

23/02170/APP
12th December 2023

Section 42 to vary conditions 11 and 12 of 22/01269/APP to allow operating hours of 0600hrs to 2300hrs, Monday to Saturday at Land Adjacent To Portgordon Maltings Buckie Moray for William Grant & Sons Distillers Ltd

Comments:

- The application is reported to Committee as it is a major application. Given that this is an application under section 42 of the planning act to vary the terms of an existing consent the pre application requirements for major applications are not required.
- The application was advertised for Neighbour Notification.
- No representations have been received.

Procedure:

- None.

Recommendation

Grant Planning Permission - Subject to the following:

Conditions/Reasons

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

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

2. No development shall commence until a Construction Traffic Management Plan (CTMP) has been submitted to an agreed in writing by the Planning Authority in consultation with the Roads Authority. Thereafter the development shall be carried out in accordance with the agreed CTMP at all times. For the avoidance of doubt the CTMP shall include as a minimum the following information:
 - a) duration of works;
 - b) construction programme;
 - c) number of vehicle movements (i.e. materials, plant, staff, components);
 - d) schedule for delivery of materials and plant;

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

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

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

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

4. No development shall commence until evidence of a financial guarantee or bond or suitable equivalent and a Wear and Tear Agreement have been put in place to ensure the repair of the public road serving the site in the event that the road is not maintained in a safe condition during the construction phase of the development and to restore the road to its pre-development condition within 1 year of the development becoming operational has been submitted to and agreed in writing with the Council, as Planning Authority. For the avoidance of doubt the agreement shall cover the section of the A990 Enzie - Portgordon - Buckie Road from the A98 to the site entrance as a minimum and all roads identified for off-site disposal of material/soil as in condition '2' above.

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

5. No development shall commence until:
- a) a visibility splay 4.5 metres by 215 metres, with all boundaries set back to a position behind the required visibility splay, has been provided in both directions at the access onto the public road; and

- b) thereafter the visibility splay shall be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the carriageway.
- c) additionally a forward visibility splay of 215m is required to maintain at the site entrance for the vehicles waiting on the main road to turn right into the site access. These vehicles must be able to see oncoming traffic and be seen by following traffic.

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

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

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

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

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

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

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

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

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

9. Construction works (including vehicle movements) associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0800 - 1900 hours, Monday to Friday and 0800 - 1300

hours on Saturdays only, and at no other times out with these permitted hours (including National Holidays). The above construction hours shall apply, unless otherwise agreed in writing with the Planning Authority, and where so demonstrated exceptional operational constraints require limited periods of construction works to be undertaken out with the permitted construction hours.

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

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

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

11. Unless otherwise agreed in writing with the Council as Planning Authority in consultation with the Environmental Health Manager, external operations or vehicle movements relating to the operation of the warehouses shall only take place between 0600 to 2300 hours Monday to Saturday and no external operations or vehicle movements shall take place on Sundays, Christmas Day or Boxing Day.

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

12. The rating level of noise associated with the development shall not exceed 43 dB at Core Farm and Parkside Cottages during the nighttime period permitted (0600 to 0700 hours). The rating level associated with this condition is defined within BS 4142: 2014 + A1:2019 Methods for rating and assessing industrial and commercial sound, and for the avoidance of doubt the reference time interval for the nighttime period is 15 minutes. The location of Core Farm and Parkside Cottages are shown with Appendix A of the Noise Impact Assessment approved document by LCP Acoustics, document reference 27374/3/1/8, dated 19 February 2024 and titled "External Activity Assessment. Report Prepared For William Grant & Sons Distillers Ltd, Portgordon Warehouse, 19 February 2024".

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

13. The rating level of noise associated with the development shall not exceed 44 dB at Core Farm and Parkside Cottages during the daytime period permitted (0700 to 2300 hours). The rating level associated with this condition is defined within BS 4142: 2014 + A1:2019 Methods for rating and assessing industrial and commercial sound, and for the avoidance of doubt the reference time interval for the daytime period is 1 hour. The location of Core Farm and Parkside Cottages are shown with Appendix A of the Noise Impact Assessment approved document

by LCP Acoustics, document reference 27374/3/1/8, dated 19 February 2024 and titled "External Activity Assessment. Report Prepared For William Grant & Sons Distillers Ltd, Portgordon Warehouse, 19 February 2024".

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

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

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

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

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

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

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

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

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

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

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

18. Notwithstanding the provisions of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (or any order revoking and re-enacting that order) the approval hereby granted only relates to the use of the four proposed buildings as Whisky Cask Storage and for no other use or purpose without the prior approval of the Council, as Planning Authority.

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

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

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

20. Prior to development commencing a landscape maintenance and woodland management plan (covering also the two meadow types and wetland fringe areas) shall be submitted to and agreed in writing with the planning authority. Thereafter the approved landscaping/woodland shall be maintained in accordance with the agreed details.

