



Planning and Regulatory Services Committee

Tuesday, 26 March 2019

NOTICE IS HEREBY GIVEN that a Meeting of the **Planning and Regulatory Services Committee** is to be held at **Council Chambers, Council Office, High Street, Elgin, IV30 1BX** on **Tuesday, 26 March 2019** at **09:30**.

BUSINESS

1 Sederunt

2 Declaration of Group Decisions and Members Interests *

3 Resolution

Consider, and if so decide, adopt the following resolution:
"That under Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, the public and media representatives be excluded from the meeting for Item 16 of business on the grounds that it involves the likely disclosure of exempt information of the class described in the relevant Paragraphs of Part 1 of Schedule 7A of the Act."

4 Minute of Meeting dated 29 January 2019 **7 - 46**

5 Written Questions **

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6 Planning Application 18/01561/APP **49 - 70**

Report by Appointed Officer

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Report by Appointed Officer

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Report by Appointed Officer

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| 14 | Confirmation of Stopping-Up of Section of Footway on Burdshaugh, Forres | 235 -
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| | Report by the Head of Legal and Democratic Services | |
| 15 | Question Time *** | |
| | Consider any oral question on matters delegated to the Committee in terms of the Council's Scheme of Administration. | |
| | Item(s) which the Committee may wish to consider with the Press and Public excluded | |

16 Land Adversely Affecting the Amenity of the Neighbourhood on Land in Dufftown

- Information, which if disclosed to the public, would reveal that the Authority proposes, for the purposes of consultation, make an order or direction under any enactment which might allow an individual or organisation to defeat the purpose of the notice or order;

Summary of Planning and Regulatory Services

Committee functions:

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

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

GUIDANCE NOTES

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

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

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

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

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

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THE MORAY COUNCIL

Planning and Regulatory Services Committee

SEDERUNT

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

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

29 JANUARY 2019

COUNCIL CHAMBERS, ELGIN

PRESENT

Councillors Bremner (Chair), Patience (Depute), Alexander, Cowe, Cowie, Coy, Divers, Feaver, Laing, Macrae, A McLean and R McLean.

APOLOGIES

Apologies were intimated on behalf of Councillor Edwards.

IN ATTENDANCE

The Head of Development Services, the Manager (Development Management), Mr A Burnie, Principal Planning Officer, Mr N MacPherson, Principal Planning Officer, Mr G Templeton, Principal Planning Officer, the Senior Planning Officer (Development Planning and Facilitation), the Legal Services Manager (Property and Contracts) as Legal Adviser and Mrs L Rowan, Committee Services Officer as Clerk to the Meeting.

1. Tribute

The Committee, in recognising that this was the last Committee to be attended by Mr Angus Burnie in his role of Principal Planning Officer, joined the Chair in wishing him well on his upcoming retirement.

The Chair stated that Mr Burnie has worked for Moray Council in Development Management for over 28 years and around 35 years in Planning and during this time has made a significant contribution to the Moray Area through the proficient handling of major planning applications including the expansion of Elgin as well as being seconded for 5 years to deal solely with the planning applications for the Flood Schemes for Rothes, Lhanbryde, Forres and Elgin. He has been very generous in passing on his experience/knowledge to younger planners and his wisdom and attention to detail will be sorely missed by many.

2. Declaration of Group Decisions and Members Interests

In terms of Standing Order 20 and the Councillors' Code of Conduct, Councillor Divers declared a personal interest in Planning Application 18/01209/APP (Item 6 on the Agenda) as his son is employed by the Applicant.

There were no other declarations from Group Leaders or Spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda or any declarations of Members interests in respect of any item on the agenda.

3. Withdrawal of Agenda Item 14

The Chair advised that agenda item 14 “Land Adversely Affecting the Amenity of the Neighbourhood on Land in Dufftown” had been removed from the agenda as it was no longer required and subsequently, there was no requirement for a resolution. This was noted.

4. Minute of the Planning and Regulatory Services Committee dated 13 November 2018

The minute of the meeting of the Planning and Regulatory Services Committee dated 13 November 2018 was submitted and approved.

5. Minute of the Special Planning and Regulatory Services Committee dated 22 November 2018

The minute of the meeting of the Special Planning and Regulatory Services Committee dated 22 November 2018 was submitted and approved.

6. Minute of the Special Planning and Regulatory Services Committee dated 18 December 2018

The minute of the meeting of the Special Planning and Regulatory Services Committee dated 18 December 2018 was submitted and approved.

7. Written Questions

The Committee noted that no written questions had been submitted.

8. Planning Application 18/01209/APP

Ward 4: Fochabers Lhanbryde

Application under Section 42 to vary condition 1 of planning consent 16/01244/APP to maintain provision for 870 houses (as approved) but vary phasing design and site layout details ie adjust Phase 1A boundary (western most part of Phase 1A within Crescent North and South Glassgreen character areas) to provide 50 affordable homes together with consequential revisions to boundaries of Phase 1D (South Glassgreen) and eastern most part of Phase 1A (Meadows North character area) and Phase 1C (Meadows East character area) revise mix of homes (including site layout and new Braemar and Lauder house types) within Crescent North and South Glassgreen character areas revise layout and reduce number of houses by 18 units within Village Garden character area to accommodate revision to alignment gas pipeline revise numbers and mix of houses including site layout within Village Core and Meadows East character areas to accommodate 18 homes relocated from Village Garden at Elgin South Elgin Moray for Springfield Properties PLC

Councillor Divers, having declared an interest in this planning application, left the meeting, taking no part in the relevant discussion or decision.

A report by the Appointed Officer recommended that, subject to the conditions detailed in the report, planning permission be granted in respect of an application under Section 42 to vary condition 1 of planning consent 16/01244/APP to maintain provision for 870 houses (as approved) but vary phasing design and site layout details ie adjust Phase 1A boundary (western most part of Phase 1A within Crescent North and South Glassgreen character areas) to provide 50 affordable homes together with consequential revisions to boundaries of Phase 1D (South Glassgreen) and eastern most part of Phase 1A (Meadows North character area) and Phase 1C (Meadows East character area) revise mix of homes (including site layout and new Braemar and Lauder house types) within Crescent North and South Glassgreen character areas revise layout and reduce number of houses by 18 units within Village Garden character area to accommodate revision to alignment gas pipeline revise numbers and mix of houses including site layout within Village Core and Meadows East character areas to accommodate 18 homes relocated from Village Garden at Elgin South Elgin Moray for Springfield Properties PLC.

The Committee noted that the application had been referred to Committee as the application is a major development as defined under the Hierarchy Regulations 2009 for a development with more than 50 houses, and the site area exceeds 2ha.

Following consideration, the Committee agreed to grant planning permission in respect of Planning Application 18/01209/APP as recommended subject to:

- (i) completion of a modified legal agreement regarding planning obligations; and
- (ii) the following conditions and reasons:

- 1 Condition 1 of formal decision notice 16/01244/APP dated 10 May 2018 is hereby varied and
 - a) the permission as hereby granted shall relate to the application as amended for a development of 870 dwellings (houses and/or flats/apartments), neighbourhood uses, a Moray Sports Centre, two sites for primary schools and associated infrastructure, all in accordance with the amended drawings including EL44_SL_05 Rev J (Overall Site Plan showing Character Areas Locations) and EL44_SL_09 Rev L (Site Layout showing Proposed Phasing within Phase 1) as hereby approved regarding the location, design and site layout arrangements (see 'List of Plans and Drawings Showing The Development' included in this permission); and
 - b) In addition to the additional house types included within this permission as hereby granted (including Braemar and Lauder), the design(s) of all dwellings (houses and/or flats/apartments) and the Moray Sports Centre shall be provided in accordance with the design details approved under formal decision notice 16/01244/APP dated 10 May 2018, including any details already approved thereunder as part of the discharge of conditions associated with that development.

Reason - To ensure an acceptable form of development in the interests of the character, appearance and amenity of the development and the surrounding area.

- 2 Notwithstanding the submitted phasing plan information on drawing EL44_SL_09 Rev L, no development shall commence on the primary school site in South Glassgreen and on all areas to be developed for housing outwith

Phase 1A until details have been submitted to and approved by the Council, as Planning Authority to confirm agreement to the release of land areas for development within Phase 1B, 1C and 1D, to be determined by evidence of the need to release housing land where an effective housing land supply cannot be met as evidenced through the Council's annual Housing Land Audit and/or identified as having satisfied the key community objective, all as defined within Policy H2 of the Moray Local Development Plan 2015 (including supplementary guidance and/or any equivalent policy replacing or superseding Policy H2 within any subsequent local development plan) or until such time as the land is no longer precluded for release under Policy H2 (or equivalent) within any future development plan for the area.

Reason - The development is related to and forms part of the Elgin LONG2 designation where the early/partial release of land therein is governed by the requirements of Policy H2 and supplementary guidance (including a Technical Note) being fulfilled. At present, through Policy H2 (of the Moray Local Development Plan 2015), agreement relates only to release a defined area of land within the Elgin LONG2 South designation for a site for a (Linkwood) primary school, a Moray Sports Centre and an area for housing which includes land proposed for housing at Village Garden and the remaining housing in phase 1A will support sustainable economic growth (Policy PP1) and deliver housing which has been agreed as an acceptable departure. This excludes all other land areas included within the application site, in particular development within Phase 1B, 1C & 1D.

- 3 The terms of reference to the various uses of the sites identified as being for primary schools and the Moray Sports Centre on drawing EL44_SL_10 Rev B of formal decision notice 16/01244/APP remain applicable and the provisions of the Town & Country Planning (Use Classes) (Scotland) Order 1997 (or any Order revoking or re-enacting that Order) the permission as hereby granted shall relate to:
- a) the use of each school site as identified as a site for primary education provision shall be within Use Class 8 (if residential education provision) or Use Class 10 (if non-residential educational provision) of the said Order; and
 - b) the use of the Moray Sports Centre, as identified in accordance with design and layout details approved under formal decision notice 16/01244/APP, including any details already approved thereunder as part of the discharge of conditions associated with that development, shall be as a use within Use Class 11 of the Order;

and for no other uses or purposes without the prior approval of the Council, as Planning Authority.

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

- 4 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 use or purpose of each unit/building as identified and specified on the respective 'Use Class Layout' drawings for

South Glassgreen, Village Garden and Village Core (whether for Use Class 1, or 2, or 3, or 4, or 10 as identified on the respective drawings) and for no other use or purpose without the prior written approval of the Council, as Planning Authority.

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

- 5 For the Moray Sports Centre (the Centre) and except where details of the Centre have already been approved under formal decision notice 16/01244/APP, including any details already approved thereunder as part of the discharge of conditions associated with that development, no further development located within the grounds of, and associated with the Centre shall commence until details have been submitted to and approved by the Council, as Planning Authority (in consultation with other agencies as appropriate) regarding:
- a) samples or specifications of all material finishes and colouration for the Centre building and all other structures to be erected within the grounds of the Centre;
 - b) details regarding the location, design specifications, external appearance and material finishes and finished levels (relative to existing ground levels and a fixed datum) for the proposed means of enclosure around the proposed service yard;
 - c) details regarding the location, design specifications, external appearance and material finishes for all plant and machinery, including ventilation and extraction, air conditioning and refrigeration systems or similar to be externally mounted on the building and/or installed within the recessed roof plant area together with all required/proposed measures to mitigate the external visual and/or environmental (noise, odour, etc.) impact of plant and machinery affixed to the building or projecting above the roof structure;
 - d) details regarding the location, design specifications, external appearance and material finishes and colouration of all walls and fences to be erected within the grounds of the Centre, including fencing to be erected within and around the perimeter of the Centre site, the 3G pitch and the outdoor tennis courts and stone walls at the entrance and exit accesses to the site off Linkwood Road;
 - e) details including samples or specification including colours of all "hard" landscaping and surfacing features to be provided including hardstanding and car parking areas;
 - f) details regarding the location, design specifications and time-scale(s) for the provision of all (external) play and trim trail equipment to be provided within the grounds of the Centre;
 - g) details regarding the planting mix for the proposed grass pitch and the design specifications, including cross-sections and long-sections to confirm finished levels relative to existing ground levels and a fixed datum, for the synthetic surfacing of the proposed 3G pitch, the outdoor tennis courts, and the sprint and circular running tracks;
 - h) in consultation with the Transportation Service, details regarding the location and design specifications for the provision of cycle parking, to the standard of provision identified in Condition 55;

- i) in consultation with the Environmental Health Manager, a noise impact assessment pursuant to Planning Advice Note PAN 1/2011 and the associated Technical Advice Note Assessment of Noise (TAN). The Assessment shall identify all noise sources associated with the construction and operational phases of the Centre and all proposed/required management measures to be adopted to mitigate the impact of noise associated with the Centre;
- j) in consultation with the Environmental Health Manager, measures to suitably control and mitigate cooking odours, including details of any proposed kitchen ventilation/extraction system to be installed and the arrangements for maintenance of the installed system; and
- k) in consultation with the Environmental Health Manager, details of operating hours of the Centre.

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

Reason - Details for a Centre building (of reduced size) have already been approved but in connection with any development proposed further to the provision of the Centre building (as amended) including external sporting facilities, details of the matters specified are insufficient or lacking from the submitted particulars and to ensure an acceptable form of development in the interests of the character, amenities and appearance of the development including the provision of parking for persons attending the site and to minimise noise and odour impacts associated with the Centre upon the amenity of the locality including any nearby properties.

- 6 For the Centre and except where details of the Centre have already been approved under formal decision notice 16/01244/APP including any details already approved thereunder as part of the discharge of conditions associated with that development, no further 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 external lighting scheme for the Centre building and associated external sports areas of the Centre including the 3G pitch and the outdoor tennis courts. 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 operation of the development;
- 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 further development of external lighting arrangements shall be implemented in accordance with the approved details.

Reason - Details for lighting of the Centre building (of reduced size) have already been approved but in connection with any development proposed

further to the provision of the Centre building (as amended) including development within the grounds of the Centre, details of the matters specified are lacking from the submission and to ensure an acceptable form of development in particular to minimise the potential for light pollution disturbance upon visual amenity of the surrounding area and safeguard the amenity of any existing or proposed neighbouring property.

- 7 For the Centre, and except where details of the Centre have already been approved under formal decision notice 16/01244/APP including any details already approved thereunder as part of the discharge of conditions associated with that development, no further 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 the development, to include the location, design specifications and time-scale for the provision of all foul drainage infrastructure. The scheme shall:
- a) be developed and designed in accordance with the submitted Drainage Impact Assessment (July 2016) as submitted as part of application 16/01244/APP including any addendum to that assessment;
 - b) include evidence of agreement/approval to confirm the foul drainage arrangements including capacity and connection arrangements are acceptable to Scottish Water (in light of the proposed connections from the development into the existing public sewer network);
 - c) include the arrangements including the location, route of pipework and environmental effects including removal (and replacement) of trees whether for disposal to separate foul drainage infrastructure for the Centre only and/or connection to any other foul drainage infrastructure arrangements to be provided for the remainder of the development as hereby approved;
 - d) the location, design specifications, external appearance and material finishes, site layout including hardstanding areas and means of access to any required/proposed above ground building/structure or other apparatus to be provided as part of any pumping station to be provided; and
 - e) confirmation of the adopting authority or in perpetuity body for the foul drainage network.

Thereafter, the (further) development shall be provided in accordance with the approved foul drainage scheme details with the scheme provided and made available for use prior to occupation and use of any proposed additional development at the Centre first commencing.

Reason - Details for a Centre building (of reduced size) have already been approved but in connection with any development further to the provision of the Centre building (as amended) details for the matters specified including a finalised foul drainage scheme are lacking from the submission and to ensure an acceptable form of development in terms of the provision and delivery of foul drainage infrastructure for the development.

- 8 For the Centre, and except where details of the Centre have already been approved under formal decision notice 16/01244/APP including any details already approved thereunder as part of the discharge of conditions associated with that development, no further 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) a finalised surface water drainage scheme for the development, to include details of all sustainable drainage (SUDs-based) features to be provided 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. The scheme shall:
 - i) be developed and designed in accordance with the surface water design strategy as outlined in the submitted Drainage Impact Assessment (July 2016) together with technical guidance contained in the SUDs Manual (by CIRIA, C753);
 - 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 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;
 - iv) 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;
 - v) include details of the specialist surface water drainage arrangements and requirements for the 3G pitch and outdoor tennis courts and/or other facilities where appropriate;
 - vi) address the integration of these specialist arrangements within the overall surface water drainage scheme for the Centre, and the integration of this (separate) drainage scheme with the surface water arrangements for the remainder of the development; and
 - vii) confirm the adopting authority/authorities or in perpetuity body/bodies for all surface water drainage arrangements.
- 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 (see also Condition 16).

Thereafter, the (further) development shall be implemented in accordance with the approved scheme details and all approved surface water drainage arrangements shall be provided and made operational prior to first use and occupation of any further development proposed at the Centre.

Reason - Details for a Centre building (of reduced size) have already been approved but in connection with any development further to the provision of the Centre building (as amended) including external sporting facilities, 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 to 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.

- 9 For the Centre, and except where details of the Centre have already been approved under formal decision notice 16/01244/APP including any details already approved thereunder as part of the discharge of conditions associated with that development, no further development shall commence until details have been submitted to and approved by the Council, as Planning Authority regarding a finalised (revised) landscape scheme for the development of the Centre. The revised scheme shall:
- a) identify the location of all existing trees/shrubs and hedgerows or other landscape features within the site, and identify those to be retained and those to be removed. The details shall take into account the provision and implications of all drainage and transportation infrastructure associated with the Centre and/or other development proposed along Linkwood Road including drainage crossings, access junctions and traffic calming arrangements;
 - b) include details of measures to protect existing trees, shrubs and hedgerows and other landscape features to be retained within the site or immediately adjacent to it before during and after construction activity, for example along the northern boundary of Centre and along Linkwood Road;
 - 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. The proposed planting details and specifications shall be closely based upon the landscape information submitted by Macreadie design (as included as part of application 16/01244/APP);
 - d) include details of the time-scale(s) for all proposed planting included within 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 features, for example the raised mound adjacent to Linkwood Road and the tennis courts, the scheme shall include details regarding the location and design specifications including cross-sections and long-sections to describe the extent, area and height/depth of the proposed landscape feature with finished levels related to existing ground levels and a fixed datum.

Thereafter, the (further) development shall be implemented in accordance with the approved landscape scheme details and maintained in accordance with maintenance plan.

Reason - Details for a Centre building (of reduced size) have already been approved but in connection with any development further to the provision of the Centre building (as amended) including external sporting facilities, details of matters specified are lacking from the submitted particulars and in light of further impacts upon Linkwood Road, the current details will require to be amended to provide a finalised (revised) landscape scheme for the Centre, and 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 relation to the approved landscape scheme for the Centre approved under formal decision notice 16/01244/APP including any details already approved thereunder as part of the discharge of conditions associated with that development and any landscape scheme for any further 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 - In order to ensure that the approved landscaping works are timeously carried out and properly maintained in a manner which will not adversely affect the character, appearance and amenity of the development and the surrounding area.

- 11 In relation to the proposed provision of affordable housing within the site:
- a) 218 affordable homes (houses and/or flats/apartments) shall be provided within the site (drawing EL44_SL_06 Rev L refers); and
 - b) prior to the commencement of any affordable housing accommodation within the areas identified for affordable housing within South Glassgreen, Village Garden, Village Core, Meadows North and Meadows East:
 - i) details shall be provided of the arrangements for the long-term delivery and provision of the required affordable housing accommodation on the site, to include evidence to confirm the identity of the organisation (or other similar agency) responsible for the provision and management of all affordable housing accommodation to be provided;
 - ii) the time-scale(s) for the delivery of the affordable housing accommodation to be provided.

Thereafter, the development shall be implemented in accordance with the approved details for the provision and delivery of affordable housing within the site.

Reason - To ensure an acceptable form of development, in particular the requirement to provide and deliver affordable housing accommodation on the site as a requirement of current planning policy and associated supplementary guidance, including details currently lacking from the submission.

- 12 Within South Glassgreen and Village Garden, the location, house type, housing mix and site layout arrangements to provide affordable housing shall be in accordance with drawings EL44_SG_03 Rev K (for South Glassgreen) and EL44_VG_03 Rev I (for Village Garden) and notwithstanding the submitted details, no development of affordable housing located outwith South Glassgreen and Village Garden shall commence until details have been submitted to and approved by the Council, as Planning Authority in consultation with the Housing & Property Manager regarding:

- a) evidence to confirm agreement to the proposed mix of affordable housing to be provided within Village Core, Meadows East and Meadows North (to be informed by the Housing Needs and Demand Assessment); and
- b) details of any required/proposed re-mix of affordable housing accommodation to be provided within the identified area including house types, mix and site layout, and information to satisfy Condition 11 b) i) and ii) above regarding the arrangements for long-term delivery and timescale for provision of the affordable housing within each identified area.

Thereafter, the development shall be implemented in accordance with the approved details for the provision and delivery of affordable housing within the site.

