton, Principal Planning Officer
gary.templeton@moray.gov.uk

Eily Webster,
Senior Planning Officer,
eily.webster@moray.gov.uk

CASE STUDY 9

VALIDATION OF PLANNING APPLICATIONS – PART 2 & STREAMLINING CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLANS (CEMP's)

LOCATION AND DATES: Moray Council Elgin, January & July 2019

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

Quality of service and engagement
Culture of continuous improvement
Community Engagement
Governance
Quality of Outcomes

KEY MARKERS: 1, 3, 6, 12 & 13

KEY AREAS OF WORK:

Reducing average timescales for decision making
Process Improvement
Corporate Working
Early Collaboration with applicants/agents
Environment
Planning Applications

STAKEHOLDERS INVOLVED:

Planning Officers, Flood Risk Management Officers, Agents, Developers, SEPA & SNH

OVERVIEW: A review of the increased validation requirements following the publication of the Heads of Planning Validation Guidance Note and Other consents and progress made over the first 12 months of increasing validation requirements. In addition a review of Construction Environmental Management Plans (CEMP's) in terms of planning conditions was undertaken.

A workshop and training sessions were held and attended by 20 agents/developers with contributions from Flood Risk, Members, SEPA and Building Standards.

OUTCOMES: Streamlining of process.
Sharing of knowledge/information with internal and external consultees.
Improving monitoring of environmental outcomes.
Front loading planning applications with the necessary supporting information and improving decision making timescales.
Environmental improvements and high quality delivery of development on the ground.

NAME OF KEY OFFICERS:

Beverly Smith, Development Management & Building Standards Manager
beverly.smith@moray.gov.uk

Alison Wilson, Senior Planning Officer, SEPA
planningaberdeen@sepa.org.uk

Jennifer Heatley, Planning Officer, SNH
tayside_grampian@snh.org.uk

Will Burnish, Senior Engineer,
Flood Risk Management
will.burnish@moray.gov.uk

1.3 GOVERNANCE

Decision Making

Our governance is underpinned by the Planning & Regulatory Services Committee who meet every two months and any special meetings that are required to be held to meet developers' timescales and delivery of projects that are funding constrained, these are arranged with the prior agreement of the Chair. Three Special meetings were held in 2018 to deal with the Local Development Plan and a Pre-determination Hearing. All of the committees can be viewed through the web cam facility. The delegation scheme was reviewed by the Planning & Regulatory Services Committee in January and approved by Scottish Ministers in February 2019. This has assisted with decision making timescales. In terms of decision making 94.6% of applications were approved with 97.5% under delegated powers by the Appointed Officer. The Major and Strategic decisions are made by the Planning & Regulatory Services Committee in line with Scottish Government Policy. The Local Review Board meets every six weeks and 28 were held over the year with 61% of decisions being upheld.

Staffing

In 2018 a further restructuring has been undertaken which has resulted in Development Management being managed by one Manager shared with Building Standards, see staffing structure in Part 6. This has created two Senior Building Standards Officer posts, an additional part-time Planning Technical Assistant (additional cover Monday – Friday) and a reduction in Development Management Officer resources. This has required our face to face duty officer service to be restricted to a telephone service only between 2pm and 4pm Monday to Friday.

Our customer service has improved as we are now able to return calls in the order they are received, no longer leave customers waiting to be seen or turn those away who arrive in the morning. Development Management Officers are also able to attend meetings as and when required during the duty slot making them more flexible and be readily available when needed.

Discretionary Charging

Following the introduction of discretionary charges for preliminary advice and determining whether or not planning permission is required for proposed developments in November 2017 a review was undertaken and these charges were updated along with introducing charging for non-material variations requests. The result of this has enabled staff resources to be re-directed. Lower number of preliminary enquiry requests and informal determinations have been received and as a result reduced response times and improving our level of customer service has occurred.

Average Performance

In terms of average performance during 2018/19 we have maintained our average timescales across householder development types but made improvements across local and major developments as a result of redirecting our resources with more being concentrated on major and large residential development types. We have no legacy cases in the system with the last one being issued in June 2019. We have only reported one application back to committee due to it not being issued as a result of the S.75 but since then this has now been improved.

Our continued use of project plans and processing agreements and working collaboratively with developers and agents has resulted in none of our planning applications being appealed against for non-determination. This locally for a rural authority is an important outcome and

demonstrates that we are committed to delivering high quality development on the ground by working in partnership to deliver local outcomes in terms of both affordable and private housing as well as developments that support infrastructure and create employment.

CASE STUDY 10

PROCESSING A NATIONAL PLANNING APPLICATION – CROSS BOUNDARY WITH ABERDEENSHIRE COUNCIL

LOCATION AND DATES:

Moray Council & Aberdeenshire 2017 & 2018

ELEMENTS OF A HIGH QUALITY PLANNING SERVICE THIS STUDY RELATES TO

INCLUDES: Quality of service and engagement
Governance
Quality of Outcomes

KEY MARKERS: 1, 2, 3, 11 & 12

KEY AREAS OF WORK:

Reducing average timescales for decision making
Process Improvement
Corporate Working
Early Collaboration with applicants/agents

STAKEHOLDERS INVOLVED: Planning Officers, Agents, Developers, Internal & External Consultees, Aberdeenshire Council

OVERVIEW: A national planning application with a boundary shared with Aberdeenshire Council involved pre-application discussion and agreement, timing of determination and processing of a national planning application to meet an applicants short timescale. The use of a processing agreement signed by both authorities ensured that the processing of this application at a pre-determination hearing meet expectations and needs of the applicant.

OUTCOMES: Streamlining of process
Sharing of knowledge/information with internal and external consultees
Improving monitoring of environmental outcomes
Front loading planning applications with the necessary supporting information and improving decision making timescales.

NAME OF KEY OFFICER:

Neal.Macpherson, Principal Planning Officer
neal.macpherson@moray.gov.uk

1.4 CULTURE OF CONTINUOUS IMPROVEMENT

Officers are encouraged to be creative and innovative, exploring new ways of working. The Council is supporting a trainee planning officer through Open University modules which will be complete July 2019, then eligible to enrol on an MSc Open University course on Urban and Rural Planning. The Developer Obligations officer is also being supported in undertaking distance learning modules to study towards MSc Urban and Rural Planning.