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

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

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

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

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

Reason(s) for Decision

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

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

List of Informatives:

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

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

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

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

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

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

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

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

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

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

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

THE SCOTTISH ENVIRONMENT PROTECTION AGENCY has commented that:-

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

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

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

- SEPA is aware of the existing Grissan lower tier COMAH establishment located nearby at the Portgordon Maltings, Buckie, Moray, AB56 5BU and the associated Hazardous Substance Consent application 22/01401/HAZ which is under determination. We recommend you ascertain whether the proposed development lies within a consultation distance set by HSE around a major hazard site and if it does, understand whether or how this could affect your layout. Perhaps this consultation has already been undertaken but we felt it best to bring this point to your attention.
- As the Regulations will apply, the Applicant must notify the COMAH Competent Authority (HSE and SEPA) within a reasonable period of time (normally taken to be between 3 and 6 months) prior to construction of the proposed development. At that time, the anticipated COMAH status of the site as a lower or upper tier establishment should be confirmed by providing a comparison of the proposed quantity of flammable substances to be stored against the qualifying thresholds described in Schedule 1 of the Regulations.

- Details of how to make a COMAH notification are available on the HSE website.
- Following notification, SEPA will expect the Applicant to submit an assessment of the environmental risks, demonstrating that 'All Measures Necessary' have been undertaken in relation to the potential for 'Major Accidents to the Environment'. The latest version of the guidance for undertaking such an assessment can be found on SEPA's website. The assessment submitted will need to include details of the procedural, design, and modelling arrangements proposed to address environmental risk and mitigate the potential impacts of a major accident to the environment. If the site is identified as upper tier under the COMAH Regulations, then the environmental risk assessment will need to be submitted as part of a Safety Report for the establishment.
- It is noted and welcomed that the proposed drainage system includes provisions for firewater containment. SEPA intend to contact the drainage consultants Blyth and Blyth directly to clarify certain points surrounding these proposals.
- The applicant should contact the local authority to discuss the need for a Hazardous Substances Consent. SEPA & HSE would expect to be consulted on any such application which is made.

SCOTTISH GAS NETWORKS have commented that:-

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

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

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

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT		
Reference No.	Version No.	Title/Description
EC22743:PL:001	B	Location plan



PLANNING APPLICATION COMMITTEE SITE PLAN

**Planning Application Ref Number:
23/02170/APP**

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

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

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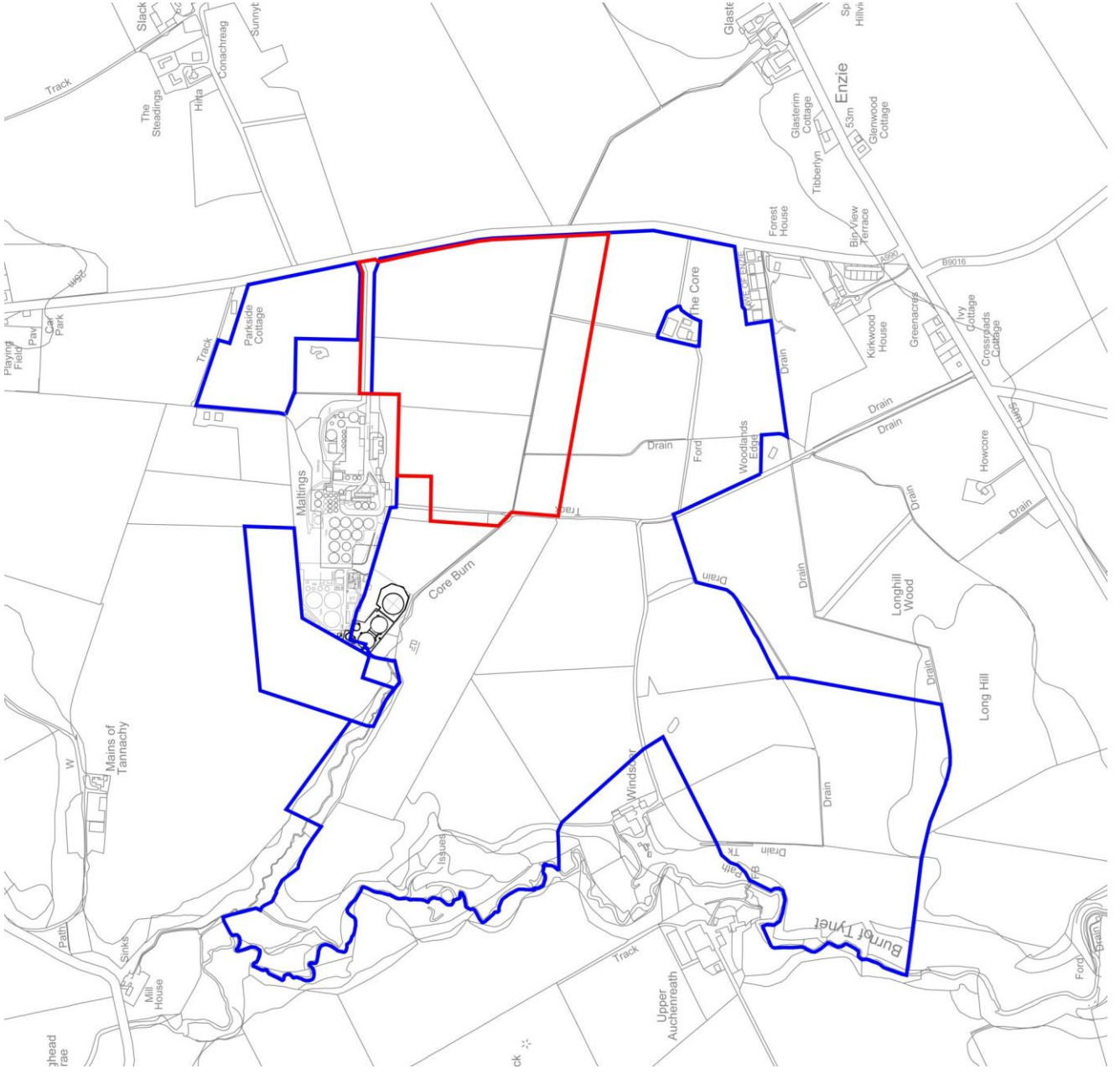
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Location Plan