Reason - To ensure an acceptable form of development, in particular the requirement to provide and deliver affordable housing accommodation on the site as a requirement of current planning policy and associated supplementary guidance, including details currently lacking from the submission and, as the development progresses, to ensure the delivery of affordable housing continues to remain relevant to local housing needs and demands.

- 13 Notwithstanding the submitted details on drawing EL44_SL_12 Rev H, as part of the development hereby approved, 93 accessible dwellings (houses and/or flats/apartments) shall be provided as identified and denoted as 'A' within the Accommodation Schedules included on the 'General Layout Showing Housing Mix' drawings for Crescent North, South Glassgreen, Village Garden, Village Core, Meadows North and Meadows East; and in accordance with the applicant's 'Accessible Housing Statement' (Elgin South Design & Access Statement, Rev C, May 2017 refers, as submitted as part of application 16/01244/APP).

Thereafter, the accessible accommodation as identified shall, at all times, remain capable for adaption for accessible housing needs unless otherwise agreed in writing with the Council, as Planning Authority in consultation with the Housing & Property Manager.

Reason - To ensure an acceptable form of development, in particular the requirement to provide and deliver accessible housing within the site as a requirement of current planning policy and associated supplementary guidance.

- 14 For residential development:

- a) within Crescent North, South Glassgreen, Village Garden, Village Core, Meadows North and Meadows East, the development shall be carried out in accordance with the submitted drawings regarding material finishes, external boundary treatment, hard surfaces, air pumps and bin store arrangements; and
- b) for development within Crescent North, South Glassgreen and Village Garden the development shall be undertaken in accordance with their respective 'Material Conditions Drawing'; and

and

- c) no development shall commence until details have been submitted and approved by the Council as Planning Authority regarding
- i) for development within Village Core, Meadows East and Meadows North, a 'Materials Condition Drawing' to identify dwelling and site layout finishes to each identified residential area (i.e. a 'composite' drawing of material finishes for dwellings and the site layout equivalent to the level of detail included on, for example drawing EL44_CN_MC_01 Rev A (for Crescent North));
- ii) samples and/or specifications for all "hard" landscaping features to be provided within the layout of Main Street (within Village Core);
- iii) for the play area locations identified within South Glassgreen, Village Core and Meadows East, and notwithstanding the indicative details submitted, the actual type, number, specifications and time-scale(s) for provision of all play equipment to be provided; and
- iv) for development within Village Core, Meadows East and Meadows North, the location(s) and design specifications for all required/proposed watercourse crossings, to include information to demonstrate that they are designed to convey a 1 in 200-year design flow plus climate change without causing constriction of flows or increasing the risk of flooding elsewhere.

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

Reason – Whereas details of external treatment of buildings/structures and surfaces are included, details of the matters specified are insufficient or lacking from the application particulars and to ensure an acceptable form of development in the interests of the character, amenities and appearance of the development including formal provision for play and waste collection arrangements and the provision of any new crossing over a watercourse including pedestrian and cycle and vehicle bridge crossings over the Linkwood Burn.

- 15 For residential development within Crescent North, South Glassgreen, Village Garden, Village Core, Meadows North and Meadows East, no 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 the development, to include the location, design specifications and time-scale for provision of all foul drainage infrastructure. The scheme shall:

- a) be developed and designed in accordance with the submitted Drainage Assessment (Issue 2, August 2016 and an addendum as submitted as part of application 16/01244/APP);
- b) include evidence of agreement/approval to confirm the foul drainage arrangements including capacity and connection arrangements are acceptable to Scottish Water (in light of the proposed connections from the development into the existing public sewer network);
- c) include the arrangements including the location, route of pipework to discharge/connect foul drainage from each individual area into all required/proposed foul drainage infrastructure (pumping stations) for the development overall;

- d) the location, design specifications, external appearance and material finishes, site layout including hardstanding areas and means of access to any required/proposed above ground building/structure or other apparatus to be provided as part of any pumping station to be provided; and
- e) confirmation of the adopting authority or in perpetuity body for the foul drainage network.

Thereafter, the development shall be provided in accordance with the approved foul drainage scheme details.

Reason - Details of the matters specified including a finalised foul drainage scheme are lacking from the submission and to ensure an acceptable form of development in terms of the provision and delivery of foul drainage infrastructure for the development.

16 For residential development within Crescent North, South Glassgreen, Village Garden, Village Core, Meadows North and Meadows East, no 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 surface water drainage scheme for the development, to include details of all sustainable drainage (SUDs-based) features to be provided 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. The scheme shall:
 - i) be developed and designed in accordance with the surface water design strategy as outlined in the submitted Drainage Assessment (Issue 2 August 2016) together with technical guidance contained in the SUDs Manual (by CIRIA, C753);
 - ii) be designed to manage storm water flows for storm events up to and including a 1 in 200-year flood event to be discharged after on-site attenuation at a controlled rate, not exceeding the greenfield run-off rate;
 - iii) include cross-sections 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;
 - iv) 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;
 - v) include details to connect and integrate surface water drainage arrangements from one area with another area for development for example, from SUDS features within Village Garden to SUDS features within Meadows North, etc.;
 - vi) details to integrate above ground/SUDs drainage features within public spaces (to include use of best practice to integrate blue and green infrastructure);

- vii) details of integration of proposed drainage infrastructure for Phase 1 with future phases of development within Elgin South (and vice versa);
 - viii) confirm the adopting authority/authorities or in perpetuity body/bodies for all surface water drainage arrangements; and
 - ix) for Village Garden, the SUDs-based details for drainage within Village Core as shown on drawing ES (Village Garden)-ENG 009 are not approved and a revised scheme design shall be provided in accordance with the Condition 16 as set out above. In the event of the SUDs based arrangements being located within the formal parkland area as shown on drawing EL44_SL_14-01 Rev J the drainage scheme shall be designed to minimise adverse impacts on the recreational, amenity and bio-diversity value of the site as an open space/landscaped park area for Village Core (as approved as part of formal decision notice 16/01244/APP).
- 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 (see also Condition 18).

Thereafter, the development shall be implemented in accordance with the approved scheme details and all approved surface water drainage arrangements shall be provided and made operational prior to first use and occupation of each area identified for residential development.

Reason - Details of the matters specified are insufficient and/or are lacking from the submitted particulars and to 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 operation and construction stages of the development.

17 For residential development within Village Garden, Village Core, Meadows North and Meadows East and as part of the development hereby approved:

- a) no part of the development including construction works and activities shall take place within 6m of any watercourse unless with the prior agreement of the Council, as Planning Authority in consultation with any relevant drainage authority, for example in relation to any proposed/required bridge crossing; and
- b) no development shall commence until details of a finalised site layout for the development (with land uses and flood extent overlay) have been submitted to and approved by the Council, as Planning Authority in consultation with SEPA to confirm that a 600mm (minimum) freeboard has been applied to all finished floor levels to development in the functional floodplain as defined/recommended in Table 15 of the Flood Risk Assessment (July 2016 by Kaya Consulting and included within application 16/01244/APP).

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

Reason - To protect people and property from risk of flooding in accordance with Scottish Planning Policy.

- 18 For residential development within Crescent North, South Glassgreen, Village Garden, Village Core, Meadows North and Meadows East, no development shall commence until a site-specific Construction Method Statement (CMS) has been submitted to and approved by the Council, as Planning Authority in consultation with SEPA, SNH and other agencies where appropriate. The CMS shall address all pollution prevention and environmental management issues related to the development and:
- a) 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 include:
 - i) the locations and arrangements for storage of materials, machinery and equipment together with details of emergency procedures and pollution plans in response to spillage of fuels and chemicals, etc.;
 - ii) a site waste management plan to detail how waste will be minimised during construction, demonstrating that construction practices minimise use of raw materials and maximise use of secondary aggregates and recycled and renewable materials and that waste generated by the proposal is reduced and re-used and recycles where appropriate on the site;
 - iii) the location and design of all temporary site construction SUDs arrangements to protect the water environment including all measures to mitigate and guard against run-off from the site including run-off containing soil or sediment or other contaminants; and
 - iv) a Dust Management Plan (Air Quality Assessment (August 2016 refers).
 - b) incorporate and include revisions to the Construction and Environmental Management Plan as currently submitted into the CMS to identify:
 - i) which protected species and sensitive habitats have been recorded within or are likely to use the site based on ecological surveys carried out to date;
 - ii) what mitigation measures will be put in place to minimise the impacts on the identified species/habitats;
 - iii) what contractors should do if they unexpectedly encounter a protected species; and
 - iv) who will be responsible for providing ecological advice to contractors.

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

Reason - In order to minimise the impacts of the development works upon the environment including requirements to protect species/habitats.

- 19 For residential development within Village Garden, Village Core, Meadows North and Meadows East, no development 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 the site, to include the time-scale(s) for undertaking surveys and thereafter, the arrangements for reporting the results of the survey and where any survey identifies protected species using the site, the survey results shall 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 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.

- 20 For residential development within Crescent North, South Glassgreen, Village Garden, Village Core, Meadows North and Meadows East all landscape scheme arrangements shall be carried out in accordance with the submitted details including proposals to retain and/or remove existing trees, arrangements to protect existing and proposed landscape details before during and after construction activity, all new planting and the arrangements for maintenance of landscaping but prior to development commencing details regarding the following shall be submitted to and approved by the Council, as Planning Authority:

- a) planting specifications including the number, species, position, planting distances and sizes of all tree, shrub and hedgerow planting and seeding mix(es) to be provided to the open space/landscape area including the gardens and meadows (not allotments) to be provided along the southern boundary of Village Garden and within the approx. 70m wide communal open space/landscape area to be provided between the southern boundary of the site for the primary school and the access road extending westwards from Village Garden;
- b) details of the time-scale(s) for all proposed planting to be provided within residential development within Crescent North, South Glassgreen, Village Garden, Village Core, Meadows North and Meadows East; and
- c) details to include cross-sections and long-sections to describe the extent, area and height/depth of any resultant landscape feature together with finished levels related to existing ground levels and a fixed datum for all areas where earth moving, mounding and excavation is required/proposed to form landscape features, for example any raised mound feature within the landscaped area to be provided along the western (Birnie Road) boundary of Crescent North, etc.

Thereafter, the approved landscape details for the development 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 to ensure an acceptable form of development in interests of the character, appearance and amenity of the development and the surrounding area.

- 21 In regard to all areas of advance (structure) planting proposed within the development (drawing EL44_SL_22 Rev F refers):
- a) for advance (structure) planting areas proposed in the western part of the site and located to the north and south of Crescent North and South Glassgreen,
 - i) all advance (structure) planting details including time-scales for planting shall be carried out in accordance with the details already approved as part of formal decision notice 16/01244/APP dated 10 May 2018, and drawing EL44 _SL_23 Rev F; and
 - ii) in accordance the already approved details, all advance (structure) planting works shall be protected before during and after construction activity occurring on, or through, or in proximity to the advance (structure) planting areas as identified and no construction activity including site compounds and contractor car parking areas, building and engineering operations, storage of materials and equipment, etc. shall be located on or occur in proximity to the areas identified for advance (structure) planting.

and

- b) notwithstanding the submitted details (including drawing EL44_SL_24 Rev D) and for advance structure planting areas proposed in the eastern part of the site and located to the north and east of Meadows North and Meadow East and, prior to development works commencing, details shall be submitted to and approved by the Council, as Planning Authority regarding:
 - a) the time-scale(s) for undertaking all advance (structure) planting, to be referenced against the time-scale for commencing works on the adjacent areas for housing development within the site. All advance (structure) planting shall be undertaken at an early stage in the development of the site and in advance of construction works commencing within the adjoining areas to be developed for housing;
 - b) a Management Plan for the long-term management and maintenance all advance (structure) planting areas; and
 - c) the arrangements to protect all advance (structure) planting works before during and after construction activity occurring on, or through, or in proximity to the advance (structure) planting areas as identified and no construction activity including site compounds and contractor car parking areas, building and engineering operations, storage of materials and equipment, etc. shall be located on or occur in proximity to the areas identified for advance (structure) planting.

Thereafter, the development shall be implemented in accordance with the approved advance planting arrangements.

Reason - To ensure an acceptable form of development in the interests of the character, appearance and amenity of the development and the surrounding area and allow for the earliest establishment of advance structure planting to provide a sense of visual containment to the development and help to realise the vision for Elgin South, including the setting of development.

- 22 In relation to the approved landscape scheme details approved and proposed for residential development within Crescent North, South Glassgreen, Village Garden, Village Core, Meadows North and Meadows East, 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 - In order to ensure that the approved landscaping works are timeously carried out and properly maintained in a manner which will not adversely affect the character, appearance and amenity of the development and the surrounding area.

- 23 No development shall commence within any sub-phase beyond Phase 1A (295 residential units plus Moray Sports Centre and (Linkwood) Primary School as defined on drawing EL44_SL_09 Rev L) until:

- a) details (which may include evidence from Transport Scotland) have been submitted to 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

- b) a Transport Assessment for each sub-phase has been submitted to the Council, as Planning Authority and that any trunk road mitigation measures necessary to off-set the impact of the sub-phase have thereafter been implemented in accordance with a timescale identified by the Transport Assessment to the satisfaction of the Council, as Planning Authority in consultation with Transport Scotland.

Reason - To ensure that the scale of development beyond Phase 1A is supported by a Transport Assessment, and to ensure that the scale and operation of the proposed development sub-phases beyond Phase 1A do not adversely affect the safe and efficient operation of the A96 trunk road network.

- 24 In terms of archaeological works within Phase 1:
- a) the arrangements for archaeological investigation at the Centre and in the western part of Phase 1 (for Crescent North and South Glassgreen) shall be undertaken in accordance with the details approved under formal decision notice 16/01244/APP dated 10 May 2018 including any details already approved thereunder as part of the discharge of conditions associated with that development; and
- b) for Village Garden, Village Core, Meadows East and Meadows North, no development shall commence until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted to and approved by the Council, as Planning Authority in consultation with Aberdeenshire Council Archaeology Service. The required scheme

details shall provide for an archaeological trial trenching evaluation of the site.

Thereafter, the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the agreement of the Council, as Planning Authority in consultation with Aberdeenshire Council Archaeology Service.

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

25 For residential development within Crescent North, South Glassgreen, Village Garden, Village Core, Meadows North and Meadows East, no development shall commence until details have been submitted to and approved by the Council, as Planning Authority in consultation with the Moray Access Manager regarding a detailed plan of public access across the site (existing, during construction and upon completion). The Public Access Plan shall:

- a) include supporting text to explain the rationale for all required/proposed foot and cycle access arrangements;
- b) identify all existing paths, tracks and rights of way and areas currently outwith or excluded from statutory access rights;
- c) identify any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or curtilage, in relation to proposed buildings or structures;
- d) identify all paths and tracks proposed for use by walkers and cyclists, to include links to the existing paths network beyond the site and identify which links will be improved to provide for safe active travel corridors to Elgin town centre, the River Lossie cycle path and strategic path corridors including aspirational routes in the emerging Moray Active Travel Strategy i.e. Core Path EG45 Linkwood Road to River Lossie cycle path via Reiket Lane, Core Path EG48 to Ashgrove Road then across railway line to Elgin town centre and EG47 through Dovecot Park to Moss Street; and existing Core Paths EG38 from Bilbohall to the Wards level crossing and EG39 from the Wards level crossing to the railway station;
- e) identify any required diversions of paths, temporary or permanent; and
- f) identify the time-scale(s) for the provision of all foot and cycle paths.

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

Reason - Details of matters as specified are lacking from the current submission and to ensure an acceptable form of development in the interests of public access for walkers and cyclists both through the development site and to further connect the site to the wider path and cycle networks.

26 No development with Meadows East and Meadows North shall commence until details have been submitted to and approved by the Council, as Planning Authority in consultation with SEPA regarding an environmental improvement scheme for the Linkwood Burn in the eastern section of the development, to include measures for the protection and improvement to the water environment, including the status of the waterbody and to develop opportunities within the design of the open space area to create sufficient space for movement of the watercourse, enhance riparian vegetation, and

offer bio-diversity, habitat enrichment and enhancement, public amenity and localised natural flood management benefits.

Thereafter, the development shall be carried out in accordance with the approved environmental improvement scheme.

Reason - To ensure an acceptable form of development including improvement of the waterbody and the surrounding environment.

- 27 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 Saturdays only, and at no other times outwith these permitted hours (including National Holidays) shall construction works be undertaken except where previously agreed in writing with the Council, as Planning Authority and where so demonstrated that operational constraints require limited periods of construction works to be undertaken outwith the permitted/stated hours of working.

Reason - To minimise the impact of construction works upon the amenity of the surrounding area including any neighbouring residential property.

- 28 Excluding the Centre development and for residential development within Crescent North, South Glassgreen, Village Garden, Village Core, Meadows North and Meadows East no 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 a detailed Construction Noise Impact Assessment 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 the site, 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 including arrangements and procedures/protocols for reporting, handling and responding to complaints regarding noise where so received; and
 - c) unless otherwise agreed, construction noise criteria for the permitted construction hours above shall be in accordance with the BS 5228 ABC method detailed in Table 9 of the submitted Noise Impact Assessment (Rev 02, February 2017, by Arup as submitted as part of application 16/01244/APP).

Thereafter, the development shall be carried out in accordance with the approved assessment details including adoption of all measures to mitigate noise impact during construction of the development.

Reason - To minimise the impact of construction works upon the amenity of the surrounding area including any neighbouring residential property.

- 29 In respect of the use of any Class 3 and Class 10 development on the site, no development shall commence on the site until the following details have been

submitted to and approved by the Council, as Planning Authority in consultation with the Environmental Health Manager:

- a) a noise impact assessment pursuant to Planning Advice Note PAN 1/2011 and the associated Technical Advice Note Assessment of Noise (TAN) detailing all noise sources associated with the development and all proposed/required noise management measures to be adopted to mitigate the impact of noise associated with the use of the premises; and
- b) details of measures to suitably control cooking odours arising from use of the premises, including the installation and maintenance of any required/proposed ventilation and extraction system(s).

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

Reason - Details of the matters specified are lacking from the submission and to ensure an acceptable form of development in the interests of the amenity of the area including any neighbouring residential property.

- 30 In relation to the proposed installation of air source heat pumps to residential property:

- a) noise emissions associated with the air source heat pumps installed at all affordable housing located throughout the development shall not exceed the (sound pressure) levels stated in Figure D.12 and D.13 of the submitted Noise Impact Assessment (Rev 02, February 2017, by Arup, as submitted as part of application 16/01244/APP); and
- b) noise emissions associated with air source heat pumps installed at all other (private) dwellings shall not exceed the (sound pressure) levels stated in the manufacturer's information brochure as provided for the proposed installation of the following heat pump units: Daikin Altherma Hybrid Heat Pump EVLQ 05CV3 and 08CV3; Daikin Monobloc 6kw - 8kw types EBHQ 006 BBV3 and EBHQ 008BBV3.

Reason -To ensure an acceptable form of development in the interests of the amenity to individual properties on which heat pumps are installed and upon any neighbouring residential property.

- 31 No development shall commence within Village Core (Phase 1 B) until details have been submitted to and approved by the Council, as Planning Authority in consultation with the Environmental Health Manager regarding a noise impact assessment pursuant to Planning Advice Note PAN 1/2011 and the associated Technical Advice Note Assessment of Noise (TAN). The Assessment shall identify the noise implications arising from the proximity of the proposed development to the existing gas transmission station and all required/proposed measures to property within Village Core to mitigate the impact of noise arising from the station. The assessment findings shall be reported in terms of BS 4142: 2014 Methods for rating and assessing industrial and commercial sound.

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

Reason -To ensure an acceptable form of development in the interests of the amenity of the proposed development and the surrounding area.

- 32 For residential development located along Linkwood road (within Village Gardens, Village Core and Meadows North), no 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 a suitable mitigation plan for outdoor amenity areas of residential properties predicted to experience unmitigated external road traffic daytime noise levels over a sound pressure level of L A eq, 16 hour 55 dB, as highlighted in Chapter 8.2 of the submitted Noise Impact Assessment (Rev 02, February 2017, by Arup as submitted with application 16/01244/APP). The plan shall include the location, design specifications and times-scale for delivery of all proposed measures to mitigate noise impact.

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

Reason - Details of the proposed mitigation measures to be adopted are lacking from the submitted particulars and to ensure an acceptable form of development in the interests of the amenity of the development and the surrounding area.

- 33 In relation to any proposed use of any identified premises for Class 1, 2 or 4 development:
- a) noise emissions between the daytime period of 0700 to 2300 hours shall not exceed Noise Rating Curve (NR) 25, as determined within a living apartment of the nearest noise sensitive property with the external window moderately ajar. This limit would apply and be determined over a 1-hour duration within any daytime period; and
 - b) noise emissions between the night time of 2300 to 0700 hours shall 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 - In order to minimise the impact of the operation of the use of premises as identified for development upon the amenity of adjoining residents.