The planning service has continued over the last 12 months to embed a culture of continuous improvement into its delivery of the services, despite the challenging financial climate. The Service Plan is updated annually and as a document is a record of proposed service improvements for 2018/19 and really focusses in on those changes that are required by legislation, the introduction of new technology and customer demand.

A number of training events, many shared, ensure the most effective use of our internal resources and close working with our partners, have been held over the last 12 months. The Employee Review Development programme plays an important part in identifying training opportunities and service improvements through the holding of individual review meetings. Senior Management and Team meetings are held monthly to provide an opportunity to share concerns, identify needs for training and ensure staff are well briefed on corporate issues.

The Development Services Service Plan is updated and reported on annually ensuring that continuous service improvements are made.

The Moray Council has continued over the last 12 months to arrange regular leadership forum meetings attended by the Chief Executive, Directors, Heads of Service and third tier managers and provides an opportunity to network and focus on common themes that cut across the Council.

A peer review of the PPF was hosted by Officers from Moray Council in 2018 and was attended by neighbouring authorities Highland, Aberdeenshire, and Cairngorms National Park. Shetland and Western Isles dialled in. This is a valuable and effective way of reviewing the content of the Planning Performance Framework and assists to ensure that the content is clear, easy to understand and offers opportunity for shared learning.

In 2018/19: Officers from the Planning service attended the following training/CPD events:

- Building Standard site visit event
- Mediation Training, Moray College
- RTPI Chapter Events, Grampian & Highland, Brodies Legal Update
- Development Plan Training afternoon on Quality Place Making
- In house training on Surface Water
- Compulsory Purchase training event hosted by Scottish Government
- Communication & Reporting Skills, Improvement Service
- Trevor Roberts – GPDO Course (Shared with Highland Council)
- SNH Webinar, Coastal Erosion
- Historic Building repair & Maintenance, hosted by Aberdeenshire Council
- Mediation Training, Elgin College

Officers also attended the following forums to share good practice:

- North of Scotland Development Plans Forum
- Heads of Planning Executive Committee
- Heads of Planning Development Plans Sub-Committee
- Heads of Planning Development Management Sub-Committee
- Heads of Planning Enforcement Forum
- Heads of Planning Energy Sub-Committee
- Local Authority Urban Design Forum
- National Development Plans Forum
- Developer Obligations Forum
- Leadership Forum – Moray Council
- Heads of Planning Conference
- Community Council training events
- Scottish Society of Chief Transportation Officers Conference
- Cairngorm National Park Annual Protocol Forum
- RTPi Highland Chapter events

CASE STUDY 11 PLACEMAKING TOUR FOR ELECTED MEMBERS

LOCATION AND DATES:

1st November- Tornagrain new town, Inverness Housing Expo site at Balvonie Street, Inverness and Inverness College/ HIE campus, Inverness.

ELEMENTS OF A HIGH QUALITY PLANNING SERVICE THIS STUDY RELATES TO

INCLUDES: Quality of Outcomes
Quality of service and engagement
Culture of continuous improvement

KEY MARKERS: 7, 12, 13

Local Development Plan

Corporate working across services to improve outputs and services for customer benefit (for example: protocols; joined up services: single contact: joint pre-application advice).

Sharing good practice, skills and knowledge between authorities.

KEY AREAS OF WORK:

Design, Environment, Greenspace, Masterplanning, Housing Supply, Placemaking, Inter- disciplinary working

STAKEHOLDERS INVOLVED:

Moray Council Elected Members, Highlands and Islands Enterprise, Inverness College, Moray Estates

OVERVIEW: To assist with the Council's move towards better Placemaking Outcomes, a study tour of Tornagrain new town, Inverness College/ HIE campus and the Highland Expo Housing site in Inverness was organised for Moray Council elected members. To aide understanding of the complexity, funding challenges and time periods involved in planning for a new town.



Members at Tornagrain

A guided tour and Q & A session at Tornagrain new town was hosted by Andrew Howard, Managing Director of Moray Estates Development Company. A tour of the Highland Expo site was provided by a planning officer and a tour of Inverness College/ UHI campus provided by HIE and Inverness College staff.

GOALS: To provide elected members with opportunities to visit different examples of urban design, particularly different character areas, Designing Streets approaches to shared surfaces, quality and multi- functional green spaces and multi- functional sustainable urban drainage systems.

OUTCOMES: Elected members greater understanding of issues around planning a new town. Elected members greater understanding of multi- functional spaces, Designing Streets and different approaches to character, identity and good placemaking.

NAME OF KEY OFFICER:

Gary Templeton, Principal Planning Officer
gary.templeton@moray.gov.uk



Inverness Housing Expo

CASE STUDY 12

UNIFORM ENTERPRISE PROJECT – CASE MANAGEMENT

LOCATION AND DATES:

Moray Council Elgin, 2018 & 2019

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

Culture of continuous improvement
Governance
Quality of Outcomes

KEY MARKERS: 1, 6, & 12

Key Areas of Work: Performance Monitoring
Process Improvement
Development Management processes
Planning Applications

STAKEHOLDERS INVOLVED:

Planning Officers, Systems Support Assistant,
Planning Technical Assistant and
Administration Assistant

OVERVIEW: The introduction of an Enterprise module added into Uniform has required a full review of the processing of a planning application from validation to determination with key tasks being identified. This service improvement has required collaboration with a number of officers and has enabled a case management system to be implemented with a key driver being the delivery of an efficient process for determination planning applications.