Site Location



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

1. THE PROPOSAL

- This is an application under section 42 of the Planning Act, which seeks to vary the terms of the existing planning permission for maturation warehousing to allow an extension of external operating hours from 0800 and 1900 hours, Monday to Friday and 0800 and 1300 hours, on Saturdays and no external operations or vehicle movements on bank/public holidays, to 0600 and 2300 hours, Monday to Saturday and no external operations or vehicle movements shall take place on Sundays, Christmas Day or Boxing Day.
- Conditions 11 and 12 of the original planning consent seek to control noise impact from the development.
- The applicants have outlined that this change in operating hours is being sought to match the operational hours of the warehouses to the distilleries. This will ensure full flexibility for production and ensure any spirit produced can be stored avoiding bottlenecks in the system.
- Condition 11 states:
“The rating level of noise associated with the development shall not exceed the background sound level by more than 5 dB at the nearest noise sensitive dwelling which is lawfully existing or has planning permission at the date of this permission. For the avoidance of doubt, the rating level and background sound level associated with this condition are defined within BS 4142: 2014 + A1:2019 Methods for rating and assessing industrial and commercial sound.
- Condition 12 states: “Unless otherwise agreed in writing with the Council as Planning Authority in consultation with the Environmental Health Manager, external operations or vehicle movements relating to the operation of the warehouses shall only take place between 08.00 and 19.00 hours, Monday to Friday and 8am and 1pm, on Saturdays, and no external operations or vehicle movements shall take place on bank/public holidays”.
- The original planning permission (22/01269/APP) granted on 21 December 2022, was for the erection of storage warehouses and ancillary development (amenity block sprinkler tank and pump house) land engineering (cut and fill), realignment of Core Burn and associated engineering and infrastructure works including access and sub-station.
- The applicants do not propose any other changes to the terms of the original planning permission. No additional traffic movements are proposed.

2. THE SITE

- The site lies to the south of the Crisp Maltings at Portgordon and is presently under construction, with the western most maturation warehouses having been completed and in use.
- The site is bounded by existing woodland and anaerobic digestion plant to the west, further open farmland with neighbouring houses beyond to the south and the A990 public road to the east.
- The nearest residential properties are located approx. 222m to the north at Parkside Cottages and 248m to the south at Core Farm.

3. HISTORY

On-site history:

23/01441/HAZ - Hazardous Substance Consent in relation to adjacent maturation warehousing approved 1 February 2024.

22/01269/APP - Erect storage warehouses and ancillary development (amenity block sprinkler tank and pump house), land engineering (cut and fill), realignment of Core Burn and associated engineering and infrastructure works including access and sub-station on land to South of Crisp Maltings, Buckie. Granted planning permission on 21 December 2022.

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

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

Land adjacent history:

There is no further planning history in relation to the proposed site, however, the following is a summary of the recent planning history for land adjacent to the site.

16/00353/APP - Erection of anaerobic digestion facility granted planning permission on 26 May 2016.

17/01536/APP - Erection of anaerobic digestion facility (extension to that granted via 16/00353/APP) granted planning permission on 14 December 2017.

20/00247/APP - Construction of four anaerobic digestion tanks, three feedstock tanks and associated infrastructure granted planning permission on 4 December 2020.