- 34 Notwithstanding the submitted details, no development shall commence 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 1:2000 minimum) showing the position of bus stops and 400 metre walking isochrones within all character areas of the development and on the adjacent public roads;
 - ii) drawing(s) (scale 1:500 minimum) showing:
 - a) positions of bus stops and bus stop infrastructure (shelters and flags);
 - b) widening of bends on all bus routes to enable buses to pass each other without conflict, excluding locations where traffic calming measures are to be provided; and
 - iii) timescales for the delivery of all bus stop infrastructure within each area proposed for development and on the adjacent public roads.

Thereafter, the bus stops and infrastructure shall be provided in accordance with the approved details and agreed timescales.

Reason - To ensure the satisfactory provision of public transport infrastructure through the provision of details currently lacking and/or incorrectly shown on the submitted particulars to date.

- 35 Prior to first use or occupation of the Centre, or the (Linkwood) Primary School (located to west of Village Garden) or first dwelling accessed via Linkwood Road, whichever is sooner, the following shall be provided in accordance with the details and timescale as approved under Condition 36 of formal decision notice 16/01244/APP dated 10 May 2018:
- i) a new pedestrian and cycle bridge crossing of the Linkwood Burn; and
 - ii) a continuous 6.0m wide carriageway and a pedestrian and cycle shared use path on the eastern side of the road side from the Linkwood bridge to the junction with Reiket Lane bridge and improvements to Linkwood Road.

Reason - To ensure acceptable infrastructure is provided to access the development by foot, cycle, vehicle and public transport in the interests of road safety, through the provision of details currently lacking from the submission.

- 36 During the replacement of the crossing(s) over the Linkwood Burn, and for any part of the development accessed from Linkwood Road, the proposed route of an alternative access to the development character areas accessed via Linkwood Road to be utilised by all traffic (including emergency services) shall be provided in accordance with the details and timescale as approved under Condition 37 of formal decision notice 16/01244/APP dated 10 May 2018:

Reason - To ensure an acceptable alternative means of access to the development during the replacement of the bridge crossing(s) over Linkwood Burn for pedestrians, cyclists, vehicles, public transport and emergency services in the interest of road safety.

- 37 Prior to the commencement of the 216th dwelling (houses and/or flats/apartments) accessed from Linkwood Road a detailed drawing (scale 1:500) shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority showing the location, design specifications and timescale for the delivery of an alternative access route to the development character areas accessed via Linkwood Road to be utilised by all traffic (including emergency services), together with the separate arrangements for access for pedestrians and cyclists, to be provided at all times during the replacement of the crossing(s) over the Linkwood Burn.

Thereafter, the alternative access route shall be provided in accordance with the approved details and agreed timescale.

Reason - To ensure an acceptable alternative means of access to the development during the replacement of the bridge crossing(s) over Linkwood Burn for pedestrians, cyclists, vehicles, public transport and emergency services in the interest of road safety, through the provision of information currently lacking from the submission.

- 38 Prior to work commencing or within one year of 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:
- i) a detailed drawing (scale 1:500) showing the location, design specifications of replacement bridge crossing(s) of the Linkwood Burn which provides for a minimum 6.0m wide vehicular carriageway with 3.0m wide pedestrian and cycle shared use paths on both sides of the bridge crossing;
 - ii) a detailed drawing (scale 1:500) showing the location, design specifications for a continuous 6.0m wide carriageway and pedestrian and cycle shared use paths on both sides of Linkwood Road from and including the new bridge over the Linkwood Burn to the junction with Reiket Lane to the north; and
 - iii) details of all changes/modifications to the design, to be informed by a Stage 1/2 Road Safety Audit (RSA), for the improvements to Linkwood Road.

Thereafter and prior to the commencement of the 476th dwelling (houses and/or flats/apartments) to be accessed via Linkwood Road, the replacement bridge and improvements to Linkwood Road shall be provided in accordance with the approved details.

Reason - To ensure that the road improvement works and replacement bridge are designed to an appropriate standard and to ensure the provision of a safe and suitable access, including for pedestrians and cyclists, to the development in the interest of road safety, through the provision of information currently lacking from the submission.

- 39 No development shall commence until a Travel Plan, which sets out proposals for reducing dependency on the private car for the commercial development, including the Sports Centre, has been submitted to, and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. The Travel Plan shall include:

- a) measures for the provision of bus services to serve the site, including the extension/enhancement of any existing services, and associated financial contributions;
- b) measures for encouraging staff and customers to travel by foot or cycle, including the provision of cycle storage and secure lockers for equipment;
- c) details for the management, monitoring, reviewing and reporting of these measures; and
- d) details of the duration of the Travel Plan.

The approved Travel Plan shall thereafter be implemented from the date of first occupation of any commercial part of the development, including the Sports Centre.

Reason - To ensure that the development offers a wide range of travel choices to reduce the impact of travel and transport on the environment.

- 40 No development shall commence until a Travel Information Pack, which sets out opportunities for travel by foot, cycle and public transport, has been submitted to, and approved in writing by the Council, as Planning Authority in

consultation with the Roads Authority. The Travel Information Pack shall include:

- a) information on routes for pedestrians and cyclists to access local facilities;
- b) information on the provision of bus services serving the development;
- c) details of how to access personal Travel Planning and of incentives to travel by foot, cycle and public transport; and
- d) details of the programme for updating the Travel Information Pack as the development progress, to be carried out annually.

The approved Travel Information Pack shall thereafter be provided to each dwelling as they are completed from the date of first completion of any part of the residential development.

Reason - To ensure that the development offers a wide range of travel choices to reduce the impact of travel and transport on the environment.

- 41 Except for development occurring within Phase 1A (including South Glassgreen (50 affordable dwellings), prior to the commencement of any part of the development accessed from the A941 Elgin to Dufftown Road, the following shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority:

- i) a detailed drawing (scale 1:500) showing the location, design specifications and timescale for delivery of the access to the development on the A941 including the proposed design speed, visibility splay requirements and junction type; and
- ii) details of all changes/modifications to the design, to be informed by a Stage 1/2 Road Safety Audit (RSA) for the proposed junction, and any other works proposed on the A941 e.g. bus laybys and pedestrian crossings.

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 interest of road safety through the provision of information currently lacking from the submission.

- 42 Prior to the commencement of the 51st dwelling (houses and/or flats/apartments) within the area proposed for development at South Glassgreen, the internal road network for that area shall be connected to the road network of adjacent development to the north of the site and made available for use by all vehicles, pedestrians and cyclists.

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

- 43 Prior to the commencement of any part of the development accessed from the C2E Elgin - Birnie Road, the following shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority:

- i) a detailed drawing (scale 1:500) showing the location, design specifications and timescale for delivery of road widening of Birnie Road to 6.0m (minimum) over the full length of the development frontage onto Birnie Road together with a 2.0m wide verge on the west side of the road and a 3.0m wide pedestrian and cycle shared use path on the east side connecting into the existing pedestrian/cycle network to the north;
- ii) a detailed drawing (scale 1:500) showing the location, design specifications and timescale for delivery of the access to the development on Birnie Road including the design speed, visibility splay requirements and junction type; and
- iii) details of all changes/modifications to the design, to be informed by a Stage 1/2 Road Safety Audit (RSA), for the proposed junction and, any other works proposed on Birnie Road e.g. pedestrian crossings.

Thereafter, the development access and improvements to Birnie Road shall be provided in accordance with the approved details and within the 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 through the provision of information currently lacking from the submission.

- 44 Prior to the commencement of the 51st dwelling (houses and/or flats/apartments) within the area proposed for development at Crescent North,

- i) the internal pedestrian and cycle path networks for that area shall be connected to the path and cycle networks within the adjacent development to the north of the site and made available for use; and
- ii) an emergency access shall be provided onto Birnie Road (drawing EL44_CN_04 Rev G.

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

- 45 For Crescent North and notwithstanding the details on drawings EL44_CN_02 Rev G, EL44_CN_04 Rev G and EL44_CN_MC_01 Rev A, no development shall commence until the following have 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:
- a) a detailed Plan (1:500 minimum) shall be provided showing the proposed connection at the northern end of the ramped path and a direct crossing of the track to the path network within the development to the north; and
 - b) provision of a continuous 3m wide cycle path which shall be provided adjacent to Birnie Road (as shown on drawing EL44_CN_L_01 Rev B and connected to the existing cycle path network on the east side of Birnie Road to the north of the development along the southwestern boundary of the landscape area to the south of Plot 6.

Thereafter, and prior to first occupation or completion of building works, whichever is the sooner, for the 1st house within Crescent North the following shall be provided in accordance with the approved details and made open and available for use:

- a) the path connection from Crescent North to the development to the north; and
- b) the 3m wide cycle path adjacent to Birnie Road.

Reason - To ensure an acceptable infrastructure is provided in the interests of sustainable transport and the provision of non-vehicular access to the development together with the required provision of details currently lacking from the submitted particulars.

- 46 For Meadows North and notwithstanding the details on drawings EL44_MN_02 Rev E, EL44_MN_04 Rev E and EL44_MN_06 Rev F, no development shall commence until the following details, including drawing(s) (scale 1:500 minimum) and timescales for the delivery, have 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:
- a) references to Informal 'Mown' Footpaths as identified on drawing EL44_MN_04 Rev E between plots 100 and 103, 72 and 73, and Plot 48 to the cycle path to the west to be removed and replaced with a '2m wide compacted or bound surface, footpath' (and the revised details shall supersede all others for these paths);
 - b) plot boundaries 86-93 to be set back behind the 43m forward visibility line;
 - c) vehicle swept path analysis for car/car, car/refuse, car/bus and bus/bus for all 'linking streets' and 'local streets' within Meadows North; and
 - d) the extension of the 5.5m road width on the road located between plots 68 and 94 from its junction with road fronting Plots 68 and 94 to provide sufficient length to accommodate a refuse vehicle clear of the junction.

Thereafter, the road widening identified through the swept path analysis to accommodate vehicle movements and the road widening, road extension, footpaths and forward visibility shall be provided and maintained in accordance with the approved details and agreed timescales.

Reason - To ensure acceptable infrastructure is provided within this character area to cater for movements by foot including ambulant disabled persons, cycle, vehicle and public transport through the provision of details currently lacking and/or incorrectly shown on the submitted particulars to date.

- 47 For Village Core and notwithstanding the details on drawings EL44_VC_02 Rev E, EL44_VC_04 Rev E, and EL44_VC_06 Rev F, no development shall commence until the following details, including drawing(s) (scale 1:500 minimum) and timescales for delivery, have 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:
- a) relocation of the bin storage area on the southern side of the private access between plots 19-22 and 23 to a position to the rear of the access visibility splay;
 - b) vehicle swept path analysis for car/car, car/refuse, car/bus and bus/bus for all 'linking streets' and 'local streets' within Village Core;
 - c) provision of a continuous footway on at least one side of the road between plots 30 and 44;
 - d) widening of road between plots 19-22 and 176-177 to 5.5m, to allow sufficient width for a car and refuse vehicle to pass at the junction with the road fronting plots 19-22 and 176-177; and

- e) widening of the 4.1m wide approaches to 5.5m at the junction of the road fronting plots 152-155 and the road fronting plot 29 to enable a car and refuse vehicle to pass.

Thereafter, the road widening identified through the swept path analysis to accommodate vehicle movements, the bin storage area, footways and road widening shall be provided and maintained in accordance with the approved details and agreed timescales.

Reason - To ensure acceptable infrastructure is provided within this character area to cater for movements by foot, cycle, vehicle and public transport through the provision of details currently lacking and/or incorrectly shown on the submitted particulars to date.

- 48 For Meadows East and notwithstanding the details on drawings EL44_ME_04 Rev C and EL44_ME_06 Rev D, no development shall commence until the following details, including drawing(s) (scale 1:500 minimum) and timescales for delivery, 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:

- a) references to Informal 'Mown' Footpaths as identified on drawing EL44_ME_04 Rev E between plots 163 and 175, on the eastern side of plot 164, between plot 157 and the cycle path to the north of the SUDs infrastructure and to the end of the private driveway serving plot 156, between plot 69 to the cycle path to the east, and between plot 10 and the turning facility to the east, to be removed and replaced with '2 metre wide compacted or bound surface, footpath' (and these revised details shall supersede all others for these paths);
- b) vehicle swept path analysis for car/car, car/refuse, car/bus and bus/bus for all 'linking streets' and 'local streets' within Meadows East;
- c) provision of a continuous 2m wide footway on the north side of the grass open space between plots 193, 148 and 195;
- d) extension of 3m wide cycle path on south side of play area from plot 142 to the end of the turning head;
- e) extension of 2m wide footpath across the accesses to plots 73/74 and 69-72 to link with cycle path on north side of play area;
- f) provision of a 2m wide path across the entrance of the private driveway serving plots 175-180;
- g) provision of a 2m wide footway or verge along road frontages of plot 168;
- h) extension of 3m wide cycle path southwards along frontage of plots 33-36 and 37-40 to junction with Linking Street serving plots 84-91; and
- i) widening of road between plots 50 and 57 to 5.5m, on the approach to and through the bend to allow sufficient width for vehicles to pass (car and refuse on the approach to the bend, car and car at the bend).

Thereafter, the road widening identified through the swept path analysis to accommodate vehicle movements and the footpaths, footways, cycle path and road widening shall be provided and maintained in accordance with the approved details and agreed timescales.

Reason - To ensure acceptable infrastructure is provided within this character area to cater for movements by foot, including ambulant disabled persons, cycle, vehicle and public transport through the provision of details currently lacking and/or incorrectly shown on the submitted particulars to date.

49 For Village Garden and notwithstanding the details on drawings EL44_VG_04 Rev G and EL44_VG_06 Rev H, no development shall commence until the following details, including drawing(s) (scale 1:500 minimum) and timescale for delivery, have 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:

- a) a 2m wide footpath on the northern side of Plots 22 – 29 and the northern side of Plot 12 to provide a continuous route (which a crossing of the housing road) for pedestrians between the proposed footway to the west of Plots 22 - 25 and the cycle path to the north of Plot 12;
- b) a 2m wide footpath between the parking bays of plots 6 and 7, and a crossing of the internal road to link the footway to the east of Plot 35 with the footway in front of Plots 6 and 7;
- c) reduction in the cycle path width between Plots 50 and 51 by providing a consistent 3m wide path around the bend.

Thereafter, the proposals shall be provided and maintained in accordance with the approved details and agreed timescales.

Reason - To ensure acceptable infrastructure is provided within this character area to cater for movements by foot, cycle, vehicle and public transport through the provision of details currently lacking and/or incorrectly shown on the submitted particulars to date.

50 For South Glassgreen and notwithstanding the details on drawings EL44_SG_02 Rev K, EL44_SG_03 Rev K, EL44_SG_04 Rev I and EL44_SG_06 Rev H, EL44_SGG_L_01 Rev C, EL44_SGG_MC_01 Rev A, no development shall commence until the following details, including drawing(s) (scale 1:500 minimum) and timescales for delivery, have 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:

- a) the junction design for the proposed access from the A941 including provision for pedestrian access to southbound bus stop; and
- b) vehicle swept path analysis for car/car, car/refuse, car/bus and bus/bus.

Thereafter, the road widening identified through the swept path analysis to accommodate vehicle movements and the pedestrian access to the southbound bus stop shall be provided and maintained in accordance with the approved details and agreed timescales.

Reason - To ensure acceptable infrastructure is provided within this character area to cater for movements by foot, cycle, vehicle and public transport through the provision of details currently lacking and/or incorrectly shown on the submitted particulars to date.

51 No works shall commence on any area proposed for development until a Construction Traffic Management Plan for the respective area 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;
- 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;
- full details of construction traffic routes from the A941 and 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.

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

As part of the requirements for a Construction Traffic Management Plan, for South Glassgreen, the location and layout of the contractor's car park and construction compound and laydown areas as shown on drawing ES (South Glassgreen) Eng-009 is not approved.

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. The current arrangements for South Glassgreen are unacceptable being located within an area identified and approved for advance (structure) planting (and conflict with the requirements of Condition 21 above.

52 No development shall commence on any area proposed for development until details have been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority regarding the formation of any required/proposed construction access(es) (which includes any temporary access(es) to the area proposed for development from any public road. The details shall include:

- a) a drawing (scale 1:500 minimum) regarding the location and design specifications of the proposed access(es);
- b) specification of the materials used for the construction access(es);
- c) all traffic management measures required to ensure safe operation of the construction access(es);
- d) details including materials for the reinstatement of any temporary construction access(es); and
- e) 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 works shall be provided 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.

- 53 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.

- 54 No fences, planting/hedges, walls or any other obstruction whatsoever over 0.6m measured from the level of the public carriageway shall be permitted within the 'forward visibility' areas or 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.

- 55 Parking provision shall be provided, and made available and thereafter be maintained for use at all times at the following level(s) of provision:

Private Housing:

- up to 3 bedrooms - 2 spaces.
- 4 or more bedrooms - 3 spaces.

Private Flats:

- up to 2 bedrooms - 1.5 spaces per flat.
- cycle parking at a rate of 2 stand/locker plus 1 stand per 20 flats.

Affordable Housing:

- up to 2 bedrooms - 1 space.
- 3 or more bedrooms - 2 spaces.
- cycle parking at a rate of 2 stand/locker plus 1 stand per 20 flats.

Sports Centre:

- 240 spaces (as proposed).
- 23 disabled spaces (as proposed).
- a minimum of 3 parking spaces shall be dedicated as electric car charging points, including provision of associated charging infrastructure.
- cycle parking provision at a minimum rate of 2 stands plus 1 additional stand per 50 seats.

Village Core:

- cycle parking provision for commercial uses at a minimum rate of 2 stands plus 1 additional stand for per 500sqm.

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.

- 56 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.

- 57 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.

- 58 For any part of the development accessed from Linkwood Road, the following shall be provided in accordance with the details and timescales as approved under Condition 59 of formal decision notice 16/01244/APP dated 10 May 2018:

- i) the 6.0m wide carriageway with 3.0m wide pedestrian and cycle shared use paths on both sides of Linkwood Road from the Linkwood bridge south to beyond the southernmost access to the development;
- ii) the accesses to the development on Linkwood Road; and
- iii) the proposed road improvements and access junctions onto Linkwood Road from the southernmost extent of any proposed works to the junction with Reiket Lane.

Reason - To ensure acceptable infrastructure is provided to access the development by foot, cycle, vehicle and public transport through the provision of details currently lacking and/or incorrectly shown on the submitted particulars to date.

Councillor Divers rejoined the meeting at this juncture.

9. Planning Application 18/01163/APP

A report by the Appointed Officer recommended that, subject to the conditions detailed in the report, planning permission be granted in respect of an application to vary condition 2 of planning consent 93/00558/FUL to allow extraction to take place for a further period of 25 years beyond the current permitted expiry date of 8th December 2018 at Netherglen Quarry, Longmorn, Elgin, Moray for Breendon Northern. The report also advised that members of the Committee visited the site of the application on 25 January 2019.

The Committee noted that the application had been referred to Committee as the application is a “major” development as defined under the Hierarchy Regulations 2009 because the site area exceeds 2 ha.

Following consideration, the Committee agreed to grant planning permission in respect of planning application 18/01163/APP as recommended subject to the following conditions and reasons:

1. The permission hereby granted shall be for a limited period only and shall cease to have effect on 29 January 2044 (the 'cessation date') by which time and prior to that cessation date, the application site shall be cleared of all development approved or involved in implementing the terms of the permission hereby granted (including all mobile plant and machinery, any ancillary works, infrastructure, fixtures and fittings, etc.), and the site shall be re-instated in accordance with a restoration and aftercare scheme which shall previously have been submitted to and approved in writing by the Council, as Planning Authority (see Condition 3 below).

Reason - To ensure an acceptable form of development enabling it to progress in accordance with the applicant's submitted particulars to allow for full extraction of available resources and site restoration thereafter, to enable the Council as Planning Authority to retain control over the use of the site and enable further consideration to be given to the operations, effects and impact of the use upon the amenity, character and appearance of the site and surrounding area together with securing the restoration of the site.

2. Within 3 months of the date of this permission (or other appropriate period agreed in writing by the Planning Authority), an up-to-date Site Specific Management Plan shall be submitted to and approved by the Planning Authority in consultation with SEPA. Thereafter all works shall be undertaken in accordance with the approved Plan. The Plan shall include the information (where applicable) outlined in paragraph 3.3 of the SEPA consultation response 9 October 2018 attached to this decision.