OUTCOMES:

Streamlining of process
Improved Case Load Management
More efficient and effective recording of process for monitoring purposes
Ensuring allocation of work across the team is effectively managed
Improved average timescales for determination of applications

NAME OF KEY OFFICER:

Beverly Smith, Development Management & Building Standards Manager
beverly.smith@moray.gov.uk

Angus Burnie, Principal Planning Officer

Steve Mouncher, Systems Support Assistant
steve.mouncher@moray.gov.uk

PART 2

Supporting Evidence

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

- Development Services Service Plan
- A range of committee reports
- Case Studies
- Benchmarking
- Partnership working
- Moray Local Development Plan Scheme January 2019
- Housing Land Audit and Employment Land Audits 2018

Case Study Topics	Page number & Case Study Number (CSN)	
Design	Pg 2 & 3, Pg 5 & 6, Pg 18,	CSN 1 CSN 3 CSN 11
Conservation	Pg 2 & 3, Pg 9 & 10,	CSN 1 CSN 6
Regeneration	Pg 9,	CSN 6
Environment	Pg 2 & 3, Pg 5 & 6, Pg 7, Pg 8, Pg 14, Pg 18,	CSN 1 CSN 3 CSN 4 CSN 5 CSN 9 CSN 11
Greenspace	Pg 2 & 3, Pg 5 & 6, Pg 7, Pg 18,	CSN 1 CSN 3 CSN 4 CSN 11
Master planning	Pg 2 & 3, Pg 4, Pg 5 & 6,	CSN 1 CSN 2 CSN 3

Case Study Topics	Page number & Case Study Number (CSN)	
LDP & Supplementary Guidance	Pg 8, Pg 13,	CSN 5 CSN 8
Housing Supply	Pg 2 & 3, Pg 5 & 6, Pg 7, Pg 18,	CSN 1 CSN 3 CSN 4 CSN 11
Affordable Housing	Pg 4,	CSN 2
Development Management Processes	Pg 9 & 10, Pg 14,	CSN 6 CSN 9
Planning Applications	Pg 9 & 10, Pg 14, Pg 20,	CSN 6 CSN 9 CSN 12
Interdisciplinary Working	Pg 2 & 3, Pg 4, Pg 5 & 6, Pg 7, Pg 8, Pg 18,	CSN 1 CSN 2 CSN 3 CSN 4 CSN 5 CSN 11
Collaborative Working	Pg 2 & 3, Pg 5 & 6, Pg 9, Pg 12, Pg 13, Pg 14, Pg 16,	CSN 1 CSN 3 CSN 6 CSN 7 CSN 8 CSN 9 CSN 10
Community Engagement	Pg 12,	CSN 7
Place making	Pg 2 & 3, Pg 5 & 6, Pg 7, Pg 18,	CSN 1 CSN 3 CSN 4 CSN 11
Place Standard	Pg 7,	CSN 4

Case Study Topics	Page number & Case Study Number (CSN)	
Process Improvement	Pg 14, Pg 16, Pg 20,	CSN 9 CSN 10 CSN 12
Project Management	Pg 4,	CSN 2
Skills Sharing	Pg 13,	CSN 8
Rural Housing	Pg 5 & 6,	CSN 3
Landscape	Pg 8,	CSN 5
Health & Well Being	Pg 7,	CSN 4



To assist with the 15 key performance markers relevant hyperlinks have been added in below under the four sub-headings when combined together define and measure a high-quality planning service:

QUALITY OF OUTCOMES

[Making a Planning Application](#)

[What Else is Required?](#)

[What Plans are needed?](#)

[Guidance Note and Checklist](#)

[Supporting Information Checklist](#)

[Heads of Planning Validation Guidance Note](#)

[Developer Obligations Supplementary Guidance March 2018](#)

[Elgin South Masterplan](#)

[Dallas Dhu Masterplan- May 2018](#)

[Planning and Architecture Scottish Awards for Quality in Planning 2018](#)

QUALITY OF SERVICE & ENGAGEMENT

[Moray Local Development Plan Scheme 2019](#)

[Moray Employment Land Audit May 2019](#)

[Moray Housing Land Audit 2019](#)

[Town Centre Health Checks 2018](#)

[Major Developments Pre-application Advice](#)

[Major Pre-application Forms and Guidance](#)

[Planning Enforcement Charter March 2018](#)

[Aligning Planning & RCC - Committee Report](#)

[Aligning Planning & RCC Consent Implementation Plan](#)

[Processing Agreements](#)

GOVERNANCE

[Moray Council Corporate Plan 2023](#)

[Moray 10 Year Plan Local Outcomes Improvement Plan](#)

[Scheme of Delegation Approved 2019](#)

[Committee Diary](#)

CULTURE OF CONTINUOUS IMPROVEMENT

[Development Services Service Plan 2016-2018](#)

[Planning Performance Framework 2017/2018](#)

[Planning Performance Framework Committee Report 2019](#)



Performance Markers Report 2018/19

No.	PERFORMANCE MARKER	MEASURE	POLICY BACKGROUND MARKER	PART OF PPF REPORT BEST SUITED TO EVIDENCE THIS MARKER
DRIVING IMPROVED PERFORMANCE				
1	Decision-making Authorities demonstrating continuous evidence of reducing average timescales for all development types	Below average for Scotland and all average timescales improved upon last year. Major Applications 8.9 weeks. Local Non-Householder Applications 6.5 weeks and Householder Applications 5.3 weeks.	See Official Statistics and PPF report	NHI and Scottish Government Official Statistics
2	Project management: offer of processing agreements (or other agreed project plan) made to prospective applicants in advance of all major applications and availability publicised on planning authority website	<p>Offer of Processing Agreement available on website and case study on National Planning Application. Specific PPA Template and guidance on the web site under pre-application advice. Number of processing agreements and project plans being entered into are being increased.</p> <p>Preparation and delivery of the Local Development Plan is managed by the Principal Planning Officer in Development Plans. The Development Plan Scheme sets out the key milestones for the various stages of the Plan and the Development Plans team meet regularly to progress the Plan, supported by an Infrastructure/ Delivery Group and a series of sub-groups to progress various aspects of the Plan.</p>	Modernising the Planning system (Audit Scotland); Scottish Government website/template	NHI, Quality of Service & Engagement