21/01605/APP - Application to Phase the development of the Coreside Anaerobic Digestion (AD) facility to demarcate the consented AD site into 2 phases with the addition of additional biomethane processing infrastructure granted planning permission on 2 December 2021.

22/01085/APP - Amend site layout as approved under reference 20/00247/APP at Phase 1 Coreside anaerobic digestion facility granted planning permission on 21 December 2022.

22/01086/APP - Amend site layout approved under ref 21/01605/APP granted planning permission on 20 December 2022.

22/01269/APP - Erect storage warehouses and ancillary development (amenity block sprinkler tank and pump house) land engineering (cut and fill), realignment of Core Burn and associated engineering and infrastructure works including access and sub-station granted planning permission on 20 December 2022.

22/01401/HAZ - Hazardous Substance Consent in relation to adjacent existing anaerobic digestion facility approved 29 November 2023.

22/01321/SCN – Environmental impact assessment screening opinion issued confirming that the proposed extension to the AD plant does not constitute EIA development.

4. POLICIES

National Planning Framework 4 policies

Policy 1 - Tackling the Climate

Policy 23 - Health and safety

Policy 26 - Business and industry

Policy 29 - Rural development

Moray Local Development Plan 2020 policies

PP2 - Sustainable Economic Growth

PP3 - Infrastructure and Services

DP1 - Development Principles

DP5 – Business and Industry

EP14 - Pollution Contamination Hazards

5. ADVERTISEMENTS

5.1 Advertised for Neighbour Notification purposes.

6. CONSULTATIONS

Environmental Health – No objections, subject to the amended conditions as recommended to ensure protection of the amenity of the nearest residential properties.

Transportation Section – No objections.

7. OBJECTIONS-REPRESENTATIONS

None.

8. OBSERVATIONS

8.1 Section 42 of the Town and Country Planning (Scotland) Act 1997 as amended allows applicants to apply to develop land without compliance with conditions previously attached to a planning consent. In determining such an application, the Council, as Planning Authority can only consider the conditions subject to which planning permission should be granted and may:

- grant permission unconditionally (i.e. remove the conditions attached to the planning consent);
- grant permission conditionally with differing conditions; or
- refuse the application (i.e. keep the conditions attached to the planning consent).

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

8.3 The main planning issues are considered below:

8.4 Section 42 Application

In considering a Section 42 application the planning authority can only consider the conditions that are the subject of the application although this does not preclude consideration of the overall effect of granting a new permission. The effect of granting a Section 42 application is the creation of a new planning permission and therefore all conditions of the previous consent must be reiterated to have effect. In this case it is recommended that the noise condition 11 of the original permission is also varied and replaced by two conditions to cover nighttime and daytime working periods as recommended by Environmental Health, and all the other conditions are reiterated unchanged except for those that have been discharged in full.

8.5 Noise (NPF Policy 23 and MLDP EP14)

Condition 12 of the original consent controls when external operations and vehicle movements can take place within the site. The hours of operation contained within this original condition reflected the external hours of operation specified by the applicants at the time of the original application. The applicants have since reviewed operational requirements of the site, which has resulted in this change in operating hours being sought to match the operational hours of the warehouses to the distilleries. This will ensure full flexibility for production and ensure any spirit produced can be stored avoiding bottlenecks in the system.

8.6 A Noise Impact Assessment has been submitted in support of this application which identifies that the noise levels generated throughout the time periods requested (involving HGV movements and forklift truck activity) will fall within acceptable levels. The Environmental Health Service has reviewed and is content with this information and has raised no objection to the proposal to amend the wording of condition 12 to extend operating hours. It has further recommended that condition 11 of the original permission (which limits the level of noise experienced at the nearest noise sensitive dwelling) be varied and replaced by two conditions to cover nighttime and daytime working periods to aid noise monitoring/enforcement, as detailed in the recommendation.

8.7 **Remaining Conditions**

It is recommended that the remaining conditions of the original planning permission will be reiterated so that they continue to have effect. Any conditions which have been met and discharged such as those relating to archaeology, need not be repeated. Some conditions have been purified in part but are reiterated to ensure compliance throughout the lifetime of the development.

Conclusion

The proposed variation of conditions to allow for an extension of external operating hours beyond those hours already permitted is considered to be acceptable in this instance. Subject to the conditions as recommended Environmental Health have no concerns relating to the proposals and are content that it would allow for sufficient control of noise issues going forward.

As such the proposals are considered to be compliant with NPF policy 23 and MLDP policy EP14. For the avoidance of doubt, the recommendation reiterates all other conditions of the previous consent except for those that have been discharged in full. It is recommended that planning permission is granted.

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:**

Iain T Drummond
Planning Officer

Ext: 01343 563607

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