Reason - In order to minimise the impacts of the mineral extraction works on the environment and ensure up-to-date operating and environmental standards on site

3. At least one (1) year prior to mineral workings ceasing on the site and prior to any phased restoration works, a restoration and aftercare plan shall be submitted for the written approval of the planning authority, in consultation with SEPA, and all work carried out in accordance with the said scheme. The plan must include information on any proposals for phased working and progressive restoration, as well as the effect that any restoration will have on the water environment. The plan shall include (but not be limited to) the following information:
 - a) Proposals for phased working and progressive restoration.
 - b) Existing and proposed finished ground levels relative to a fixed datum.
 - c) Surface water drainage arrangements.
 - d) Details of any buffer strips between the works and any water features and other measures to minimise pollution.
 - e) Demonstration that the restoration proposals will not have a detrimental impact on the water environment, including groundwater quality and quantity.
 - f) Identify environmental enhancement opportunities that can be achieved through restoration. These could include habitat creation and management proposals.
 - g) A programme for the completion of the restoration and subsequent maintenance arrangements.

Reason - To retain control over this temporary form of development and ensure that the site is appropriately restored in the interests of the protection of the environment.

4. The further survey and mitigation measures detailed within the accompanying Preliminary Ecological Appraisal by ENVIRO CENTRE dated March 2018 submitted as part of this application shall be implemented by the Quarry Operator, unless otherwise agreed with the Council as Planning Authority.

Reason - To ensure the adequate protection and enhancement of ecological features and protected species.

5. All quarry operations shall be carried out and permitted between 0700 – 1900, Monday to Friday, and 0700 – 1300, Saturdays and at no other times without the prior written consent of the Council, as Planning Authority in consultation with the Environmental Health Manager.

Reason - In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

6. During the normal daytime working hours defined in the above condition, noise emissions associated with the development shall not exceed the free-field Equivalent Continuous Noise Level (LAeq,1h) of 52dB(A), as determined at any existing noise sensitive property.

Reason - In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

7. At the reasonable request of the Planning Authority, following a complaint relating to noise from quarry operations at the development, the developer shall measure at its own expense noise emissions as they relate to the permitted consent limits having regard to measurement locations and methodologies as detailed in Planning Advice Note 'PAN50, Annex A: The Control of Noise at Surface Mineral Workings'. The results of such monitoring shall thereafter be forwarded to the Planning Authority. In the event that the results of the subsequent monitoring specified above records levels exceeding that in condition 6 above further timeous mitigation measures will be required to be identified in a scheme agreed in writing by the Planning Authority, in consultation with the Environmental Health Manager, and thereafter implemented.

Reason - In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

8. Prior to the commencement of any blasting operations a scheme for the monitoring of blasting including the location of monitoring points and equipment to be used shall be submitted to the planning authority for written approval. All blasting operations shall take place only in accordance with the scheme as approved or with such subsequent amendments as may receive the written approval of the Planning Authority.

Reason - In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

9. Ground vibration as a result of blasting operations at the development shall not exceed a peak particle velocity of 6 mms-1 in 95% of all blasts and no individual blast shall exceed a peak particle velocity of 10mms-1 as measured at vibration sensitive buildings. The measurement shall be the maximum of 3 mutually perpendicular directions taken at the ground surface at any vibration sensitive building.

Reason - In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

10. No blasting shall be carried out on the site except between the following times (1000 and 1200 hours) and (1400 and 1600 hours) Monday to Fridays and (1000 and 1200 hours) on Saturday. There shall be no blasting or drilling operations on Sundays, Bank or National Holidays. This condition shall not apply in cases of emergency when it is considered necessary to carry out blasting operations in the interests of safety the Planning Authority shall be notified in writing immediately of the nature and circumstances of any such event.

Reason - In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

11. Within 3 months of the date of this permission, details shall be submitted to and approved by the Planning Authority in consultation with the Council Roads Authority for edge strengthening works to the A941 and site access over a continuous 55 metre length comprising 40 metres of the A941 road from the start of the entrance to the site extending southwards on the west side and the first 15 metres of the edge of the access from the start of the entrance to the site on the A941. Thereafter the agreed road edge strengthening works shall be completed in accordance with the approved details within 6 months of the date of this permission.

Reason - To ensure acceptable infrastructure is provided on the route to/from the development in the interests of road safety.

12. Within 3 months of the date of this permission, written evidence shall be submitted the Council as Planning Authority that a S96 Wear and Tear Agreement between the Quarry Operator (or their appointed representative) and the Roads Authority (Roads Maintenance) has been completed. The Wear and Tear agreement shall include the full width of the A941 road over a 70 metre length centred at the access to the development onto the A941 and be provided for the lifetime of the development.

Reason - To ensure infrastructure is maintained at the access to the development in the interests of road safety.

13. Within 3 months of the date of this permission, details of evidence from the Quarry Operator shall be submitted to and approved by the Planning Authority in consultation with the Council Roads Authority, which confirms the provision of advanced warning signs (2 southbound and 1 northbound) on the A941 at locations to a specification previously agreed with the Council Roads Authority (Traffic Section).

Reason - To ensure acceptable infrastructure is provided at the access to the development in the interests of road safety.

14. No water or loose material shall drain or be carried onto the public carriageway for the life-time of the development.

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.

15. Notwithstanding the provisions of Classes 55 and 56 of the Town & Country Planning (General Permitted) (Development) (Scotland) order 1992 (as amended, revoked or re-enacted; with or without modification) no buildings, plant or machinery (other than the mobile plant/machinery for extraction works located within the areas of extraction operations; and plant/machinery/buildings for processing aggregate construction products within the areas of processing operations), shall be installed or operated within the site without the prior approval of the Council as Planning Authority.

Reason - In order to retain effective control over future development within the application site so that it is carefully managed and does not result in over-development or adversely impact on the amenity or character of the area.

16. No tree felling shall commence on site until a woodland planting scheme to compensate for the removal of 1.4 hectares of woodland from the site (the location and planting timescale(s) for which are shown on the Tree Compensation Plan drawing number N01/PA/010) has been submitted to and approved in writing by Moray Council in consultation with Forestry Commission Scotland. 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 (Tree Compensation Plan drawing number N01/PA/010 refers);
- 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;
- 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 (Tree Compensation Plan drawing number N01/PA/010 refers);
- f. proposals for the maintenance and establishment of the Replanting Scheme, including; annual checks; replacement planting; fencing; ground preparation; and drainage.

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 Moray Council in consultation with Forestry Commission Scotland.

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

17. Once mineral extraction has been exhausted or the permission duration expires (whichever is the sooner) the final restoration phase of Netherglen Quarry shall be carried out in accordance with the approved restoration plan. The restoration works shall be carried out within 12 months of the quarry ceasing to operate or at the latest within the 25th year following the date of this consent.

Reason - In order to ensure, upon expiry of the mineral extraction, that the quarry is landscaped to minimise any long term visual impact and to encourage biodiversity back to the area.

18. Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless this Council as Planning Authority gives written consent to any variation of this planning condition. This includes those planted as part of the progressive restoration of the quarry in addition to the remaining planting required as part of the final phase of the approved Concept Restoration Plan.

Reason - In order to ensure that the approved landscaping works are properly maintained in a manner to ensure the appropriate landscaping and quarry restoration is achieved.

19. The proposed phasing, progressive and final restoration and landscaping details as shown on the approved Concept Restoration Plan drawing number N01/PA/007 and the associated restoration and aftercare plan submitted/approved under the terms of condition 3 must be adhered to, unless approved in writing by the Council as Planning Authority.

Reason - In order to ensure that the approved phasing of operations and proposed restoration and planting details are provided.

10. Planning Performance Framework 2017/18

A report by the Corporate Director (Economic Development, Planning and Infrastructure) presented the Committee with the Planning Performance Framework (PPF) for 2017/18, as submitted to the Scottish Government on 12 July 2018, covering the period 1 April 2017 to 31 March 2018 for Moray Council. The report summarised the feedback received from the Scottish Government on 10 January 2019 with specific reference to the performance Markers Report and RAG (Red, Amber, Green) ratings for the 2017/18 submission.

The Committee joined the Chair in commending the Service for their excellent performance and thereafter agreed to:

- (i) note the Planning Performance Framework submitted to the Scottish Government on 12 July 2018 as set out in Appendix 1 of the report;
- (ii) note the feedback report received from the Scottish Government on 10 January 2019 as set out in Appendix 2 of the report;
- (iii) authorise the Head of Development Services to submit the Planning Performance Framework for 2018/19 to the Scottish Government by the end of July 2019 (or any other date that may be set);

- (iv) note that the Planning Performance Framework 2018/19 will be reported to the first available Planning & Regulatory Services Committee following receipt of the feedback; and
- (v) note the Planning Performance Framework 2017/18 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 2018/19.

11. Planning Etc (Scotland) Act 2006: Scheme of Delegation

Under reference to paragraph 5 of the Minute of this Committee dated 25 February 2014, a report by the Corporate Director (Economic Development, Planning and Infrastructure) reviewed the existing adopted Scheme of Delegation approved by this Committee on 25 February 2014 as it is a requirement of The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013 to prepare such a Scheme of Delegation at intervals of no greater than every five years.

Following consideration the Committee agreed to approve the revised Scheme of Delegation as set out in Appendix 1 of the report, which will be submitted to the Scottish Government for approval prior to adoption.

12. Development Plan Scheme 2019 – Moray Local Development Plan 2020

Under reference to paragraph 13 of the Minute of this Committee dated 27 February 2018, a report by the Corporate Director (Economic Development, Planning and Infrastructure) asked the Committee to consider the current timetable for the preparation of the Local Development Plan 2020 and to agree that the Development Plan Scheme is submitted to the Scottish Government.

Following consideration, the Committee agreed:

- (i) the Development Plan Scheme 2019 for the Moray Local Development Plan 2020, as set out in Appendix 1 of the report; and
- (ii) that the Scheme is submitted to the Scottish Government.

13. Aligning Planning and Roads Construction Consent

Under reference to paragraph 10 of the Minute of this Committee dated 19 June 2018, a report by the Corporate Director (Economic Development, Planning and Infrastructure) informed the Committee of the outcome of the consultation exercise on the proposal to seek to align Planning Consent and Roads Construction Consent (RCC) in circumstances where the applicant/developer agrees to this approach and in all cases where the Council is the applicant/developer.

Following consideration, the Committee agreed:

- (i) to note that no representations were received in relation to the consultation with agents/developers to align the design principles of Planning and RCC;

- (ii) that aligning the design principles of Planning and RCC should be promoted as best practice by Moray Council in circumstances where the applicant/developer agrees to this approach and signs a Processing Agreement;
- (iii) that existing procedures will be reviewed to enable the consenting processes to be aligned as proposed in the implementation plan in Appendix 1 of the report;
- (iv) not to waive the Pre-application costs associated with applications to assist developers with the additional upfront costs of aligning consents;
- (v) that regardless of an aligned process as set out above, the roads authority consultation response will state if insufficient detail is received to fix the street layout and enable a proper assessment of a planning application, and
- (vi) to instruct Officers to arrange a training session for Members on Designing Streets, and the use of Street Engineering Reviews & Quality Audit as material planning considerations.

14. Tree Preservation Orders

Under reference to paragraph 13 of the Minute of this Committee dated 19 June 2018, a report by the Corporate Director (Economic Development, Planning and Infrastructure) asked the Committee to confirm the Tree Preservation Orders approved by this Committee on 19 June 2018 at Dallas Dhu, Forbes and Findhorn Village Entrance, with modifications.

Following consideration the Committee agreed to confirm:

- (i) 'The Moray Council (Dallas Dhu) Tree Preservation Order (No 1) 2018' with a modification, as detailed in paragraph 4.3 of the report; and
- (ii) 'The Moray Council (Findhorn Village Entrance) Tree Preservation Order (No 1) 2018' with a modification, as detailed in paragraph 4.6 of the report.

15. Question Time

There were no questions raised.



**GUIDANCE NOTE PRODUCED FOR PLANNING & REGULATORY SERVICES COMMITTEE
MEETING OF 26 MARCH 2019**

REPORT ON APPLICATION

“Note for guidance of the Committee where the decision of the Planning and Regulatory Services Committee is contrary to the recommendations of the Director of Environmental Services in respect to a Planning Application.”

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

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

Note for guidance where the decision of the Planning and Regulatory Services Committee is to depart from the Local or Structure Plan.

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

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

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

Censure of a Councillor or an Officer

Suspension of a Councillor for up to one year

Disqualification of a Councillor for up to five years

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

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

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

WARD 01_17

18/01561/APP
15th January 2019

Retrospective change of use from agricultural to use for exercising dogs to provide a secure dog walking field at Site At Rabbit Rock Craigellachie Moray for Mr Roger Hull

Comments:

- A site visit has been carried out.
- The application falls within the category of "major development" as defined within the approved delegation scheme, where the overall area of the proposed site exceeds 2 hectares.
- Advertised for neighbour notification procedures.

Procedure:

- None.

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

Conditions/Reasons

Permission is granted subject to the following conditions:

1. Within three months of the date of decision, a detailed landscape plan (drawn to scale) is to be submitted to and approved by the Planning Authority. This Landscape plan shall show details of the numbers, species, position, planting distances and sizes of all planting to be undertaken along the western boundary of the site.

Thereafter all planting, seeding or turfing forming part of the approved landscape scheme shall be carried out in the first planting and seeding season following the issue of decision. Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless this Council (as Planning Authority) gives written consent to any variation of this planning condition.

Reason: In the interest of residential amenity and to aid integration of the development with the surrounding landscape.

Reason(s) for Decision

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

The proposal accords with the relevant policies of the Moray Local Development Plan 2015 and there are no material considerations that indicate otherwise.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
	Details of gate and fence
	Site location plan



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:

18/01561/APP

Site Address:

Site At Rabbit Rock
Craigellachie

Applicant Name:

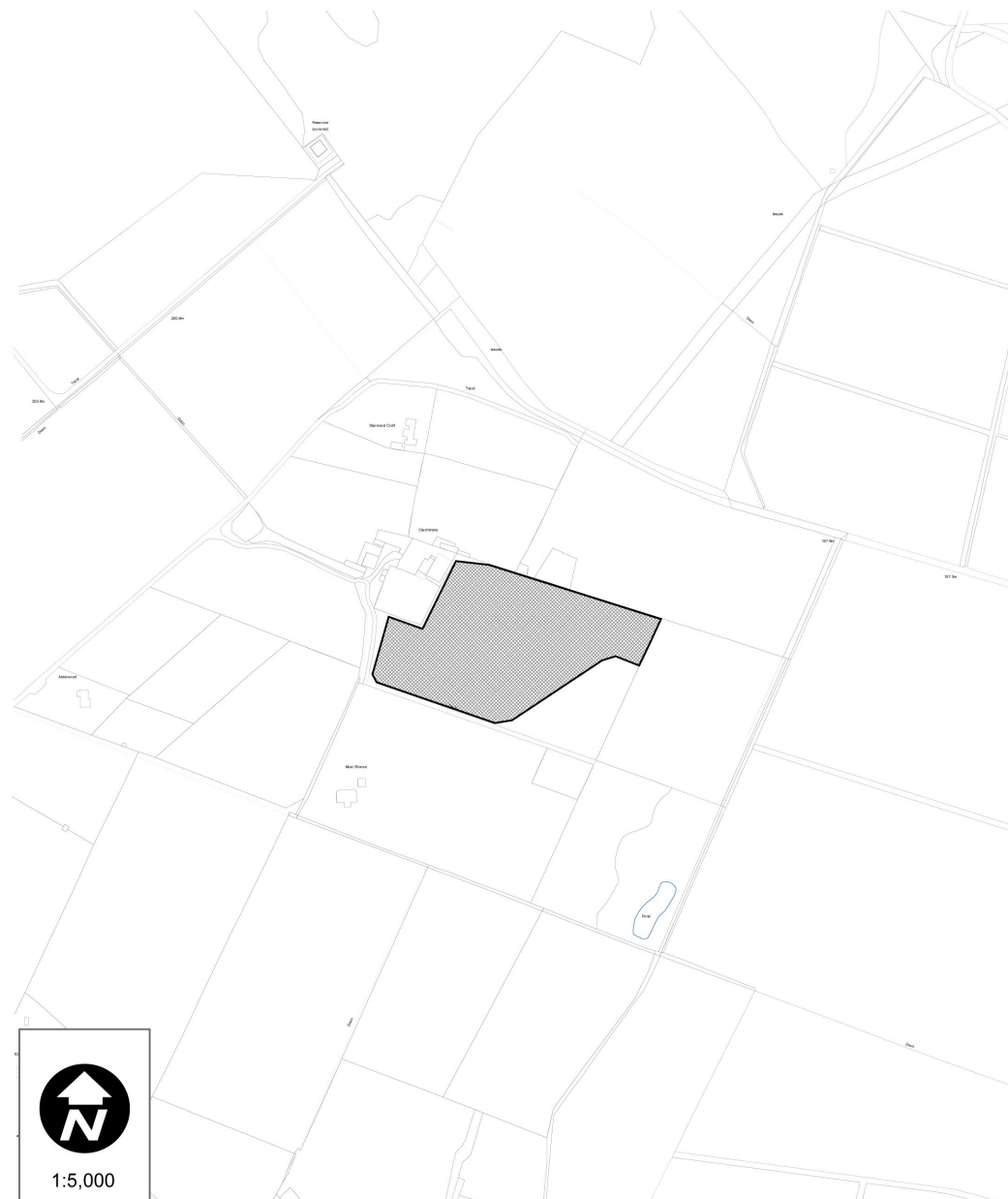
Mr Roger Hull

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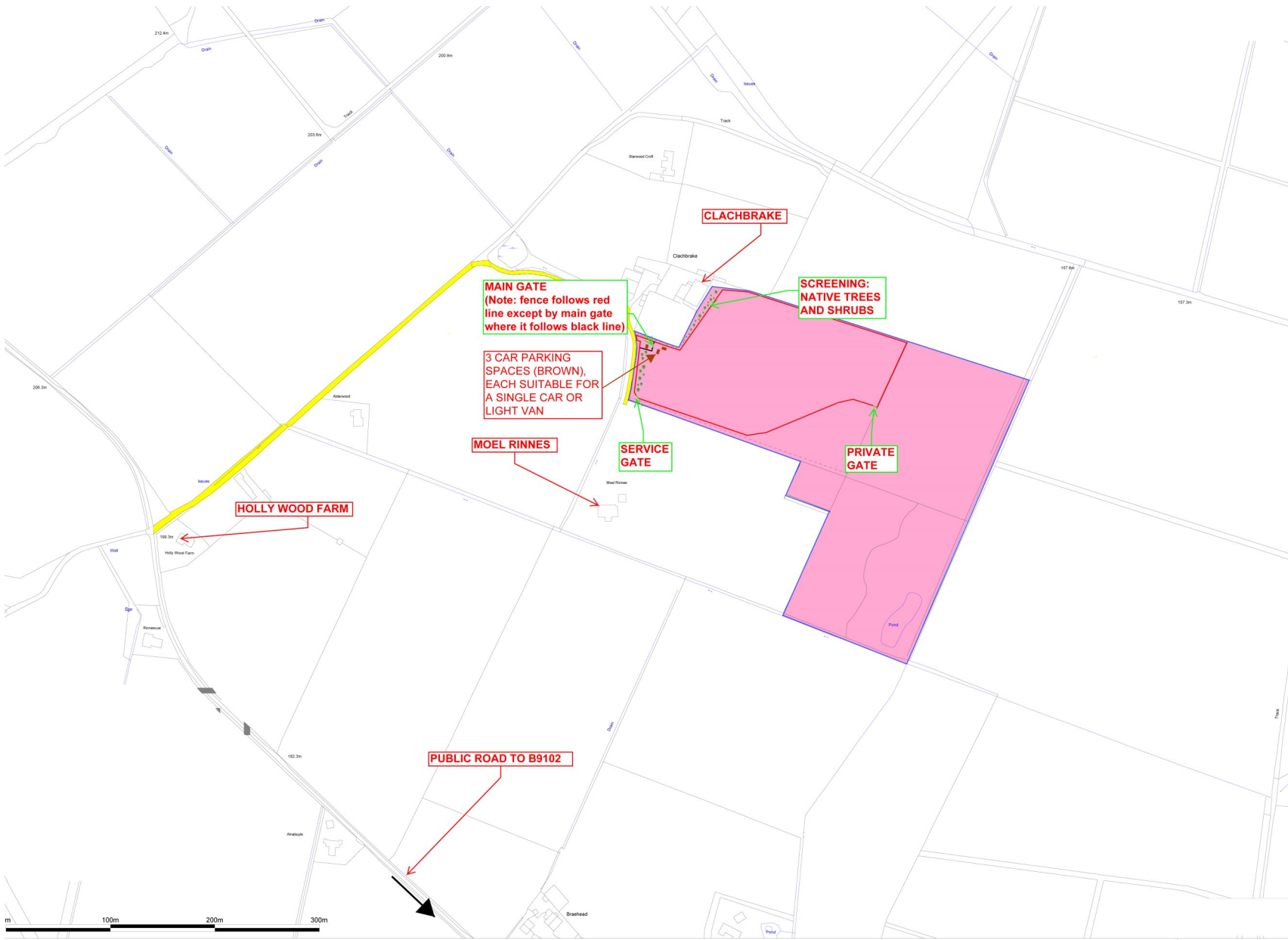
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Location Plan



Site Location



PLANNING APPLICATION: 18/01561/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 retrospective planning permission for the change of use of agricultural land to a secure dog walking Field for dog exercising at Rabbit Rock, Craigellachie.