No.	PERFORMANCE MARKER	MEASURE	POLICY BACKGROUND MARKER	PART OF PPF REPORT BEST SUITED TO EVIDENCE THIS MARKER
		<p>All projects have a project plan with progress feeding into team plans and the service plan, monitored through 1-2-1 staff meetings.</p> <p>Regular progress updates are provided to the Head of Service and Director and reported to the Planning and Regulatory Service Committee.</p>		
3	Early collaboration with applicants and consultees on planning applications: <ul style="list-style-type: none"> • Availability and promotion of pre-application discussion for all prospective applications; and • Clear and proportionate requests for supporting information 	<p>Offer of pre-application advice available on website, see case study on National Planning Application. Pre-application advice requests are logged in uniform and now subject of a charge. There is a link on the website to the form, guidance and charges.</p>	<p>White Paper; Delivering Planning Reform; Planning Reform Next Steps</p>	<p>NHI, Quality of Service & Engagement</p>
4	Legal Agreements: Conclude (or reconsider) applications within 6 months of 'resolving to grant'	<p>Front loading of Heads of Terms and identifying timescales through processing agreements is assisting to reduce timescales. One case has been reported back to committee as an update only and has now been issued.</p>	<p>See Official Statistics and PPF report</p>	<p>Quality of Service & Engagement</p>
5	Enforcement Charter updated/re-published	<p>Enforcement Charter reviewed and re-published March 2018 following approval by the Scottish Government.</p>	<p>Planning Act (s158A)</p>	<p>Part 2 Evidence</p>

No.	PERFORMANCE MARKER	MEASURE	POLICY BACKGROUND MARKER	PART OF PPF REPORT BEST SUITED TO EVIDENCE THIS MARKER
6	<p>Continuous Improvement: Show progress/improvement in relation to PPF National Headline Indicators;</p> <p>Progress ambitious and relevant service improvement commitments identified through PPF report</p>	See service commitments and case studies. Continuous improvements have been made to timescales and processes to support these key drivers.	Delivering Planning Reform & PPF Report	Culture of Continuous Improvement & Service Improvement Plan
7	<p>Local development plan -less than 5 years since adoption</p>	Less than 5 years since adoption- The Local Development Plan was adopted on 31st July 2015 and is less than 5 years old. The replacement Plan is slightly ahead of schedule and is anticipated to be adopted June 2020.	Planning Act (s16) Scottish Planning Policy	NHI Quality of Outcomes Quality of Service and Engagement
8	<p>Development Plan Scheme</p>	The Development Plan Scheme 2019 was approved on 29th January 2019. The DPS identifies the key milestones for the preparation of the LDP2020, including completing public consultation on the Proposed Plan, reporting representations to Committee and submitting the Plan for Examination between June and August 2019. This is currently on track with submission for Examination anticipated to be at the end of June,		NHI Quality of Outcomes Quality of Service and Engagement

No.	PERFORMANCE MARKER	MEASURE	POLICY BACKGROUND MARKER	PART OF PPF REPORT BEST SUITED TO EVIDENCE THIS MARKER
8	Development Plan Scheme cont.	<p>following Committee consideration of Schedule 4's summarising unresolved objections on the 25th June.</p> <p>This is a considerable time saving from the last local development plan, as the process for registering and summarising representations has been streamlined and simplified. This has made up for a deliberate delay in the process which involved delaying consideration of the Proposed Plan until the preferred route of the A96 dualling was published.</p> <p>As noted under performance marker number 2, the Local Development Plan preparation is project managed by the Principal Planning Officer, with regular project meetings, supported by an Infrastructure/ Delivery group and a series of sub-groups working on SEA/ Natura/ Developer Obligations and Viability, Communications and Engagement. Deadlines are set for each stage allowing committee deadlines to be met. Performance indicators monitoring progress against the annual Development Plan Scheme are reported to the Planning and Regulatory Services Committee.</p>		

No.	PERFORMANCE MARKER	MEASURE	POLICY BACKGROUND MARKER	PART OF PPF REPORT BEST SUITED TO EVIDENCE THIS MARKER
9	Elected members engaged early (pre MIR) in development plan preparation.	Not applicable. Extensive engagement undertaken during 2017/18 (see PPF 7). Members are engaged on a continual basis through the LDP preparation process, including workshops to consider new policies and a series of ward level briefings at different stages.		Quality of Service and Engagement Governance
10	Cross sector stakeholders including industry, agencies and scottish government, engaged early (pre-MIR) in development plan preparation	<p>Stakeholders have been engaged throughout the Local Development Plan process, a series of meetings were held on a 1-2-1 basis throughout the process, featuring in the Main Issues Report publicity films and providing consultation responses and further information as and when required.</p> <p>Stakeholders participated and supported the pilot Gatecheck process. Community Planning partners have been engaged throughout the process with presentations given at various levels.</p> <p>Stakeholders have attended LDP/ Infrastructure Delivery Group meetings and policy workshops.</p> <p>Joint community councils have been engaged at different stages through dedicated events to explore policy and strategic issues facing Moray.</p>		Quality of Service and Engagement Governance

No.	PERFORMANCE MARKER	MEASURE	POLICY BACKGROUND MARKER	PART OF PPF REPORT BEST SUITED TO EVIDENCE THIS MARKER
10	Cross sector stakeholders cont.	Officers have especially aimed to engage with a younger audience and created a successful film making project for local schools as well as other classroom based planning activities and participated in a STEM project to consider a hypothetical new town proposal.		
11	Production of regular and proportionate policy, advice for example through supplementary guidance, on information required to support applications.	<p>Dallas Dhu Masterplan was approved in May 2018.</p> <p>Bilbohall Masterplan was approved in November 2018.</p> <p>Kinloss Masterplan was approved in June 2019.</p>		<p>Quality of Service and Engagement</p> <p>Part 2 Evidence</p>
SIMPLIFYING AND STREAMLINING				
12	Corporate working across services to improve outputs and services for customer benefit (for example: protocols; joined up services; single contact; joint pre-application advice).	<p>See Elgin South Case study and Cross boundary case study delivering a national planning application</p> <p>The Infrastructure Delivery Group has been combined with the Local Development Plan Delivery Group and has representation from Transportation, Education, Planning, NHS Grampian, Scottish Water and Transport Scotland.</p>	Corporate Plan and Local Improvement Plan	Quality of Service and Engagement Governance

No.	PERFORMANCE MARKER	MEASURE	POLICY BACKGROUND MARKER	PART OF PPF REPORT BEST SUITED TO EVIDENCE THIS MARKER
		<p>Planning officers work closely with other services and community planning partners to align future infrastructure requirements with projected development, including assisting with work on the future school estate.</p> <p>Scottish Natural Heritage take part in the Quality Auditing process to support implementation of the Council's Placemaking policy, joining colleagues from Development Plans, Development Management, Transportation, Housing and Flood Team in a multi-disciplinary assessment team.</p> <p>The developer obligations function is carried out within Development Plans and ensuring a robust evidence base is kept up to date requires significant corporate working.</p> <p>Protocols are in place for joint working with Cairngorms National Park. Joined up pre-application advice process and meetings pre-booked in advance.</p> <p>A Service Level Agreement is in place with the Woodland Trust to deliver compensatory planting.</p>		