- The physical features of the secure dog walking Field at Rabbit Rock, include:
 - A 1.9m high deer fence around the perimeter of the Field, with 1m of stock fence laid horizontally on the ground on the inside perimeter of the Field.
 - One customer access gate which is padlocked (code changed regularly) located on the western boundary of the site, with a small car parking area located outwith the Field extent beyond the gate.
 - There are two other access gates to the Field: a service gate located on the south west corner of the site and a private access gate located at the south east corner of the site.
 - An area of hardstanding is provided at the site access which provides sufficient space to allow users to park and turn inside and outside the Field access gate. Two parking spaces are provided inside the access gate and one parking space is provided outside the gate. There is sufficient space for a second vehicle to temporarily park in front of the access gate.
 - A bin is provided for dog and other non-recyclable waste.
 - A mains water standpipe is provided for clean drinking water.
- In summary, the proposed use and operation of the secure dog walking Field will entail:
 - The use of the Field for a 50 minute session by one customer and their dog(s), to enable off lead exercising, particularly for dogs who cannot be allowed off lead in a public place, such as:
 - dogs who have poor re-call,
 - dogs who have behavioural traits that mean they cannot be walked off lead,
 - dogs who are subject to dog control orders/notices,
 - dogs who are a prohibited breed.
 - Under the rules of the Field it would be permissible for a customer to invite their friend and their dog(s) for the session.
 - Users are normally limited to a single vehicle, although in exceptional circumstances a second vehicle may be allowed but there is a higher charge for this as the applicant wishes to discourage second vehicles to the site.
 - Professional dog walkers are permitted to use the Field, although they must advise the applicant of their intended use of the Field beforehand.
 - Vehicles must be parked inside the Field and the gate locked shut before dog(s) are let out the vehicle.
 - The changeover arrangements (during the 10 minute overlap between sessions) mean that there could be one (maximum two vehicles) inside and outside of the fence.

- Dogs must not be left unaccompanied in the Field at any time.
- Under the rules of the Field users are asked to always pick up and waste after their dogs, and ensure that their dogs are wormed regularly. The Field is inspected frequently for safety and cleanliness by the applicant. The applicant(s) also does a weekly Field clean.
- The hours of operation are 9am to 8pm, 7 days a week. The Field is closed on Christmas Day, Boxing Day, New Year's Eve and New Year's Day.
- Users of Rabbit Rock Field must adhere to the Rules of the Field (as detailed in the applicant's Supporting Statement) and use of the Field is at the discretion of the applicant.
- Users are responsible for assessing if the fence around the Field is safe for the dog(s).
- The planning application has been supported by a Planning Statement, and comments in support of the application from the National Farmers Union, Moray Council Animal Welfare Officer and a local vet have been submitted as part of the application. The applicant has also prepared two documents which seek to address the comments made in the objections received to the application.

THE SITE

- The application site measures 2.5 hectares of sloping ground; the previous agricultural use on the site was for hay crops.
- The site is located in a countryside location and the surrounding land uses include: agriculture, rural housing, equestrian, forestry. The Macallan Distillery and the CHP power plant are in the wider vicinity of the site.
- There are a number of rural dwellings in the vicinity of the site that share the same private access track.
- The closest residential dwellings to the site are Clackbrake which is located beyond the north west corner of the Field, with the fence line for the Field having been set back approximately 2m from the mutual boundary and Moel Rinnes which is located to the south west, beyond the access track which separates the Fields.
- The property Senara is currently under construction to the north of the site.
- The applicants own dwelling is nearing completion it is located to the south east of the site.

HISTORY

None.

POLICY - SEE APPENDIX

ADVERTISEMENTS

- Advertised for neighbour notification purposes.

CONSULTATIONS

Archaeology Services – No objection.

Contaminated Land – No objection.

Environmental Health – No objection.

Transportation – No objection, with informatives provided.

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).

A total number of 75 representations have been made on the application, 61 of which have made comments in support of the application and 14 have raised objections to the retrospective application.

[Redacted content]

[REDACTED]

SUPPORT

In summary, the comments in support are centred on the following matters:

- The facility provides a well-managed and maintained, safe and secure area for dogs to run freely which brings positive benefits and enjoyment to the dogs and owners.
- The facility means that dogs can be exercised responsibly by their owners separate from livestock and wildlife thereby protecting the natural environment and surrounding livestock from disturbance, bringing benefits to farmers.
- It is a good facility for dog training.
- It is a much needed facility in Moray, particularly given the large size of the Field and high level of security.
- Tourism benefits with contributors advising that they have stayed or extended their holiday because of the facility.
- Contributors who travel to Moray to use the facility have commented that they used local services and business as a result of their visit.
- This type of facility is common outwith the north of Scotland.
- There is good separation from neighbouring properties.
- The facility is in-keeping with its rural location and is not an “eye sore”.
- This facility promotes responsible of lead walking and will provide a facility for dogs who cannot be walked off lead.
- The use of the surrounding Fields for equine use could result in at least twice as many vehicle movements to the area.

OBJECTIONS

Summary of the main points raised in the objections are:

Issue: Additional traffic and access concerns as a result of the change of use, including:

- Increase in number of vehicles using the private access track i.e. there could be an additional 2 vehicles per hour between 9am-8pm, 7 days a week.
- The private access track with no passing places is unsuitable for the increase in vehicles.
- The costs of repair and maintenance of the private access track.
- Poor visibility from the private access track on to the public road.
- Poor road awareness of the users of Rabbit Rock with examples of near-misses quoted and speeding.

Comments (PO): In assessing the planning application the Transportation Section raised no objection to the proposal. The Transportation Section has provided comments in response to the objections raised in relation to traffic and access concerns, these are detailed below.

Visibility - visibility is noted to be restricted at the access onto the U136E Whiteacan Road. A ‘y’ distance of around 70m would be considered appropriate for this location by Transportation given the estimated approaching traffic speeds and the road alignment itself. To the North, visibility is restricted by the road alignment however visibility is available to the bend in the road/passing place which is considered adequate by Transportation in this instance. Traffic speeds are estimated to be slower on approach to the bend in either direction. To the South the main restriction to visibility is the communal refuse area. The number of bins at the communal collection point appears to have increased over time associated with the build-up of housing plots along the track. A mix of large communal bins and individual sized bins were observed to be placed at the end of

the private access. As per Moray Council's kerbside collection policy individual bins should only be placed at the road end on the day of collection. Transportation consider that without this obstruction visibility of 70m to the South would be achievable. Whilst it is recognised that the full splay is not available at present, the use under consideration will not generate additional household waste and therefore the requirement to provide a formal access layby, that would in turn help in providing an improved visibility splay, cannot be attributed to this application. In addition the application under consideration is unlikely to result in an intensification of use beyond the traffic activity that is already accommodated at the access (more on traffic movements below). Therefore, Transportation has not at this time requested improvements at the access as a result of this application.

Traffic movements - Section 6.2 of the applicants supporting statement puts forward that the application could result in a maximum of four vehicles per hour during opening times (9am to 8pm). Transportation consider that this represents the absolute maximum and is unlikely to be the case from the applicant's supporting case. The Field would have to be booked by a different party for each hour of the day, with each customer visiting with two vehicles, for this level of traffic activity to occur. It should also be noted that the traffic activity would be spread throughout the day given the nature of the facility and the requirement to pre-book. Therefore, in the AM and PM peak hours where highest level of trips generated by the residential uses occur it is likely that only an additional four trips may be added due to this facility. There are no grounds to object in terms of lack of road capacity at this location for this low level of use.

U136E Whitecan Road – the public road that provides access to the private track serving Rabbit Rock Field is the U136E. This is an unclassified road subject to a speed limit of 60mph. However, drivers normally drive to the road conditions and given the road alignment it is estimated that approaching traffic is unlikely to be travelling at speeds in excess of 40mph. Transportation would expect that regular customers of such a facility would become aware of the road conditions and respond accordingly.

A development of this nature accessed off a single track road would normally be required to provide passing places. This road is on the agreed routes for the Timber Transport Forum. Surfacing is adequate and passing places (of a standard that can accommodate HGV traffic associated with timber transport) are provided along the road and therefore no further provision is required at this time between the B9012 and the site access.

Private track – the use, ongoing maintenance and provision of passing opportunities on the private track is a private matter and therefore the condition of this track has not been assessed by Transportation. On this basis the proposal is not considered to result in unacceptable traffic or access impacts.

Issue: Detrimental to residential amenity because of noise concerns from dogs (barking and or howling) and noise associated with the general use of the Field which will erode the tranquil character of the area.

Comments (PO): The Rules of the Field state that noise must be kept to minimum and that noise complaints will result in future use of the Field being refused. The Environmental Health Section has raised no objection to the proposal on noise grounds. Should noise issues arise in the future, this would be a matter to be dealt with at the time under separate legislation i.e. statutory nuisance.

Issue: Detrimental to residential amenity because of loss of privacy.

Comments (PO): In land use planning terms it is noted that the proposed change of use

to use the Field as a secure dog walking Field as detailed in the application would result in a low intensity use. It is also noted that the Field is physically separated from neighbouring property/land by the use of deer fencing which is generally acceptable at this location. However, given the close proximity of the neighbouring property on land adjacent to the north west boundary of the site it is recommended that, landscape screening should be added along the western boundary as shown on the amended site plan, to help ensure an acceptable level of residential amenity and assist with integration of the development into the surrounding landscape.

Issue: Concern about the nature and type of dogs using the facility

Comments (PO): Rabbit Rock Field offers a service that many dog owners of family dogs would be interested in using, although it is recognised that dogs with specific needs could particularly benefit from this facility.

In the applicant's response to the objection comments made it is noted that although the Field would be open to dogs subject to Dog Control Orders or Notices, and/or dogs of banned breeds no such dogs have visited Rabbit Rock to date. The applicant has also indicated that the most common breed of dog using the Field are rescue Greyhounds and Huskies.

It is also noted that, all users must adhere to the rules of the Field which demonstrates that the applicant as well as individual users are aware of their obligations to act responsibly while using the facility. Should any specific incidents occur during the operation of the Field, it would be a matter to be dealt with at that time through the appropriate channels including any appropriate legislative channels.

Issue: Impact of the facility on dogs from the neighbouring properties, causing stress and anxiety for dogs at neighbouring properties.

Comments (PO): Whilst it is not possible to comment on the dynamics between individual dogs (or this might evolve in the future). In land use planning terms, it is considered, subject to the addition of landscape screening (as shown on the site plan) that the separation distance between the Field and neighbouring land is sufficient given the low intensity use proposed.

Issue: This use will lead to incidences of livestock and horse worrying to the livestock and horses grazing on neighbouring land.

Comments (PO): This is a subjective matter as supporting comments including the letter in support from the National Farmers Union have indicated that this type of secured facility will provide a confined 'safe space' for dog walkers to safely walk dogs without disturbing livestock and land managers.

This use will lead to incidences of horses being frightened as the Field boundary is too close to equine use, as a point of clarification, it is noted here, that horses are not considered livestock animals in the UK and it is not possible to comment on the individual dynamics highlighted.

Looking at the land use considerations this is a low intensity use at large bounded Field at a location where it would not be uncommon for a range of animals to be in the presence of each other and where the use of the Field is governed by rules for use which require individual users to act responsibly when using the Field, therefore it would be up to individual users to address and or controlling incidences of livestock or horse worrying. Should any unacceptable occurrences arise this would be a matter to be addressed at the

time through the appropriate channels.

Issue: Concern about the security of the Field and dogs escaping thinks could be detrimental to other dogs, children, livestock and horses. An example of a dog escaping has been cited in the objections.

Comments (PO): Without knowledge of the circumstances, it is not considered possible to comment on the cited example of a dog escaping. However, it is noted that under the rules of use of the Field it is the responsibility of individual users to identify if the Field is secure for their dog.

Issue: Hygiene concerns about the build up of dog waste on the Field which could lead to the spread of disease and concern about dog waste collected being disposed of in the communal bins.

Comments (PO): Under the rules of the Field users are asked to always pick up after their dogs, and ensure that their dogs are wormed regularly. The Field is inspected frequently for safety and cleanliness by the Applicant. The applicant(s) also do a weekly Field clean.

There is a bin onsite located towards the access gate for the disposal of collected dog waste, thereafter, the applicant has confirmed that the dog waste from the Rabbit Rock Field bin is emptied about once every two weeks and taken by the applicant to a Moray Council recycling centre as general waste, destined for landfill. The applicant has confirmed that advice was sought from a Moray Council, Animal Service Officer on the correct disposal of waste from the site and from the information provided the approach adopted is inkeeping with the relevant SEPA guidance.

It is noted that the proper disposal of waste from the site is the Applicant's responsibility.

Issue: Retrospective nature of the planning application and concern that the applicant was seeking to circumvent the planning process.

Comments (PO): Whilst it is unfortunate that planning permission was not sought prior to the start of operation at Rabbit Rock, a planning application has now been submitted. This planning application seeks to regularise the use of Rabbit Rock Field as a secure dog walking Field for dog exercising.

Issue: Contributors urge that the application is considered as a commercial application. Concern that the business does not have public liability insurance.

Comments (PO): The commercial nature of this application is understood and it is noted here that Policy ED7 Rural Business Proposals is a key determining policy in the assessment of this planning application.

Although, not a material planning consideration: the applicant has confirmed that Rabbit Rock Field has public liability insurance.

Issue: The application has been prepared with the aid of a planning consultant.

Comment (PO): Very many applicants deploy the services of planning consultants or other built environment specialists to assist the planning application process.

Issue: Visual impact of the fencing.

Comments (PO): The fencing used is deer fencing which is widely used in rural locations. It is considered acceptable in design and visual impact terms.

Issue: Impact of the development on wildlife, including Badgers. It is also advanced that the development may have contributed to a reduction in the number of Roe Deer, and Brown Hare present in the vicinity of the site.

Comments (PO): The site visit undertaken by the Planning Officer included a walk over of the site there were no visible signs of badgers/badger setts on the site or the immediate surrounds.

There are a number of factors which could have contributed to a reduction in the Roe Deer and Brown Hare present in the vicinity of the site but given the low intensity of the use it would seem unlikely that this could be wholly contributed to this small scale development.

Issue: Belief that an Environmental Impact Assessment should have been carried out as part of the application.

Comments (PO): It is confirmed here that the does not meet the threshold for assessment under the Environmental Impact Assessment Scotland Regulations 2017.

Issue: The Field has 'no established boundaries' and the facility is not located in an appropriate location given other recent commercial activity in the area, including expansion at Macallan and the CHP power plant and the identification of the area as a build up hot spot.

Comments (PO): Each application is assessed on its own individual planning merits based on the relevant policies of the Moray Local Development Plan. It is noted here, that the requirement for development sites to have established boundaries and the assessment of build-up considerations are a requirement of Policy H7 Housing in the Countryside and are not a requirement under Policy ED7 Rural Business Proposals.

As noted all applications are assessed on their own merits and as such, other recent commercial activity in the area, including expansion at Macallan and the CHP power plant which are located in the wider vicinity of the site do not preclude other commercial developments at this locality.

Issue: Disagree about the rationale for this facility and concern that this facility will embed bad behaviours.

Comments (PO): This is not considered a material planning consideration. It is for individual users to assess if this facility is beneficial and or suitable for their dog(s).

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 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.

Primary Policies (PP1, PP2 and PP3)

Overarching Primary Policies PP1, 2 and 3 reflect Scottish Planning Policy and the objectives of the Council on Sustainable Economic Growth, Climate Change and Placemaking, and contain the necessary criterion for assessing all development proposals. These include amongst others the support of proposals which are in sustainable locations that make efficient use of land and infrastructure. The proposed

secure dog walking Field at this rural location would accord with these provisions and is discussed in more detail below.

Policy context and assessment

Siting and Design (ED7 and IMP1)

ED7 Rural Business Proposals supports new business development in the countryside provided it meets siting and design requirements, is supported by a locational justification and can be adequately serviced, taking account of any environmental considerations.

Policy IMP1 Developer Requirements requires new development proposals to be sensitively sited, designed and serviced appropriate to the amenity of the surrounding area and to be comply with set criterion (detailed within policy). These include amongst others the requirement for new development to integrate into the surrounding landscape.

In this instance, this application for the change of use of Rabbit Rock Field to a secure dog walking Field would regularise a currently unauthorised use at this location. The only physical change to the Field as a result of the proposal is the addition of 1.9m high deer fencing and gates with 1m of stock fence laid horizontally on the ground on the inside perimeter of the Field. The use of deer fencing is considered acceptable in design and visual impact terms and is appropriate to the site and its surrounds given that it is widely used in rural locations.

The use of the Field as a secure dog walking Field is considered to be a small scale low impact use which would be commensurate with the rural location in which it is set. Rabbit Rock Field has established rules for the management and use of the Field which sets out the responsibilities of individual users to use the Field appropriately and in accordance with the principles of responsible dog ownership.

The application has been supported by a Planning Statement which provides details of the use and operation of the Field and it is noted here that the Locational Justification is based on the opportunity for the Applicant's to operate this small business from their nearby home which is nearing completion.

Policy ER5 Agriculture supports the agricultural sector by presuming against the irreversible loss of prime agricultural land unless the site is required for settlement expansion and there is no other suitable use. The agricultural land at Rabbit Rock Field is not classified as prime agricultural land and as such the proposed change of use is not considered to comprise the terms of Policy ER5.

In light of the above, the proposal complies with the requirements of policies ED7, IMP1 and ER5.

Amenity (ED7 and IMP1)

In land use planning terms it is noted that the proposed change of use to use the Field as a secure dog walking Field (as detailed in the Applicant's Supporting Statement and in their response to the objections) would result in a low intensity use. It is also noted that the Field is physically separated from neighbouring property/land by the use of deer fencing which is generally acceptable at this rural location.

However, given the close proximity of the neighbouring property on land adjacent to the north west boundary of the site it is recommended that landscape screening should be

added along the western boundary as shown on the amended site plan, to help ensure an acceptable level of residential amenity is achieved along this boundary. Therefore, a condition is recommended to ensure the provision of the landscaping required, subject to the use is considered acceptable in amenity terms.

Disposal of Waste (EP8 and IMP1)

Under the rules of the Field users are asked to always pick up after their dogs, and ensure that their dogs are wormed regularly. The Field is inspected frequently for safety and cleanliness by the Applicant. The applicant(s) also do a weekly Field check.

There is a bin onsite located towards the access gate for the disposal of collected dog waste, thereafter, the applicant has confirmed that the dog waste from the Rabbit Rock Field bin is emptied about once every two weeks and taken by the applicant to a Moray Council recycling centre as general waste, destined for landfill. The applicant has confirmed that advice was sought from a Moray Council, Animal Service Officer on the correct disposal of waste from the site and from the information provided the approach adopted is inkeeping with the relevant SEPA guidance. On this basis the development is not considered to comprise the terms of Policy EP8 and IMP1.

Access and Parking (T2 and T5)

Policies T2 and T5 require development proposals to satisfy various criteria, these include the provision of safe entry and exist for all road users at access junctions, infrastructure improvements where appropriate and onsite parking and vehicular turning provision.

Having assessed the application and the objections received on the proposal the Transportation Manager has raised no objections in road safety terms to the low intensity use proposed at this location. On this basis, the proposal is not considered to comprise the terms of Policies T2 and T5.

Conclusion

The proposed change of use is considered to conform to the above relevant local development plan policies subject to the conditions recommended. Upon this basis the proposal is recommended for approval.

REASON(S) FOR DECISION

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

The proposal accords with the relevant policies of the Moray Local Development Plan 2015 and there are no material planning considerations that indicate otherwise.

**Author/Contact
Officer:**

Shona Strachan
Planning Officer

Ext: 01343 563303

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

APPENDIX

POLICY

Adopted Moray Local Development Plan 2015

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 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 ED7: Rural Business Proposals

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

- a) There is a locational justification for the site concerned, particularly if there is serviced industrial land available in a nearby settlement.
- b) There is capacity in the local infrastructure to accommodate the proposals, particularly road access, or that mitigation measures can be achieved.
- c) Account is taken of environmental considerations, including the impact on natural and built heritage designations, with appropriate protection for the natural environment; the use of enhanced opportunities for natural heritage integration into adjoining land.
- d) There is careful control over siting, design, landscape and visual impact, and emissions. In view of the rural location, standard industrial estate/urban designs may not be appropriate.

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

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

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

Policy 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 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 T5: Parking Standards

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

Policy IMP1: Developer Requirements

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

- a) The scale, density and character must be appropriate to the surrounding area.
- b) The development must be integrated into the surrounding landscape
- c) Road, cycling, footpath and public transport must be provided at a level appropriate to the development. Core paths; long distance footpaths; national cycle routes must not be adversely affected.
- d) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water.
- e) Where of an appropriate scale, developments should demonstrate how they will incorporate renewable energy systems, and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria.
- f) Make provision for additional areas of open space within developments.
- g) Details of arrangements for the long term maintenance of landscape areas and amenity open spaces must be provided along with Planning applications.