No.	PERFORMANCE MARKER	MEASURE	POLICY BACKGROUND MARKER	PART OF PPF REPORT BEST SUITED TO EVIDENCE THIS MARKER
13	Sharing good practice, skills and knowledge between authorities	<p>Attendance at HOPS Development Plans sub-Committee, active participation and chairing of meetings on a rotational basis of the North of Scotland Development Plans Forum, participation as a pilot exercise for the Planning (Scotland) Bill on the proposed Gatecheck process and sharing the experience with various local authorities.</p> <p>The Developer Obligations officer attends national Developer Obligations Forum meetings.</p> <p>Meeting with highland and island authorities to discuss rural housing issues.</p> <p>Attendance and presentations at Local Authority Urban Design Forum.</p> <p>Attendance and participation in West Dunbartonshire Council/ Improvement Service event on delivering great places.</p> <p>Attendance and presentation at Integrated Health Board and Community Planning Partnership meetings.</p> <p>Peer Review of PPF with neighbouring authorities – benchmarking meeting.</p>	Delivering Planning Reform, Planning Reform Next Steps	Culture of continuous improvement

No.	PERFORMANCE MARKER	MEASURE	POLICY BACKGROUND MARKER	PART OF PPF REPORT BEST SUITED TO EVIDENCE THIS MARKER
		Cairngorms National Park Annual Protocol meeting. Attendance of HOPS Executive Committee, Chair of HOSP DM Sub-Committee and attendance of Development Plans Sub-Committee. Developer Obligations Forum meetings.		
14	Stalled Sites/Legacy cases:	Reduced numbers of legacy cases from last year and no cases are now over 12 months old.	Planning Reform	NHI
15	Developer Contributions Clear expectations set out in development plan (and/or emerging plan) and in pre application discussions.	<p>Clear expectations set out in development plan and in pre-application discussions. Early assessments offered to inform developers at an early stage.</p> <p>Updated Supplementary Guidance adopted in March 2018 and early work has started on a further update to be reported to Planning and Regulatory Services Committee in December 2019.</p> <p>Pre-application advice is available through pre-arranged meetings with the Developer Obligations Officer and is available on the website.</p>	Part of the Local Development Plan	Quality of Service and Engagement

PART 3

Service Improvements 2019/20

Service Improvements in the coming year:

- Continue to implement revised procedures for aligning Planning and RCC consents in relation to street design
- Implement Enterprise in Uniform for Enforcement & Condition Monitoring
- Review the web site and content
- Implement the requirements of the Planning Bill 2019
- Investigate Closer working with Building Standards to ensure delivery on the ground meets with developers expectations
- Submission of Proposed Plan for Examination in August 2019
- Approving a Youth Engagement Strategy before the end of 2019
- Staff structure change to align Development Planning with delivery of Moray Growth Deal and Moray Economic Strategy before end of 2019
- Preparing Elgin City Centre Masterplan Discussion paper by end 2019 and consultation early 2020
- Committing Tesco, Buckie Developer Obligations funding by end June 2020
- Preparing a draft Food Production Strategy before the end of 2019
- Prepare concise draft Placemaking Guidance by end 2019
- Develop process for monitoring site delivery strategies before June 2020
- Review Developer Obligations “cap” by end March 2020
- Develop programme for compensatory tree planting by end March 2020

Delivery of our service improvement actions in 2018-19:

Looking back at the Service Improvements we identified for 2018/19 we are proud of the progress made against the vast majority of these:

Commitment: Implement revised procedures for aligning Planning and RCC consents in relation to street design.

Progress: Implementation Plan approved and implementation ongoing in 2019/20.

Commitment: Ensure GDPR Regulations have been fully implemented.

Progress: Completed.

Commitment: Implement Enterprise in Uniform and review associated procedures.

Progress: Completed for all planning applications.

Commitment: Review standard Validation Guidance & hold a update workshop for agents.

Progress: Completed.

Commitment: Review Condition Monitoring procedures.

Progress: Partially completed and ongoing for 2019/2020.

Commitment: Hold a workshop with SNH and SEPA on condition monitoring and focus on environmental construction management plans.

Progress: Completed



A more illustrative approach included in the Proposed Plan.

Commitment: Review our desk duty service.

Progress: Completed only telephone advice now provided.

Commitment: Participate in a pilot project with Historic Environment Scotland and the Buildings at Risk register.

Progress: Not progressed.

Commitment: Review the web site and content.

Progress: To be rolled into 2019/20.

Commitment: Report the Proposed Plan to Committee in December 2018.

Progress: Complete. This was achieved with the Proposed Plan being reported to Committee on 18th December 2018.

Commitment: Move towards a Place based Plan in terms of presentational techniques in the Proposed Plan and other guidance.

Progress: Complete. This has been achieved with a much more illustrative approach included in the Plan, including a series of sketches done in house for key design principles and a series of Place based drawings commissioned from a local artist. Site specific mapping has also been included for each proposed development site, providing clearer and more easily interpreted plans.

Commitment: Adopt and operate Quality Audit 2, incorporating Mood, Mobility and Place findings.

Progress: Complete. Quality Audit 2 has been developed, tested and approved by the Planning and Regulatory Services Committee on 26th March 2019 for use upon adoption of the new Local Development Plan. The findings from Mood, Mobility and Place have been incorporated into the new policies in the Proposed Plan and are embedded in Quality Audit 2.

Commitment: Move towards closer alignment between spatial planning and the Local Outcome Improvement Plan

Progress: Ongoing. Progress is being made, with planning officers involved in delivery of the LOIP and future work on projects such as Elgin City Centre Masterplan and Buckie Town Centre Masterplan and Food Production Strategy will all bring closer alignment between these processes.

Commitment: Further test and refine draft policies prior to inclusion in the Proposed Plan.

Progress: Complete. A series of policy testing sessions were held by planning officers in Quarter 3 2018 and some changes made to policies as a result. Further testing was carried out with development management colleagues and elected members in Quarter 3 2019 through a series of workshops.

Commitment: Consult on candidate Special Landscape Areas.

Progress: Complete. A new suite of Special landscape Areas were consulted upon in October/ November 2018 and the final Special Landscape Areas were agreed by the Planning and Regulatory Services Committee on 18th December 2019, which have been included in the Proposed Plan.

Commitment: Closer alignment between the LDP and Town Centre Improvements.

Progress: Ongoing. A programme of Town Centre Masterplans has been identified with work starting on Elgin City Centre Masterplan in August 2019, with a view to consulting on a Masterplan discussion paper in early 2020.

Commitment: Closer alignment between the LDP and Moray Economic Strategy

Progress: Complete. Responsibility for input to and monitoring of the Moray Economic Strategy is proposed to transfer to Strategic Planning through Change Management , which will achieve closer alignment.

Commitment: Develop a longer term programme for youth engagement.

Progress: Ongoing. Significant progress has been made on this action in terms of delivery, with the Council winning the SAQP award for Youth Engagement in 2018, which was the year of Young People. The Council's planners have also engaged in STEM related activities. A strategy is being reported to Planning and Regulatory Services before the end of 2019 once change management process is complete.

Commitment: Developer a longer term programme for use of the Place Standard in Moray.

Progress: Complete. Quality Audit 2 has been developed and is ready for implementation upon adoption of the new Local Development Plan.



Special Landscape Area - Spey Valley

PART 4

National Headline Indicators (NHI's) 2018/19

A: NHI KEY OUTCOMES - DEVELOPMENT PLANNING	2017/2018	2018/2019
LOCAL & STRATEGIC DEVELOPMENT PLANNING		
• Age of local/strategic development plan(s) (full years) at the end of the reporting year.	Three years since the MLDP 2015 was adopted	Four years since the MLDP 2015 was adopted
• Will the local/strategic development plan be replaced by their 5th anniversary according to the current development plan scheme? (Y/N)	Yes	Yes
• Has the expected date of submission of the plan to Scottish Ministers in the development plan scheme changed over the past Year?	Yes	Yes (Submission anticipated to be earlier)
• Were development plan scheme engagement/consultation commitments met during the year? (Y/N)	Yes	Yes
EFFECTIVE LAND SUPPLY AND DELIVERY OF OUTPUT		
• Established housing land supply (units)	12,848 units	12,387 units
• 5-year effective housing land supply programming	2,391 units	2,328 units
• 5-year effective housing land supply total capacity	3,638 units	4,189 units
• 5-year effective housing supply target	2,690 units	2,690 units
• 5-year effective housing land supply (to one decimal place)	6.76 units	7.8 years
• Housing approvals (units)	704 units	1141 units
• Housing completions over the last 5 years (units)	1618 units	1475 units
• Marketable employment land supply	80.72 ha	79.84 ha
• Employment land take-up during reporting year (hectares)	1.6 ha	1.29 ha

B: NHI KEY OUTCOMES - DEVELOPMENT MANAGEMENT	2017/2018	2018/2019
DEVELOPMENT MANAGEMENT Project Planning <ul style="list-style-type: none"> Percentage and number of applications subject to pre-application advice Percentage and number of major applications subject to processing agreement Decision Making <ul style="list-style-type: none"> Applications approval rate Delegation arte Validation Decision Making Timescales Average number of weeks to decisions: <ul style="list-style-type: none"> Major developments Local development (non-householder) Householder developments Legacy Cases <ul style="list-style-type: none"> Number cleared during reporting period Number remaining 	17% 166 50% 1 94.7% 97.4% 67.1% 16.5 6.6 5.3 1 1	10.1% 70 80% 4 94.6% 97.5% 62.2% 8.9 6.1 5.3 1 0
C: NHI KEY OUTCOMES - ENFORCEMENT ACTIVITY	2017/2018	2018/2019
<ul style="list-style-type: none"> Time since enforcement charter published/reviewed Complaints lodged and investigated Breaches identified - no further action taken Cases Closed Notices served Direct Action Reports to Procurator Fiscal Prosecutions 	4 months 295 12 272 2 1 0 0	13 months 314 78 284 7 0 0 0

EXPLANATORY NOTES

All the average decision-making timescales are lower than 2017/18 and significant improvements have been made in determination rates for both major and householder developments. For local developments, average timescales have been reduced by 0.5 weeks and householder developments are the same. Major applications have an average of 8.9 weeks and are also below the national average and lower the last year.

PART 5

Official Statistics

A: Decision-making timescales (based on 'all applications' timescales 2018/19)

CATEGORY	TOTAL NUMBER OF DECISIONS 2018-19	AVERAGE TIME WEEKS 2018-19	AVERAGE TIME WEEKS 2017-18
Major Developments	5	8.9	16.9
All Local Developments	542	6.1	
Local: less than 2 months	512	5.8	
Local: more than 2 months	30	11.2	
Local Developments (non-householder)	369	6.5	
Local: less than 2 months	340	6.1	6.8
Local: more than 2 months	29	11.3	13
Householder Developments	173	5.3	
Local: Less than 2 months	172	5.3	5.7
Local: more than 2 months	1	8.4	-
Housing	195	6.5	
Local: less than 2 months	178	6.1	
Local: more than 2 months	17	10.0	
Business and Industry	115	6.7	
Local: less than 2 months	108	6.1	6.5
Local: more than 2 months	7	15.1	11.8
Other Developments	37	6.3	
Local: Less than 2 months	35	6.1	
Local: more than 2 months	2	9.6	
EIA developments	0	0	0
Other consents			
All Other Consents	88	6.1	6.4
Listed Buildings & Conservation Area	64	6.0	6.8
Advertisements	17	6.6	5.1
Hazardous Substances	1	3.4	-
Other consents and certificates	6	6.1	5.1
Planning/legal agreements**			
(major applications)	0	-	-
(local applications)	2	5.4	-
Local Reviews	18	9.4	12.2

B: Decision-making: Local Reviews and Appeals

TYPE	TOTAL NUMBER OF DECISIONS	ORIGINAL DECISION UPHeld			
		2017-18		2018-19	
		No	%	No	%
Local reviews	18	11	73%	11	61%
Appeals to Scottish Ministers	1	1	50%	1	0.0%

C: Context

In general, performance on planning application determination timescales has improved for all development categories major, local and householder in comparison to last years' figures and also compares favourably with the national average and in all instances being well below the national average.