- h) Conservation and where possible enhancement of natural and built environmental resources must be achieved, including details of any impacts arising from the disturbance of carbon rich soil.
- i) Avoid areas at risk of flooding, and where necessary carry out flood management measures.
- j) Address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- k) Address and sufficiently mitigate any contaminated land issues
- l) Does not sterilise significant workable reserves of minerals or prime quality agricultural land.
- m) Make acceptable arrangements for waste management.

WARD 04_17

18/01536/APP
5th December 2018

Partial remix of existing consent (ref: 16/00083/APP) to provide 30 affordable homes R1 Stynie Road Stynie Road Mosstodloch Moray for Springfield Properties PLC

Comments:

- A SITE VISIT has been carried out.
- The application is on a housing site designated for 50 or more dwellings within the Development Plan, regardless of whether the application is for all or part of the site.
- 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.
- 3 representations received.

Procedure:

- Legal agreement required prior to issue of any consent in order to incorporate developer obligations relating to healthcare provision.

Recommendation Grant Planning Permission - Subject To The Following:-

1. Completion of Legal Agreement; and
2. The following conditions:

Conditions/Reasons

1. Prior to the commencement of any works, a full site Construction Environmental Management Plan, including a dedicated pollution prevention section, shall be submitted to and approved in writing by the Council, as Planning Authority, in consultation with SEPA; and thereafter all work shall be carried out in accordance with the approved plan.

Reason - In order to minimise the impacts of necessary construction works on the environment.

2. No development shall commence until an amended Landscape Scheme has been submitted to and approved by the Council, as Planning Authority. This shall be based upon the Planning Landscaping Layout drawing number MS01 PL03 Rev N and Landscape Management Plan MS01_SL_PL-05, and show and clarify the

following:

- (a) details of the numbers, species, position, planting distances and sizes (standard sizes) of all planting to be undertaken; and
- (b) the arrangements for the time-scale(s) for all new planting, seeding and turfing to be undertaken together with the arrangements for the long-term maintenance of all proposed landscaping arrangements.

Thereafter, the landscaping arrangements shall be carried out in accordance with the approved scheme details. Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless this Council as Planning Authority gives written consent to any variation of this planning condition.

Reason - In order to remove any ambiguity regarding the terms of the landscape scheme, and to ensure that the approved landscaping works are timeously carried out and properly maintained in a manner which will not adversely affect the development or amenity and character of the area. (Note: This is required because although the current drawing MS01_PL03 Rev N contains a Planting Schedule this does not identify which trees are semi mature, heavy standard avenue trees, heavy standard trees or multi stemmed trees on the landscape layout itself. For further advice refer to informative advice below).

- 3. No work shall commence until scaled drawings of the proposed pumping station have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.

Reason – To ensure a satisfactory form of development and as these details are currently lacking from the application.

- 4. Prior to the commencement of development details of the affordable housing specification shall be submitted to and approved by the Council, as Planning Authority in consultation with the Head of Housing and Property Service regarding the detailed arrangements for the long-term delivery and provision of the affordable housing accommodation on the site, which shall include evidence to confirm the identity of the organisation (or other similar agency) responsible for the provision and management of all affordable housing provided on the site.

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

Reason - To ensure all off the residential units approved on site are affordable and managed accordingly.

- 5. Prior to the commencement of development a construction phase surface water management plan shall be submitted to and agreed in writing with the Planning Authority. The plan shall include measures to prevent increased flood risk to neighbouring properties and measures to ensure heavily silted surface water does not enter the River Spey catchment. 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 the River Spey SAC.

6. Notwithstanding the details submitted on the site layout plan (Drawing MS01_PL01 Rev K), these are not accepted. Prior to commencement of construction the following details shall be submitted for approval by the Planning Authority in consultation with the Roads Authority:
- a) Details (Plan 1:500 min) showing the full extent of the roads intended for adoption to be provided as part of the application/Phase 1 of the development (including roads and verges currently shown outwith the red line boundary in front of plots 18-43).
 - b) Parking to plots 15 and 16 shall be set back 2 metres from the edge of the road.
 - c) The road width between plots 16 and 25 shall be widened to 5.5m and the narrowing at the north eastern corner of plot 16 shall be removed.
 - d) The proposed footway connection on the eastern side of plot 16 shall be provided with a raised kerb on its eastern side and a dropped kerb crossing on both sides of the road in front of plot 25.

Reason - To ensure acceptable:-

- a) Provision of information currently lacking from the submission to ensure adequate development infrastructure that does not create any hazard to road users in the interests of road safety.
 - b) Parking provision.
 - c) Development infrastructure that does not create any hazard to road users in the interests of road safety.
 - d) Infrastructure for non-motorised road users, ensuring the provision of routes to schools and local facilities and a sustainable development.
7. Prior to the commencement of construction the following shall be submitted for approval by the Planning Authority in consultation with the Roads Authority:
- a) A Construction Traffic Management Plan which includes details of any temporary site access arrangements, site compounds, lay down areas and site parking (Plan scale 1:500 min), proposals to safeguard non-motorised road users;
 - b) Details (Plan(s) scale 1:500 min) showing the provision of off-site infrastructure for non-motorised users which comprises the following items including signage and road markings:
 - i) A new 3.0m wide cycleway (approx. 360 metres in length) along the eastern side of the U18E Stynie Road between the northern site access and the back of the bellmouth on the north side of the junction at Mossmill Park (Point A as shown on sketch 10/01267/MC/01 Rev A);
 - ii) A new 2.0m wide footway (approx 35 metres in length) along the western side of the U18E Stynie Road between a point opposite the site frontage at the southern site boundary to the back of the bellmouth at the car park for Speymouth Hall;
 - iii) A pedestrian crossing point, including dropped kerbs and tactile paving, on both sides of the U18E Stynie Road at a point to be agreed with the Roads Authority between the site boundary and the footway to

- Speymouth Hall;
- iv) Widening of the existing footway (Approx 55 metres in length) along the eastern side of the U18E Stynie Road to provide a continuous 3.0m wide cycleway from the new 3.0m wide cycleway detailed in item i) above (Point A) and Findlay Road (Point B) as shown on sketch 10/01267/MC/01 Rev A;
- v) A pedestrian crossing point, including dropped kerbs and tactile paving, on both sides of the U18E Stynie Road at a point to be agreed with the Roads Authority approximately 10 metres to the north of Glebe Road; and
- vi) Provision of cycle route signage to the Moray Council standards and specification from the development to the B9015 (Main Street).
- c) Details (Plan scale 1:1000 min) for the widening of the U18E Stynie Road to 5.5 metres along the full extent of the site frontage (approx. 250 metres) onto Stynie Road, to the Moray Council standards and specification, including the extension of street lighting and road drainage.
- d) Details (Plan(s) scale 1:500 min) of a 4.5m x 120m visibility splay in both directions at the northern access and a 4.5m x 90m visibility splay in both directions at the southern access.

The approved Construction Traffic Management Plan must be complied with at all times. The works identified in b) and c) above shall be completed in accordance with the approved details prior to the commencement of the 5th house or flat.

Reason - To ensure acceptable:-

- a) Development that does not create any hazard to road users in the interests of road safety.
 - b) Infrastructure for non-motorised road users, ensuring the provision of routes to schools and local facilities and a sustainable development.
 - c) Infrastructure at the development access and to cater for additional traffic generated by the development.
 - d) To ensure acceptable access and visibility in the interest of road safety for the proposed development and other road users.
8. No work shall commence until details and a scaled plan (1:1000) have been submitted showing the exact route of the new pedestrian footpath linking the site to Mossmill Park and the timing for its implementation. Thereafter the footpath shall be implemented in accordance with the approved details and completed prior to commencement of works to construct plot 25.

Reason - To ensure connectivity between the development and the adjacent housing, in accordance with Designing Streets policy.

9. Parking provision shall be provided and maintained for use in accordance with the approved site layout plan (Drawing No. MS01_PL01 Rev K) unless otherwise agreed in writing with Moray Council Transportation.

Reason - To ensure the permanent availability of the level of parking necessary for residents/visitors/others in the interest of an acceptable development and road safety.

10. The visibility splays at the northern and southern site access junctions as detailed in the approved drawings (Condition 7(d) refers) are to be maintained clear of any obstructions at all times. All boundary fences shall be set back behind the visibility splay which will become part of the adopted public road.

Reason - To ensure acceptable access and visibility in the interest of road safety for the proposed development and other road users.

11. New boundary walls/fences/planting shall be set back from the edge of the prospective public carriageway at a distance of 2.0m. No fences, walls, planting or obstructions in or along the front/rear of service verges.

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

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

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

13. 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 acceptable development in the interests of road safety.

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

Reason - To ensure acceptable infrastructure at the individual development accesses.

15. Unless otherwise agreed in writing with the planning authority, the equipped play area and surrounding area of open space shall be provided in accordance with the approved plans prior to the commencement of the 20th residential unit on site. Thereafter the equipped play area shall be maintained in accordance with the approved Landscape Management Plan MS01_SL_PL-05 for the lifetime of the development.

Reason – To ensure the timeous provision of the play area and surrounding open space.

16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011 (or any order

revoking and re-enacting that order) no windows shall be installed on the south facing (side) elevations of the house on plot 1 or flats on plots 7-10.

Reason - In order to preserve the privacy levels of the neighbouring existing houses.

17. For the avoidance of doubt, the approved position of flats on plots 7-14 is as shown on the approved site layout drawing no. MS01_PL01.

Reason – To avoid any ambiguity between the site plan and the position of the flats shown on some supporting layout plans relating to drainage and levels details.

18. All surface water drainage infrastructure within the development shall be implemented in accordance with the details contained in the approved 'Drainage Strategy Report' and associated drainage drawings MS01_ENG-635, MS01-ENG-206, MS01-ENG-625, MS01-ENG-205, MS01-ENG-630, MS01-ENG-207 and MS01-ENG-640. Unless otherwise agreed in writing with the planning authority, this drainage infrastructure will be completed prior to the first occupation of any housing unit in the development and thereafter maintained for the lifetime of the development in accordance with the approved 'Drainage Strategy Report'.

Reason – To ensure an acceptable form of development is provided in accordance with intentions stated in the submitted Drainage Assessment, and to provide for adequate protection of the water environment from surface water run-off during the lifetime of the development.

19. Prior to the commencement of development a manufacturers specification for the Air Source Heat Pumps including noise output levels shall be submitted to and approved in writing by the Council, as Planning Authority. Thereafter the development shall be implemented in accordance with these details.

Reason – To ensure a satisfactory form of development which protects residential amenity against noise disturbance, and as these details are currently lacking from the application.

Reason(s) for Decision

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

The application represents an acceptable departure from the Mosstodloch R1 designation in that, the proposal departs from policy E9 on the basis that the SUDs are located out with the designation and settlement boundary, however the existing extant consent already permits SUDs in this area and the SUDs proposals 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 TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

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

Before commencing development the applicant is obliged to apply for Roads 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

The developer must contact the Roads Authority Senior Engineer in the Traffic section at Moray Council HQ, Elgin – Tel 01343 563780 to discuss the requirements for the introduction of a 40 mph speed limit on the U18E Stynie Road. The developer shall meet all the costs associated with the promotion and implementation of the 40mph speed limit.

The Construction Traffic Management Plan must include details of any temporary site access arrangements, site compounds, lay down areas and site parking (Plan scale 1:500 min), proposals to safeguard non-motorised road users and control procedures to address the impact of heavy goods vehicles/construction traffic on the U18E Stynie Road which includes the repair of any damage to the public road attributable to the development and the prevention of materials or water being deposited on the public road.

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

If required, street furniture will need to be repositioned at the expense of the developer. In addition any existing roadside ditch may require a pipe or culvert. Advice on these matters can be obtained by e-mailing road.maint@moray.gov.uk

The applicant shall be responsible for ensuring that surface/ground water does not run from the public road into the 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 developer must contact the Roads Authority Street Lighting Section at Ashgrove Depot, Elgin - Tel (01343) 557300, Ext 7343 to discuss the proposals.

The developer must contact the Roads Authority Roads Maintenance Manager (West) at Ashgrove Depot, Elgin - Tel (01343) 557300, Ext 7349 to discuss the proposals.

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

This development is subject to a Unilateral Obligation in regard to the arrangements for developer obligations towards addressing the impact of the development upon health care, with the proposed contribution payable in instalments.

Through the Quality Audit process for this application the specification of trees was sought and whilst this has been provided within the Planting Schedule on the Landscaping Layout MS01_PL03 Rev N the drawing itself does not identify which trees are semi mature, heavy standard avenue trees, heavy standard trees or multi stemmed trees. The standard of trees requires to be identified on the drawing. At present whilst the tree species corresponds to the schedules it is not possible to identify the standard of tree to be planted. Clarification of this is required to ensure that sufficient screening is provided to reduce the dominance of parking areas and also to ensure quality open spaces are established early in the development. The hedge planting backing onto the car parking blocks a desire line from car to footway. This could be changed to shrub planting to allow easier/direct access from parking to the adjacent footway.

Root containment is required on the Beech trees that front onto cycle path and Stynie Road.

The Quality Audit sought details of lighting provision which was primarily to ensure that the central open space and cycle path were well lit to provide safer environments.

THE ENVIRONMENTAL PROTECTION MANAGER has commented that:

We would advise that the metal slide should be north facing to avoid direct sunlight as experience has indicated they can overheat if aligned the other way.

SCOTTISH NATURAL HERITAGE has commented that:-

The applicant is reminded that all wild birds, their nests and their eggs are protected by law under Schedule 1 of the Wildlife and Countryside Act 1981 (as amended) and that it is their responsibility to develop the site in accordance with all wildlife legislation and that works should be timed carefully to avoid the times of year when wild birds are likely to be nesting, i.e. the breeding season.

SCOTTISH SOUTHERN ENERGY have the following advice:

Our records indicate that an existing 11,000 volt overhead line passes along the southerly and easterly boundary of the site. All works in proximity to overhead

lines must be carried out in accordance with The Health and Safety Guidance note GS 6. The legislation dictates that where works are to be undertaken within 9 metres horizontal distance from an overhead line positive steps must be taken to manage the risk identified on site. These steps can include, making the line dead, erecting barriers at ground level, erecting high level bunting and goal posts (6 metres from the line), using appropriate excavator, restricting jib movement, etc. I'm unsure of the layout of the development, however provided that any development works adheres to the above mentioned legislation we would have no issues with the development.

If the applicant would like quotation for the lines to be dismantled and replaced with underground cable, they should call Tel; 08000 483 515.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT		
Reference No.	Version	Title/Description
10/01267/MC/01	Rev A	Off Site Infrastructure
MS01_ENG-635		Swale section
MS01-ENG-206		Drainage Area plan
MS01-ENG-625		Drainage construction details
MS01-ENG-205		Drainage layout
MS01-ENG-630		Infiltration basin sections
MS01-ENG-207		Overland flow layout
MS01-ENG-640		Soakaway layout
MS01-ENG-100		Topographical survey
MS01-ENG-200		Planning levels layout
MS01-SL-PL-06	B	Roads hierarchy
		Indicative elevations - CS type - green
		Indicative elevations - F type - green
		Indicative elevations - H type - blue
		Indicative elevations - CS type - blue

	Street elevation
	Visual 01
	Visual 02
MS01_PL03 N	Landscaping layout
2016/D/PL/01	D type - Elevations and floor plan
MC/2016/A/01	A type cottage flat - elevations and floor plans
MC/2018/CS/01 B	CS type semi detached - elevations and floor plans
MS01_MC_01 A	Material conditions drawing
MS01_PL-05	Landscape management plan
MS01_PL02 I	House type allocation
MS01_PL04 J	Phasing plan
MS01_PL06 B	Material conditions
	Play area detail
01	Play equipment layout
MC/2017/F/01	F type semi-detached - elevations and floor plans
MS01_LP_PL-01 C	Location plan
MS01_OL00	Overall layout
MS01_PL01 K	Site layout
MC/2018/CS/PEND/01 C	CS type terraced - elevations and floor plans

Supporting Information to accompany formal decision notice:

DRAINAGE STRATEGY REPORT, Stynie Road, Mosstodloch prepared by Springfield Properties.



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:

18/01536/APP

Site Address:

R1 Stynie Road

Stynie Road Mosstodloch

Applicant Name:

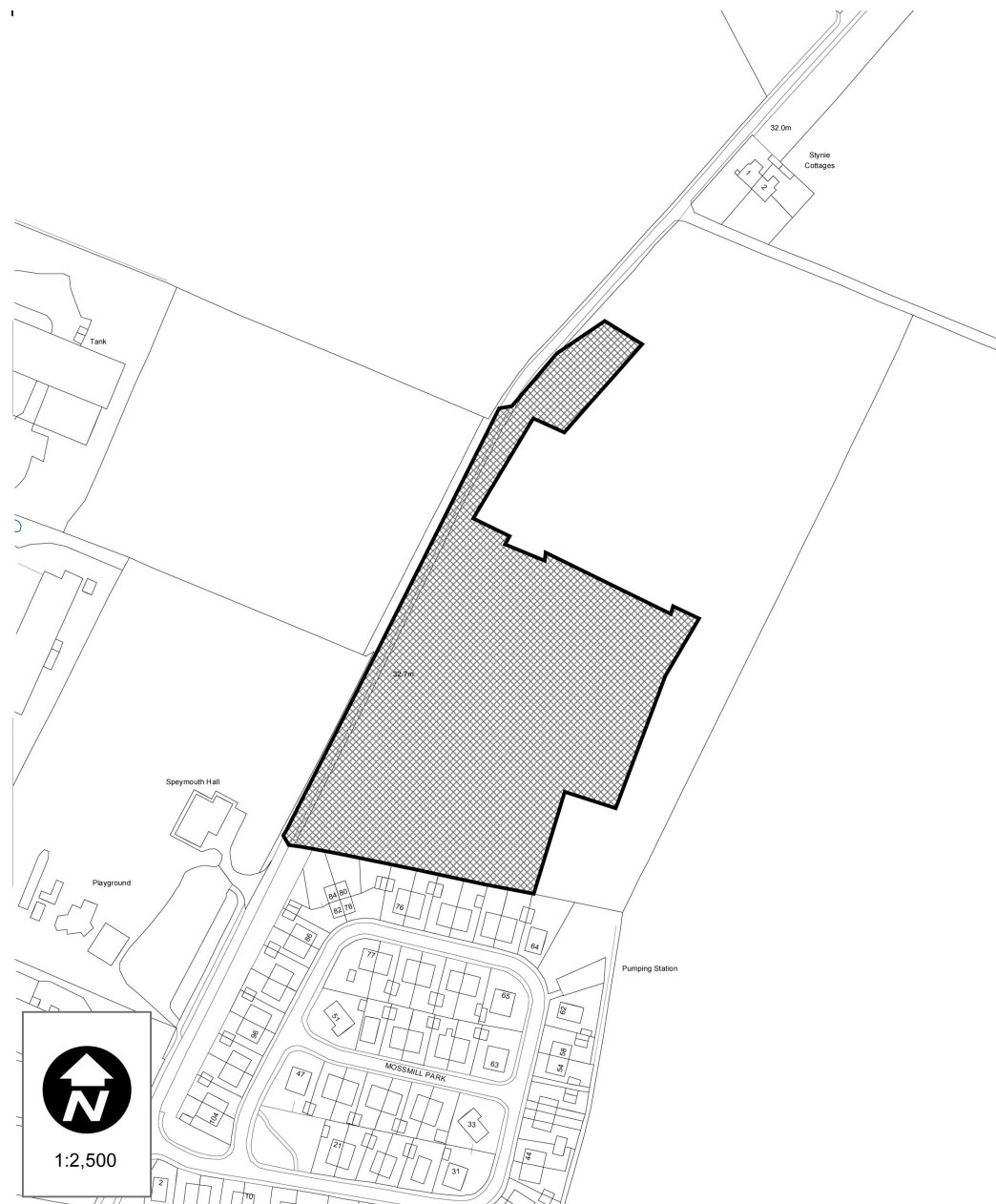
Springfield Properties PLC

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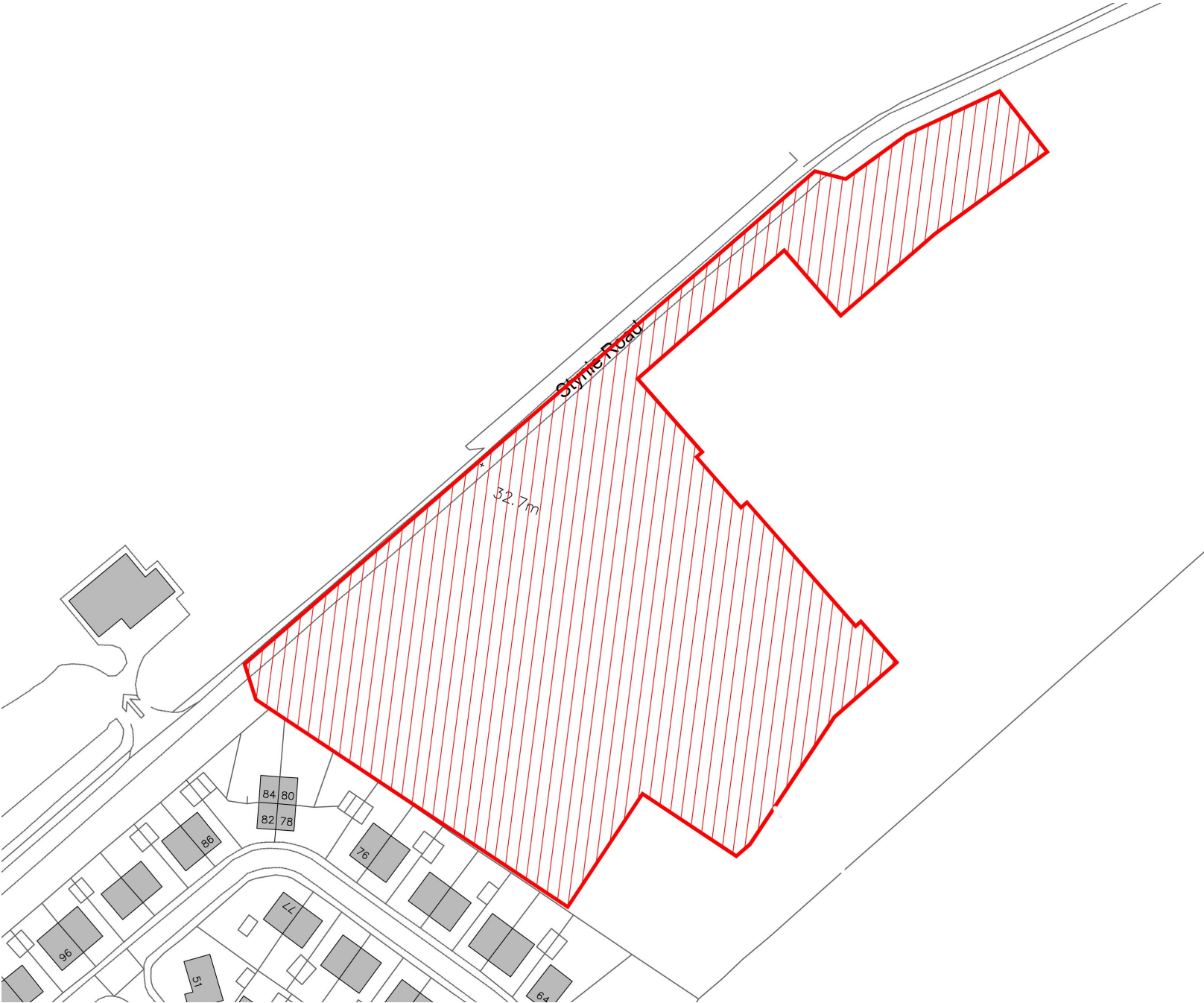
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Location Plan