There has been an increase in the number of processing agreements for local applications, but numbers are still relatively small when compared to the overall total number of applications determined.

PART 6

Workforce Information

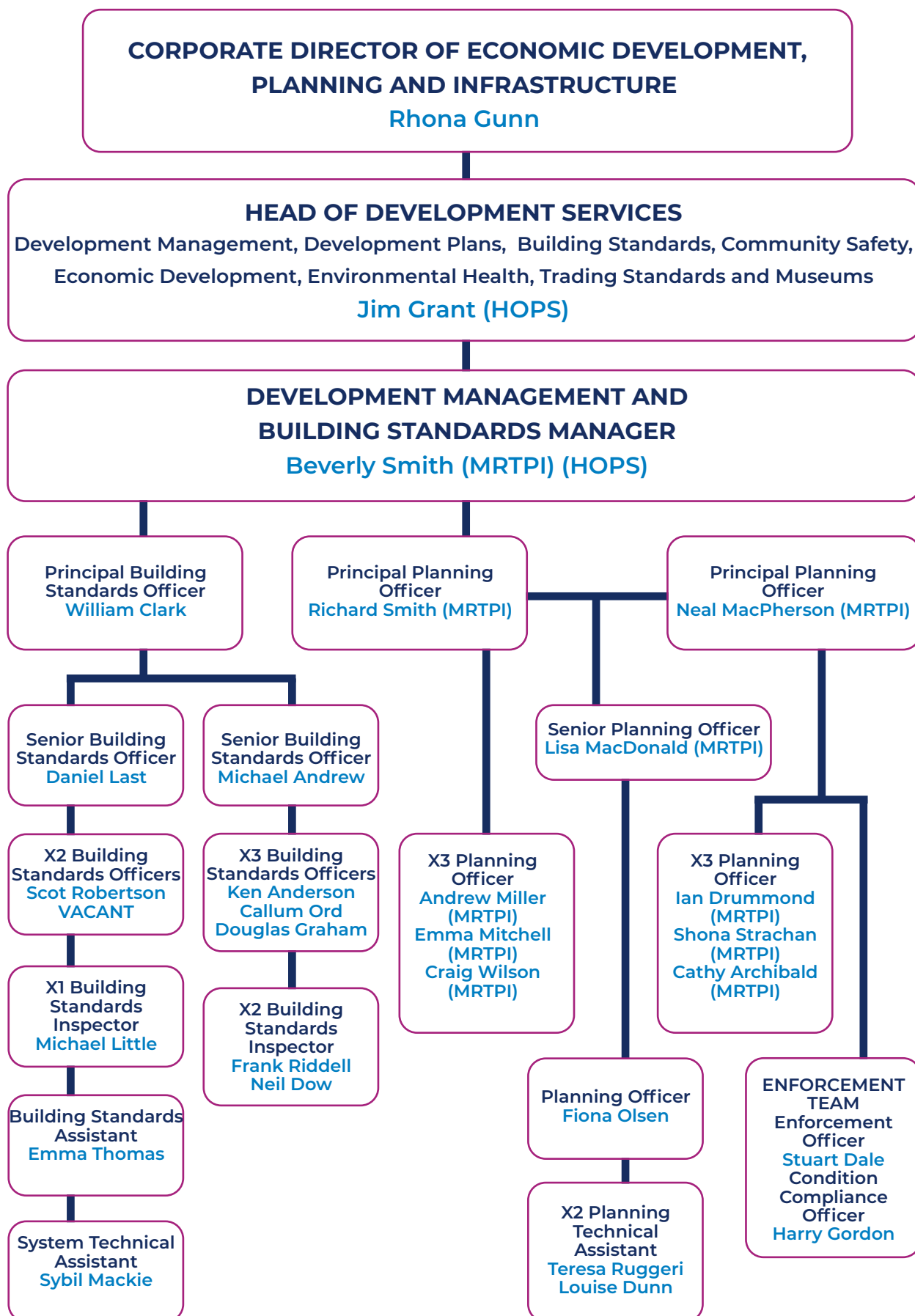
The information requested in this section is an integral part of providing the context for the information in part 1-5. Staffing information should be a snapshot of the position on 31 March.

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

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

	HEADCOUNT
RTPI Chartered Staff	16

STAFF AGE PROFILE	HEADCOUNT
Under 30	3
30-39	8
40-49	7
50 and over	10





PART 7

Planning Committee Information

COMMITTEE & SITE VISITS*	NUMBER PER YEAR
Full council meetings	18
Planning committees	9
Area committees (where relevant)	Not applicable
Committee site visits	7
LRB*	10
LRB site visits	10

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



Minister for Local Government, Housing and Planning
Kevin Stewart MSP



Scottish Government
Riaghaltas na h-Alba
gov.scot

T: 0300 244 4000
E: scottish.ministers@gov.scot

Roderick Burns
Chief Executive
Moray Council

11 February 2020

Dear Roderick,

PLANNING PERFORMANCE FRAMEWORK FEEDBACK 2018-19

I am pleased to enclose feedback on your authority's 8th PPF Report for the period April 2018 to March 2019.

I believe that good progress continues to be made by authorities. Although there has been a small drop in the number of green ratings awarded this year and there remains some variation across some authorities and markers. I have been particularly impressed by the speed of determination of major applications in some authorities.

We are now pressing ahead with our programme of reform. In September 2019 we published "Transforming Planning in Practice" our work programme for implementing the provisions of the Planning (Scotland) Act 2019 and wider planning improvements. We have also just launched our www.transformingplanning.scot website where you can keep up to date and involved with Scotland's fourth National Planning Framework (NPF4), Digital Planning and the Planning Reform programme.

This is an exciting time for the planning system in Scotland with the preparation of NPF4 underway and the changes to the development planning and management systems to follow. We really value the input of your staff as expert users of the system and welcome their continued support in developing and implementing the planning system that we all want to see.

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



One of the first things I'm keen to address is planning resources, which is why we are consulting on increasing planning fees, moving them towards covering the full cost of determining applications and extending the range of services which authorities can charge for in exercising their planning functions. The consultation is due to close on 14th February and I hope that you will submit your views. I know applicants will expect to see continued improvement in performance and those increased fees invested in the planning service. This is why we are also consulting on how we measure and monitor the performance of the planning system at the same time.

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

Kind Regards



KEVIN STEWART

CC: Jim Grant

PERFORMANCE MARKERS REPORT 2018-19

Name of planning authority: **Moray Council**

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

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

No.	Performance Marker	RAG rating	Comments
1	Decision-making: continuous reduction of average timescales for all development categories [Q1 - Q4]	Green	<p>Major Applications Your timescales of 8.9 weeks are faster than the previous year and are faster than the Scottish average of 32.5 weeks. RAG = Green</p> <p>Local (Non-Householder) Applications Your timescales of 6.5 weeks are faster than the previous year and are faster than the Scottish average of 10.7 weeks. RAG = Green</p> <p>Householder Applications Your timescales of 5.3 weeks are the same as the previous year and remain faster than the Scottish average of 7.2 weeks. RAG = Green</p> <p>Overall RAG = Green</p>
2	Processing agreements: <ul style="list-style-type: none"> offer to all prospective applicants for major development planning applications; and availability publicised on website 	Green	<p>You encourage processing agreements to applicants. RAG = Green</p> <p>Processing agreement information is available through your website. RAG = Green</p> <p>Overall RAG = Green</p>
3	Early collaboration with applicants and consultees <ul style="list-style-type: none"> availability and promotion of pre-application discussions for all prospective applications; and clear and proportionate requests for supporting information 	Green	<p>You provide a pre-application advice service which is promoted through the website. RAG = Green</p> <p>Your case studies and stated processes demonstrate a commitment to keeping requests for supporting information proportionate and how they lead to improved applications RAG = Green</p> <p>Overall RAG = Green</p>
4	Legal agreements: conclude (or reconsider) applications after resolving to grant permission reducing number of live applications more than 6 months after resolution to grant (from last reporting period)	Green	Your average timescales for determining applications with legal agreements are faster than last year and the Scottish average.

5	Enforcement charter updated / re-published within last 2 years	Green	Your enforcement charter was 16 months old at the end of the reporting year.
6	Continuous improvement: <ul style="list-style-type: none"> progress/improvement in relation to PPF National Headline Indicators; and progress ambitious and relevant service improvement commitments identified through PPF report 	Green	<p>Your decision making timescales are faster than last year and your LDP and enforcement charter are both up-to-date. Elsewhere, you have determined 1 legacy case with 1 case remaining to be determined..</p> <p>RAG = Green</p> <p>You have completed 12 out of 18 of your improvement commitments with the remaining to be continued over the next reporting year. You have identified a good range of improvement commitments for the coming.</p> <p>RAG = Amber</p> <p>Overall RAG = Green</p>
7	Local development plan less than 5 years since adoption	Green	Your LDP was 4 years old at the end of the reporting period.
8	Development plan scheme – next LDP: <ul style="list-style-type: none"> on course for adoption within 5 years of current plan(s) adoption; and project planned and expected to be delivered to planned timescale 	Green	<p>LDP2 is on track for adoption within the five year cycle.</p> <p>RAG = Green</p> <p>Your LDP2 is managed through regular project meetings which sets deadlines for various parts of the project.</p> <p>RAG = Green</p> <p>Overall RAG = Green</p>
9	Elected members engaged early (pre-MIR) in development plan preparation – <i>if plan has been at pre-MIR stage during reporting year</i>	N/A	
10	Cross sector stakeholders* engaged early (pre-MIR) in development plan preparation – <i>if plan has been at pre-MIR stage during reporting year</i>	N/A	
11	Regular and proportionate policy advice produced on information required to support applications.	Green	You have produced a number of masterplans and your case studies indicate your proportionate response to producing policy advice.
12	Corporate working across services to improve outputs and services for customer benefit (for example: protocols; joined-up services; single contact arrangements; joint pre-application advice)	Green	You have provided some good examples of working across council departments and with other key stakeholders. This has included working on areas such as community planning, infrastructure and placemaking.
13	Sharing good practice, skills and knowledge between authorities	Green	You participate in HOPS sub committees, the national developer obligations forum, and meetings with neighbouring authorities to discuss rural housing issues and design. You also participate in benchmarking.
14	Stalled sites / legacy cases: conclusion or withdrawal of old planning applications and reducing number of live applications more than one year old	Green	You have cleared 1 cases during the reporting year, with 1 cases still awaiting conclusion. Based on this and last year's figures, only 1 site reached legacy status during the reporting year.
15	Developer contributions: clear and proportionate expectations	Green	Developer Contributions policy is set out in your LDP and is supported by supplementary guidance.

	<ul style="list-style-type: none"> • set out in development plan (and/or emerging plan); and • in pre-application discussions 		<p>RAG = Green</p> <p>Expectations for developer contributions are clarified in your pre-application discussions.</p> <p>RAG = Green</p> <p>Overall RAG = Green</p>
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MORAY COUNCIL

Performance against Key Markers

Marker		2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
1	Decision making timescales							
2	Processing agreements							
3	Early collaboration							
4	Legal agreements							
5	Enforcement charter							
6	Continuous improvement							
7	Local development plan							
8	Development plan scheme							
9	Elected members engaged early (pre-MIR)		N/A	N/A	N/A	N/A		N/A
10	Stakeholders engaged early (pre-MIR)		N/A	N/A	N/A	N/A		N/A
11	Regular and proportionate advice to support applications							
12	Corporate working across services							
13	Sharing good practice, skills and knowledge							
14	Stalled sites/legacy cases							
15	Developer contributions							

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

2012-13	3	6	6
2013-14	2	5	6
2014-15	1	4	8
2015-16	1	3	9
2016-17	0	1	12
2017-18	0	1	14
2018-19	0	0	13

Decision Making Timescales (weeks)

	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2018-19 Scottish Average
Major Development	55.7	98.2	13.1	20.0	16.9	16.5	8.9	32.5
Local (Non-Householder) Development	20.0	13.5	8.5	7.5	7.2	6.6	6.5	10.7
Householder Development	10.1	7.1	5.8	6.3	5.7	5.3	5.3	7.2