Site location



Site plan











PLANNING APPLICATION: 18/01536/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 planning permission for the erection of 30 affordable houses/units on the south west portion of the R1 Stynie Road designation in Mosstodloch.
- Planning permission has already been granted on the whole of the R1 designation for the erection of 59 residential units following the approval of application 16/00083/APP on 12th March 2018. This previous consent is extant, however, the development has not yet commenced.
- Although this application only covers around half of the overall R1 designation, a detailed layout plan has been provided for the remainder of the site, which indicates the intention to erect a total of 76 units across the site and also details where the associated infrastructure, such as, roads, SUDs, footways/cycleway, landscaping and a central open space will be located.
- The proposed 30 residential units are broken down into 4 semi-detached single storey houses (type CS semi-detached, 2 bedrooms), 8 single storey terraced houses (type CS terraced 2 bedrooms), 8 two storey terraced flats (type A, 1 bedroom) and 10 two storey semi-detached houses (types D, 3 bedrooms & Type F, 4 bedrooms). The 5 separate house types have a relatively traditional pitched roof form and are to be finished in smooth grey concrete roof tiles and a mixture of wet harl render and painted timber cladding on the walls.
- The houses will be connected to the public water supply, and public foul sewerage system via a new proposed wastewater pumping station which is to be located within the northern area of the site. Surface water from the roads and widened Stynie Road will be disposed of via swales and infiltration basins located throughout the site. Curtilage surface water run-off will be infiltrated within private soakaways for each plot.
- The development has been designed around a large central area of open space, which is included in the application site and (together with a cycle way and equipped play area) will be provided as part of this first phase of the development. The Landscaping scheme comprises a mix of semi-mature/feature trees, heavy standard avenue/heavy standard trees, multi-stemmed/feathered trees, beech hedges, shrub beds/borders and planted swales. Identified tree species are Beech, Copper Beach, Crab Apple, Cherry, Rowan, Lime, Birch, Hawthorn and Hornbeam.
- The following supporting documents have also been provided; Design and Access Statement, Planning Statement which incorporates the Sustainability Statement, Transport Statement, Flood Risk Assessment, and Drainage Strategy Report.

THE SITE

- The site is approx. 1.9 hectares in area and comprises the south west portion of the R1 Mosstodloch designation, which is identified as having an indicative capacity of 50 units within the Moray Local Development Plan 2015. The site boundary does, however, also stretch to the north of the R1 designation to incorporate an area of land beyond the settlement boundary, which contains SUDs infrastructure, which will not only serve the proposed houses but also the rest of the houses in the remainder of the R1 designation.
- The site has been designated for housing through a succession of local plans and has benefited from detailed planning permission for 59 houses since the original grant of permission on 8 February 2013. This original consent was later extended via the grant of planning application 16/00083/APP, which remains extant and unimplemented.
- The site is currently used as agricultural land, is generally flat and low lying with a gentle slope at the northern boundary of the site.
- The site is bounded to the south-west by a residential estate, to the north-west by a public road (Stynie Road) and to the south-east and north-east by open agricultural land.
- The River Spey SAC, SPA and SSSI are located approx. 880m to the east.
- The SEPA indicative flood map shows that the site is identified as being at 'little or no risk' from river flooding. The SEPA flood map also indicates that the majority of the site is at low risk from surface water flooding, with small localised areas shown to be at 'medium or high risk'.
- Known sites of archaeological interest are present within the application site boundary, which have been subject of previous archaeological investigations.

HISTORY

10/01267/APP - Detailed application for the erection of 59 residential units at Stynie Road, Mosstodloch - approved at committee and subsequently issued with permission following conclusion of the legal agreement on 8 February 2013.

16/00083/APP – S42 application for the variation of condition on planning application 10/01267/APP for the erection of 59 residential units at Stynie Road, Mosstodloch - approved at committee and subsequently issued with permission following conclusion of the legal agreement on 12 March 2018.

POLICY - SEE APPENDIX

ADVERTISEMENTS

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

CONSULTATIONS

Development Plans - Policy and urban design comments provided. Amendments sought and provided to ensure fuller compliance with quality audit aims and with placemaking policy PP3 (see observations section).

Moray Flood Risk Management – Comments provided on surface water drainage arrangements and following further submissions, no objections subject to conditions.

Developer Obligations - Developer Obligations assessment carried out in relation to current Local development plan policy and associated supplementary planning guidance. Contributions are sought towards provision of healthcare facilities. A Unilateral Instrument of Planning Obligation will be required to secure these contributions.

Moray Access Manager - No objections.

Environmental Protection – No objections.

Aberdeenshire Council Archaeology - No objections, the site has already been the subject of a programme of archaeological works.

Scottish Water - No objections.

Environmental Health - No objections.

Contaminated Land - No objections.

Transportation Manager - No objections subject to conditions and informatives covering access, parking, construction traffic and footway/cycleway provision.

Housing Strategy and Development Manager - No objections, subject to conditions regarding provision of affordable units.

Innes Community Council - No response received.

Scottish Natural Heritage – No objections. We have been involved with the Quality Audit process and are satisfied that there are no natural heritage issues that could be impacted upon.

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).

Three letters of representation have been received from:-

[REDACTED]
[REDACTED]
[REDACTED]

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

Headings of objection reasons selected by objectors from objection/representation weblink:

- Affecting natural environment
- Dust
- Height of proposed development
- Loss of privacy (being overlooked)
- Noise
- Permitted Development
- Road access
- Road safety
- Smell
- Traffic
- View affected

The grounds for objection/representation are summarised as follows:

Issue: Object to the proposals on the grounds of excessive noise and pollution.

Comment (PO): The proposal is for a residential development which is not anticipated to generate excessive levels of noise or pollution. There may be an element of noise or dust generated during the construction process; however, this would only be for a relatively short period of time and it would be unduly restrictive to refuse developments on the basis of potential for construction noise. Should any nuisance occur then Environmental Health have powers under the Environmental Protection Act to remedy this issue.

Issue: Privacy impact and overlooking

The proposed houses which bound the existing neighbouring houses should be single storey with a line of trees proposed between the properties in addition to the proposed 1.8m high fence.

Comment (PO): Where the rear elevation of the proposed two storey houses faces directly towards the neighbouring existing properties, there is a separation distance of 12.8m from the rear face of the proposed houses to the shared boundary and this compares to the approved two storey houses which are located 8.5m from the shared boundary. The proposed scheme therefore represents an improvement on the currently approved scheme and is considered to achieve an acceptable level of privacy between proposed and neighbouring houses.

For plots 1 and 7, where the proposed houses are orientated gable on to the existing neighbouring houses, the F-type houses on plot 1 do not have any proposed windows in the gable elevation; similarly following discussions with the applicants it has been agreed that the windows in the gable elevation of the proposed A-type flats on plot 7 be removed.

On the basis of the above as there will be no significant loss of privacy it is not considered necessary to limit the height of the proposed houses along the shared boundary with the existing houses to single storey.

With regard to the potential for tree planting between the properties, as the proposed houses are located to the north of the existing properties, any trees planted along the shared boundary would, in time, overshadow the proposed houses. This would minimise solar gain and potentially pose a maintenance concern in future due to the restricted access to the area, and for these reasons it is not considered appropriate to plant trees along this shared boundary.

Issue: Loss of view

Comment (PO): The loss of view is not a material planning consideration and cannot be taken into account in the determination of this application.

Issue: Adverse impact on wildlife including loss of existing hedging.

Comments (PO): Although the existing roadside bushes/hedge will be lost as a result of the development, the remainder of the site has a low level of habitat value as it is in arable agricultural use. A detailed landscaping plan has been submitted in support of the application which details hedge and tree planting throughout the site along with a naturalised SUDs feature along the Stynie Road frontage, which incorporates a mixture of grasses, hostas, ferns and foxgloves and will add together to enhance the overall habitat value of the site.

Issue: Road safety

Road infrastructure insufficient to serve the development and increased road safety concerns regarding children using the play park by Stynie Hall due to the additional traffic in the area.

The proposed access just off the existing bend in Stynie Road will be dangerous.

Comments (PO): The Transportation Section have confirmed that they have no objection to approval of the application, subject to conditions, which include the widening of Stynie Road along the frontage of the site to accommodate the development, the provision of a cycleway along the frontage of the site linking into the existing path network in Mosstodloch and provision of crossing points to the play park at Stynie Hall, all of which will act to preserve or improve road safety in the area.

The access just off the bend in Stynie Road will be provided in accordance with transportation standards with sufficient visibility splays maintained to ensure there are no adverse road safety issues.

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 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 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.

R1 Stynie Road (MLDP Policies H1, IMP1 and Mosstodloch R1) and departure issues (E9)

The site comprises roughly half of the larger R1 Mosstodloch residential designation with an indicative capacity of 50 houses. The text accompanying the designation outlines that a 15m landscaped strip should be provided along the northern boundary and the avenue of trees along Stynie Road should be extended along the site frontage. In addition structural landscaping will be required within the site to ensure visually discrete groupings of houses. Road improvements to Stynie Road will be required, including widening of the road, provision of footways/cycleway, extension of street lighting and speed limits. Two points of access should be provided onto Stynie Road. Due to the proximity of the River Spey SAC, information should be provided in support of proposals to ensure measures can be put in place to avoid adverse impact on water quality.

With regard to the indicative capacity of the site being 50 units, policy H1 and the designation text outlines that the designation capacities are indicative only and proposed capacities will be considered against the characteristics of the site and conformity with policies PP3, H8 and IMP1. With this in mind the application for 30 units along with the supporting layout plan covering the whole of the R1 designation and indicating a total of 76 units is not considered to be a departure in this regard, as outlined in the design and layout section later in this report.

The 15m landscaping strip along the northern boundary falls outwith the current application site boundary, however, the supporting wider layout plan indicates tree planting along this boundary, which although not 15m wide, is greater than was approved as part of the previous extant consent on site and when taken in conjunction with the wider landscaping proposals throughout the site (which incorporate high levels of beech hedging, tree planting etc.) overall the landscaping proposals are considered to be acceptable. Conditions covering these landscaping details and long-term maintenance of these areas will be attached to the formal decision notice.

The road, footpath and cycleway improvements together with two access points onto Stynie Road have been shown within the application site boundary and within the supporting wider layout plan in accordance with the site designation and transportation requirements.

In terms of the potential impact on the water quality of the River Spey SAC, as was the case with the existing consent on the site, conditions are again recommended to control and treat surface water run-off both during and after the construction of the development. Taking into board the conditions as recommended the interests of the River Spey SAC will be protected.

As with the previous approval on this site, some of the SUDs 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 grassed detention basin, which will largely maintain the appearance of a rural location. With this in mind and given that SUDs infrastructure has already been approved in this location, a departure from policy E9 can be supported.

Place-making: Design and Site Layout (PP3, PP2, H8, H9, E5 & IMP1)

During consideration of the application, discussions with the applicant have sought to promote an acceptable form of development in terms of good design and place-making principles as advocated by policy PP3 and the related Supplementary Planning Guidance (SPG). As a material consideration, a quality audit (QA) process, covering both design and site layout issues, has been agreed to assess the conformity of residential development with Policy PP3 place-making and Urban Design SPG principles.

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. The QA adopts a "traffic light" approach to assess the criteria where:

- "red" means 'significant place-making issues where mitigation is required and if not addressed refusal would be recommended';
- "amber" means 'design principles within PP3 and the Urban Design Guide have been met, however further quality improvements could be made'; and
- "green" means 'PP3 principles and Urban Design Supplementary Guidance are fully met'.

A QA was undertaken for this application which identified a number of points requiring attention. These included confirmation regarding the provision of cycleways, bin collection points, shared surfacing details, amendments to minimise overbearing and privacy impacts on existing neighbouring houses, additional landscaping and play equipment details, further drainage details and measures to improve the character and identity of the scheme.

The applicants have subsequently submitted amended plans and information to address all of the above points including agreement over the provision of the cycleways, clarification of the use of shared bin collection points, full details of road surfacing details and drainage details. With regard to the privacy and overbearing issues raised the applicants have removed the windows in the gable of the south facing elevation of the flatted units 7-10 and pull these units a further 1.8m from the neighbouring boundary. A landscaping plan, maintenance schedule and full play equipment details have been provided. The landscaping plan includes a range of trees, shrubs and planting and reflects one of the main dominant characteristics of Mosstodloch, which is the prevalence of beech hedging and replicates this feature throughout the site, helping to create the character and identity of the development. The use of a two tone colour scheme throughout the site to create separate character areas across the whole of the R1 designation is also proposed, with the central part of the site around the main open area having elements of the houses clad in timber painted a muted green tone to tie in with the open green appearance of these areas. For the remainder of the site elements of other key dwellings have been picked out in timber cladding painted a muted blue grey tone, which again breaks up the massing of the buildings and general streetscape and improves overall navigation and sense of place throughout the development.

In summary, the amended proposals have incorporated all of the mitigation improvements highlighted in the QAs, and improve upon the proposal's compliance with place-making principles. These improvements result in a development which is acceptable and satisfies relevant planning policy and supplementary guidance including Policy PP3, H1 and IMP1.

The proposal is also considered to be compliant with Policy PP2. The submitted 'Sustainability Checklist' outlines that the residential units will be of an air tight design, with high insulation, maximisation of solar gain and use of triple glazed windows. In addition all units will be fitted with air source heat pumps, approval of details of which will be subject to a planning condition.

Drainage from the site will be managed in a sustainable manner, with construction methods adopted to minimise waste and use of certified timber kits from sustainable

sources. Pedestrian and cycle routes have been provided and a detailed landscaping scheme provided which incorporates green and blue infrastructure and maximises opportunities for planting which will enhance biodiversity in the area.

The presence of the central green and landscaped avenue along Stynie Road will provide a softer and welcoming development and ensures compliance with policy E5, in that, over 20% of the site area has been given over to open space.

In light of the above considerations and subject to conditions as recommended the proposal would comply with the place-making, siting, design and amenity requirements of policies PP3, PP2, H8, H9, E5 & IMP1.

Affordable/Accessible Housing (H8, H9, PP3, IMP1)

All house/flats proposed are to be affordable housing and following consultation with the Housing Strategy & Development Manager, the proposed housing mix is considered to meet the needs of the area. A condition shall be attached as recommended by the Housing Strategy and Development Manager covering the delivery and management of the affordable housing.

As the scheme comprises entirely affordable housing the requirements of policy H9 accessible housing are not applicable.

Transportation (Mosstodloch designation R1, T2, T5, T7, PP3, IMP1, IMP2)

The applicants have incorporated all of the transportation requirements as set out within text accompanying the site designation. Following consultation the Transportation Section has confirmed that it has no objection to the grant of permission subject to conditions as recommended regarding access, parking, provision of a Construction Traffic Management Plan and on and off site footway/cycleway provision.

Subject to compliance with these conditions, the proposals would accord with the above policies.

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

Policy EP5 requires surface water drainage to be dealt with in a sustainable manner using SUDs with a Drainage Impact Assessment (DIA) required for developments of 10 or more houses, together with consideration to be given to the impact of construction phase run-off.

The submitted DIA confirms that the development will be served by separate foul and surface water drainage systems, the latter to incorporate SUDs and be designed in accordance with sustainable development principles, reflecting the requirements of policy EP5.

Moray Flood Risk Management (MFRM) have reviewed the surface water drainage information provided and have raised no objection subject to conditions as recommended regarding the implementation of the surface water drainage scheme and measures to manage surface water discharge during the construction phase.

The SEPA flood map indicates that the majority of the site is at low risk from surface water flooding, although small localised areas are identified as being at 'medium or high risk'. A Flood Risk Assessment has been submitted with the application which concludes that the development will result in a neutral or better effect on the risk of flooding both on and off

the site. MFRM has reviewed this information and has raised no objection on flood risk grounds.

Policy EP10 requires a public connection for development located within settlements. Scottish Water has raised no objection to the approval of the application.

Subject to compliance with the recommended condition, the proposal complies with policy EP5, EP10 and IMP1.

Impact Upon Cultural Heritage (BE1, IMP1)

There are no built heritage assets near the site, but given the presence of archaeology in close proximity to the site, consultation was carried out with the Aberdeenshire Archaeological Service who has no objection to the development on the basis that the site has already been the subject of a programme of archaeological works.

Natural Environment (E1 and E3)

The site itself is not subject to any site-specific nature conservation designation, although there are natural heritage interests within the wider area, in this case the River Spey SAC, SPA and SSSI located approximately 880m to the east. Compliance with the condition as recommended to control/treat surface water run-off both during and after the construction of the development, coupled with the fact that there are no significant gradients or drainage on site that could increase the risk of impacts, would ensure that the proposal would have no adverse impacts on these areas. Scottish Natural Heritage has been consulted in this regard and has raised no concerns with the approval of the application.

As the site is currently agricultural land it is of limited natural heritage interest with low bio diversity value and unlikely to offer habitat for shelter and breeding of any protected species. A detailed landscaping plan has been submitted in support of the application which details hedge and tree planting throughout the site along with a naturalised SUDs feature along the Stynie Road frontage, which incorporates a mixture of grasses, hostas, ferns and foxgloves all of which will contribute to enhance the overall habitat value of the site.

Informative advice shall be attached highlighting relevant legislative requirements regarding the protection of nesting birds that may be present along the site boundaries.

From the above the proposal complies with policies E1 and E3.

Developer Obligations (IMP3)

A Developer Obligations assessment has been carried out in accordance with current Local Development Plan policy and associated supplementary planning guidance and has identified the need for contributions towards healthcare. The applicants have confirmed that they are agreeable to the contribution, which will need to be secured via a legal agreement prior to the grant of permission.

Conclusion

On the basis of the above 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 the Mosstodloch R1 designation in that, the proposal departs from policy E9 on the basis that the SUDs are located out with the designation and settlement boundary, however the existing extant consent already permits SUDs in this area and the SUDs proposals 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
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**Beverly Smith
Development Management & Building Standards Manager**

APPENDIX

POLICY

Adopted Moray Local Development Plan 2015

Primary Policy PP1: Sustainable Economic Growth

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

Primary Policy PP2: Climate Change

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

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

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

R1: Stynie Road

This is an existing designation carried forward, and planning consent has previously been granted for a development on site. A 15m landscaped strip should be provided along the northern boundary, and the avenue of trees along Stynie Road should be extended along the site frontage. In addition, structural landscaping will be required within the site to ensure visually discrete groupings of houses.

Road improvements to Stynie Road will be required, including the widening of the road; provision of footways/cycleway; extension of street lighting; relocation of speed limit. 2 points of access from Stynie Road will require to be provided.

Due to proximity to River Spey SAC information should be submitted to support proposals demonstrating that adequate protection measures can be put in place to avoid impact on water quality.

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".)

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

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

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

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

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

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

Policy EP9: Contaminated Land

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

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

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

Policy EP10: Foul Drainage

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

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

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

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

Policy 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 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

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.

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.

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 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 behaviour.
- 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;

- Local public benefits clearly outweigh the archaeological value of the site, and
- There is no suitable alternative site for development, and
- 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 SUDS solutions developers must integrate the SUDS with allocated green space, green networks and active travel routes to maximise amenity and biodiversity benefits.

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

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

c) Water Environment

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

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

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

Developers may be required to make improvements to the water environment as part of the development. Where a Water Framework Directive (WFD) water body specific objective is within the development boundary, or in proximity, developers will need to

address this within the planning submission through assessment of potential measures to address the objective and implementation, unless adequate justification is provided. Where there is no WFD objective the applicant should still investigate the potential for watercourse restoration along straightened sections or removal of redundant structures and implement these measures where viable.

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

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

EP13 FOUL DRAINAGE

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

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

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

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

EP14 POLLUTION, CONTAMINATION & HAZARDS.

a) Pollution.

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

b) Contamination.

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

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

c) Hazardous sites.

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

WARD 08_17

18/01117/APP
26th March 2019

Erect 12 dwellinghouses and associated roads and landscaping at OPP4 St Leonards Road Forres Moray for Mr Ray McDonald

Comments:

- A site visit has been carried out.
- The application falls within the category of "major development" as defined within the approved delegation scheme, where the overall area of the proposed site exceeds 2 hectares.
- Advertised for neighbour notification purposes and as a departure from the local development plan.
- 75 representations received.

Procedure:

- Completion of legal agreement required prior to issue of any consent regarding developer obligations towards, sports/recreation, affordable housing, compensatory woodland planting and healthcare facilities.

Recommendation **Grant Planning Permission - Subject to the Following:-**

Conditions/Reasons

1. 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 4.5m by 120m in both directions onto the U94E Brodieshill to Califer 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 shall be provided in accordance with the approved drawing prior to works commencing.

Thereafter the visibility splay shall be maintained at all times free from any obstruction exceeding 0.6m 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.

2. The access road is to be constructed as follows:
 - a) width of the vehicular access road to be 3.5m, widening to 5.5m with localised passing place provision as detailed on Drawing No. MDS 0047-5, with a 2.0m service verge either side;
 - b) access corner radii to be 7.6m;
 - c) drop kerbs shall be provided across the access to The Moray Council specification for pedestrians/cyclists, providing access to the Woodland Educational Area; and
 - d) 2m cycle/footpath connections to be provided within the site between Plots 5 and 7 and in the North-East corner of the site adjacent to Plot 10.

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

3. No development shall commence until a detailed scaled drawing (scale 1:500) showing the provision of a 2m wide cycle and pedestrian path, set back from the B9010, linking the site to the existing Council Woodland Car Park and timescales for provision have been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority.

Thereafter the path shall be constructed in accordance with the approved details and agreed timescales.

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

4. No development shall commence until detailed drawings showing the widening of the U94E Brodieshill to Califer Road to a minimum of 5.5m, between the junction with the B9010 and the Eastern Site boundary, with a suitable tie in with the existing road carriageway at "Scania" and timescales for provision have been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. Existing drainage infrastructure within the public road carriageway/verge will need to be incorporated into the design.

Thereafter the upgrading shall be constructed in accordance with the approved details and timescales.

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

5. The width of each individual vehicular access will be 3.0m minimum as shown on Drawing No. MDS 0047-5, and have a maximum gradient of 1 in 20 for the first 5.0m from the edge of the access road.

Reason: To ensure acceptable infrastructure at individual development accesses.

6. 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.

7. 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.

8. No boundary fences, hedges, wall or any other obstructions exceeding 0.6m in height and fronting onto the public road shall be within 3.0m of the edge of the carriageway. Therefore, any proposed hedging and other boundaries must be set back by a minimum of 1m from the rear of the service strip.

Reason: to enable drivers of vehicles leaving the site to have a clear view over a length of road sufficient to allow safe exit, in the interests of road safety for the proposed development and other road users to and prevent any root interference that could compromise the public road carriageway (and the utilities contained therein).

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

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

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

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

11. A turning area shall be provided within the curtilage of each site to enable vehicles to enter and exit in a forward gear.

Reason: To ensure the provision for vehicles to enter/exit in a forward gear in the interests of the safety and free flow of traffic on the public road.

12. The tree shelters (deer protection) for the area of woodland retained outside the dwelling gardens must be 1.2m height.

Reason: To protect the retained woodland from deer.

13. Prior to occupation of the dwellings connection to the public foul sewage system must be completed and details of the maintenance arrangements of the sections of private sewer within the site shall be submitted to and approved in writing by the Council.

The maintenance arrangements shall be carried out in accordance with the approved details.

Reason: To ensure adequate infrastructure is provided and maintained.

14. No development shall commence until details of a scheme for the implementation, timing and maintenance of landscaping works have been submitted to, and approved in writing by, the Council as Planning Authority. Details of the scheme shall include for the site as a whole and for each individual plot:
- a. the final location and design, including materials, of proposed walls, fences, gates, and picnic table and education board.
 - b. the phased implementation of landscaping and planting, and picnic table and education board to occur out with and within the individual plot boundaries,
 - c. details of the arrangements for the long-term maintenance of all landscaped and the educational areas.

Landscaping works shall be carried out in accordance with the approved scheme. Outwith the individual plots to be developed, all planting, seeding or turfing as may be comprised in the approved landscaping details shall be carried out in the first planting and seeding seasons following the commencement of development. Similarly the landscaping scheme within each individual plot boundary must be planted following completion of the dwelling within the same plot. The timing of the landscape provision and education areas must be in accordance with the above triggers unless otherwise agreed in writing with Council as Planning Authority.

Any trees, plants or hedging, which within a period of five years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species.

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

15. Unless otherwise agreed in writing with the Council, as Planning Authority no existing trees other than those detailed for removal in the Arboricultural Impact

Assessment/Method Statement. Rev B (dated 29.10.18) shall be lopped, topped or felled, unless information from a qualified arboriculturalist is submitted justifying why the tree or part thereof should be removed.

Reason: To ensure the existing trees are retained in the interests of the character and appearance of the area.

16. No development shall commence until the following have been submitted to and approved by the Council, as Planning Authority in consultation with SNH regarding details to confirm the arrangements to undertake pre-construction surveys for all protected species and nesting birds recorded as using 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 the site, the survey results shall identify all required/proposed measures to be implemented to mitigate the impact of the development upon any identified protected 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 and nesting birds recorded as using the site.

17. The development as hereby approved shall be carried out in accordance with the submitted particulars of the Protected Species Survey Report dated 3rd June 2017 and the identified measures to mitigate the impact and disturbance upon European Protected Species and nesting birds in the Recommendations Section.

Reason: To ensure an acceptable form of development that will not adversely impact upon or disturb European Protected Species and nesting birds.

Reason(s) for Decision

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

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

List of Informatives:

THE TRANSPORTATION MANAGER, has further 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

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

It is Transportations understanding that no street lighting is proposed within this development. If street lighting has to be provided in the future the cost will be met by the householders. This should be included as a condition in the title deeds of each plot.

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

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.

DEVELOPMENT MANAGEMENT & BUILDING STANDARDS MANAGER, has further commented that:-

Please note that the thinning operations suggested here for the area of retained woodland will require a felling licence and the thinning would not be authorised through planning permission. The applicant should contact the Forestry Commission to apply for a felling licence when required. Felling trees without a licence is an offence.

This development is subject to a legal (Section 75) agreement in regard to the arrangements for developer obligations towards addressing the impact of the development upon sports/recreation, affordable housing, compensatory woodland planting and healthcare facilities.

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.

SCOTTISH WATER, has commented that:

See consultation response dated 27 August 2018

SEPA, has commented that:

See consultation response dated 10 September 2018

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
01019 A	Drainage Strategy/Testhole Locations
01019 A	Foul drainage longitudinal sections
01019 D2	Indicative drainage details
MDS 0047-6	Site sections
	Education board
MDS 0047-5	Road design plan
MDS 0047-10	Style D house
MDS 0047-11	Style E house - elevations and floor plans
MDS 0047-12	Style F house - elevations and floor plans
MDS 0047-2 B	Block plan
MDS 0047-5	Road design plan

MDS 0047-1 B	Site plan
1 of 1	Tree protection plan
MDS 0047-13 B	Plot 6 and 12 - elevations and floor plans
MDS 0047-7 A	Site 1 - elevations and floor plans
MDS 0047-8 A	Site 3 - elevations and floor plans
MDS 0047-9 A	Site 11 - elevations and floor plans
1 of 1	Tree planting plan

Supporting Information to accompany formal decision notice:

Protected Species Survey report dated 3 June 2017



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:

18/01117/APP

Site Address:

OPP4

St Leonards Road

Applicant Name:

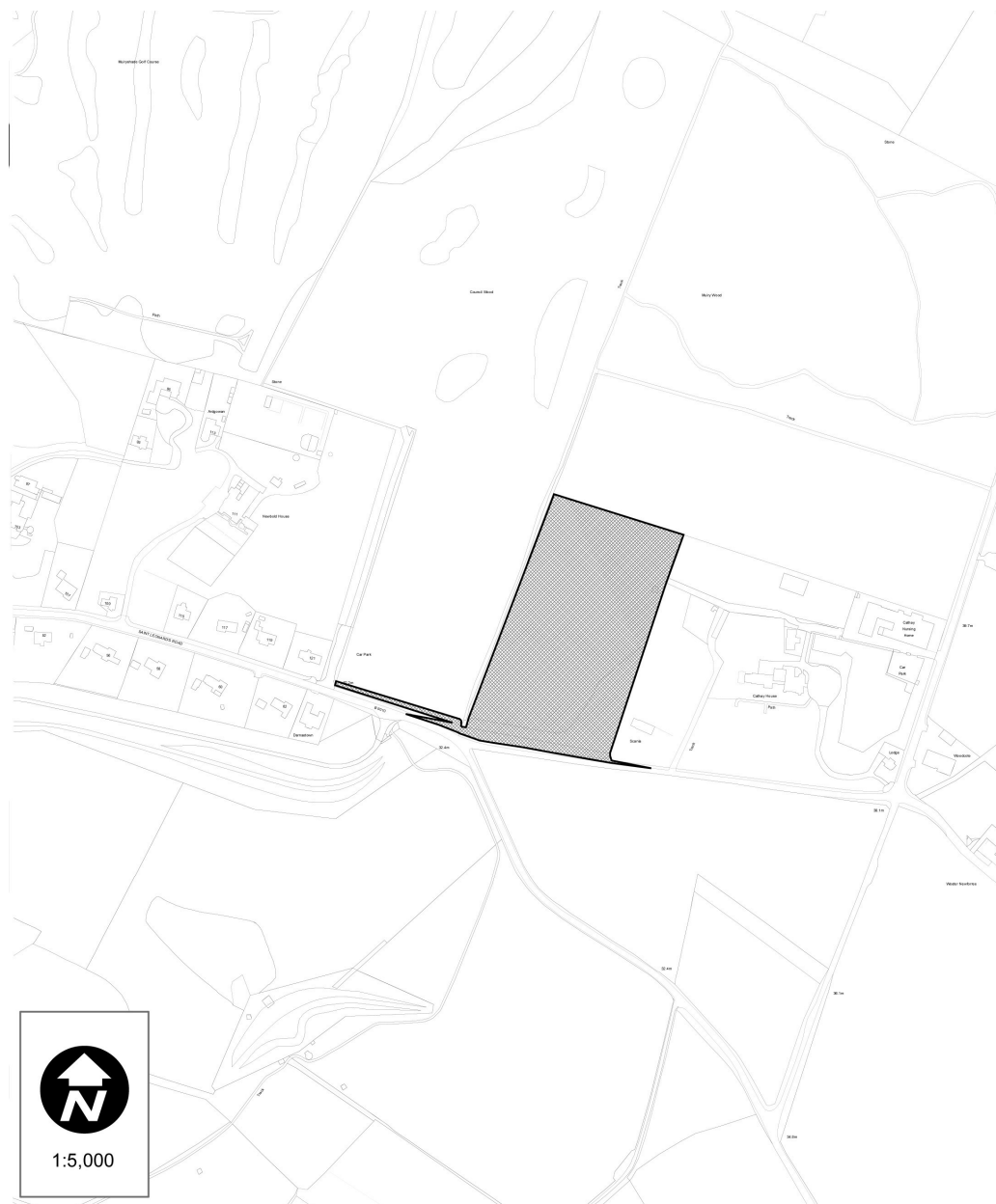
Mr Ray McDonald

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Location Plan



Site Location











PLANNING APPLICATION: 18/01117/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

- The application (as amended) seeks planning permission to erect 12 houses, associated infrastructure and landscaping on St Leonards Road, Forres.
- The houses compromise a mix of 7 different house types, A to G.
- House type A (1 and ½ storey 4/5 bed with attached garage) is located on site 1.
- House type B (1 and ½ storey 4/5 bed with attached garage) is located on site 3.
- House type C (1 and ½ storey 4 bed) is located on site 11.
- House type D (1 and ½ storey 4/5 bed) is located on sites 4 and 8.
- House type E (1 and ½ storey 4/5 bed with attached garage) is located on site 7 & 9.
- House type F (1 and ½ storey 4/5 bed with attached garage) is located on site 2, 5 & 10.
- House type G (Single storey 3 bed - Accessible) is located on sites 6 & 12.
- All the plot sites are large and range in size from 734sqm to 1996sqm.
- Proposed external finishes include beige render, larch timber cladding, pale green timber framed windows and slate roofs.
- For all houses, parking is “in plot” with three spaces being provided, generally located within a garage and to the side and front elevations.
- A new vehicular access is proposed to the site from St Leonards Road, located on the southern boundary.
- Waste water drainage compromises a new private sewage pumping station which will connect to the Scottish Water foul water system.
- A Woodland Educational area is proposed on the East of the site, it is 8867sqm in size. Picnic tables and an education board will be provided within a natural clearing in the trees. It is accessed via a footpath connecting to the main access of the site.
- Supporting documents accompanying the application include a Drainage Report (Drainage Impact Assessment), Protected Species Report, Woodland Management Plan, Arboricultural Impact Assessment and Methodology and a Design and Access Statement.

THE SITE

- The application site extends to 3.11 ha and forms part of the Forres OPP4 designation.
- This site is a wooded area off St Leonards Road in Forres.
- The site lies to the south east of Forres and is within the settlement boundary.
- The site is bound to the south by the U94E Brodieshill to Califer Road, beyond this lies open flat farmland. Muiry Woods are located to the west of the site. A dwelling set in woodland bounds the east of the site. Private woodland bounds the south of the site.

- A belt of Scots Pine trees are located adjacent to the roadside and part way up the Eastern boundary. The remainder of the sites features smaller middle-aged trees which have established in the last 15-20 years since the area was clear felled. The site is open to several area of thinner tree cover/open glades within its core.

HISTORY

For the Site:

Planning History

The inclusion of the site as an opportunity site for low intensity residential or appropriate business use has been scrutinised by Reporters during the preparation of two local plans.

Moray Local Plan 2008

Following objections the inclusion of an opportunity site (including the planning application site, Cathay Nursing Home, Cathay Lodge House and a private dwelling) within the Moray Local Plan 2008 was considered as part of the Public Local Inquiry (PLI). The Reporter supported the sites inclusion stating "The site does not have dense or even tree cover leaving scope for sensitive low density development within a woodland setting. There is scope for retention of significant areas of woodland and heath."

Moray Local Development Plan 2015

Following objections the continued inclusion of the site was considered as part of the Moray Local Development Plan 2015 Examination and the Reporter supported the allocation of a reduced OPP designation which reflects the current OPP4 site.

15/00394/PE - Preliminary enquiry for housing proposals on part of site OPP4, detailed comments provided to assist and front load the planning consideration process.

17/01887/APP - Application for 14 dwellings, associated roads and landscaping was withdrawn due to various issues including lack of drainage information/tree retention. Subsequently withdrawn.

POLICY - SEE APPENDIX

ADVERTISEMENTS

- Advertised as a departure from the Moray Local Plan 2015 and for neighbour notification purposes.

CONSULTATIONS

Developer Obligations – A contribution totalling £103,758.20 towards Healthcare (£52,756.20), Sports and Recreation (£3,002) and Affordable Housing (£48,000) is

required to be the subject of a S.75 Legal Agreement to be signed and registered before being issued.

Moray Access Manager – No objection.

Moray Flood Risk Management – No objection.

SEPA – No Objection.

Scottish Natural Heritage – No objection subject to conditions relating to pre-construction impact on protected species surveys being attached to the consent.

Development Plans – No objection, the proposal complies with the requirements of the Moray Local Plan 2015 and supplementary guidance. £12,000 has been agreed to be paid by the applicant for compensatory planting and will form part of the S.75 legal agreement.

Housing & Property Services Manager – No objection.

Forres Community Council – Object for the following reasons:

1. Should this development proceed it will result in damage to the environment and destroy the habitat of an ancient woodland – its flora and fauna. Also the wildlife including wild birds.
2. This development will have a detrimental impact on adjacent woodlands (Council Woods, Muiry and Newforres).

Environmental Health – No objection.

Contaminated Land – No objection.

Scottish Water – No objection.

Transportation Manager – No objection subject to conditions and informatives.

Forestry Commission – No objection to the proposals as the decision to include the site for development was made prior to the introduction of the Scottish Government's Control of Woodland Removal Policy and is instead seeking compensatory planting of the same type and equal area, which is being provided via a Section 75. Legal Agreement.

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).

Representation were received from the following individuals/groups. Whilst 75 individual representation were received, please note that several of the respondents (59 in total) below submitted multiple representations.

[REDACTED]

[REDACTED]

Two neighbour notification periods were run during the consideration of the application and all representations have been considered and are summarised below, with no assumption that previous objections/representations have been withdrawn (several representations specifically state that the further amendments have not addressed their original concerns which remain). Where issues raised are common to all representation or have been re-stated, the below summary will not reiterate/repeat issues clearly stated at least once. All objections/representations have been read and where material, given the appropriate consideration prior to the recommendation now reached.

A petition has been received in relation to the proposal. The petition was run online via change.org and it was submitted to the Council by the Forres Community Woodlands Trust, a list of those who had signed it and their location was given. The petition submitted received 112 signatures at the time it was submitted. The covering letter states 'Keep local ancient woodlands safe from housing development'. It is noted that this particular type of petition gave those signing it the chance to comment however these comments were not submitted formally to the Council as instructed.

Headings of objection reasons selected by objectors from objection/representation web link:

- Affecting natural environment
- Contrary to Local Plan
- Loss of privacy (being overlooked)
- Over-development of site
- Drainage
- Noise
- Precedent
- Reduction of natural light
- Road Access
- Road Safety
- Traffic
- Smell
- Community Council/Association Consult
- Inadequate Plans
- Procedures not followed correctly

The grounds for objection/representation are summarised as follows:

The main points of the representations are:

- How much woodland do we have to lose?
- The development will destroy this piece of dense mature woodland.
- Concern for the loss of more than 300 mature trees.
- We should be protecting our trees and woodlands and wildlife for future generations.
- This area of woodland is popular with the Forres Community; they are enjoyed by local walkers, runners, pet owners and those who want to get closer to nature but can't travel.
- The 3.11 hectare site is in the Ancient Woodland Inventory.
- In Scotland, ancient woodland is defined as land that is currently wooded and has been continually wooded since at least 1750. The biodiverse soils that develop as a result simply cannot be replaced, nor can their associated rich assemblage of ground flora and wildlife. The Forestry Commission define Ancient Woodland as an important and irreplaceable national resource that should be protected and enhanced.
- Compensatory planting simply cannot replicate ancient woodland.
- The site also appears in the Native Woodland Survey of Scotland.
- Muiry is part of the wide spreading, publicly accessed local green belt, incorporating woodlands of Wester Forres, Sanquhar woodlands and Cluny. These combined woodlands provide excellent public amenity for all to enjoy, but the felling of well over 300 trees on this private site is disastrous for wildlife, minimising and reducing their access for foraging if they are forced to retreat.
- Reducing the number of houses from 14 to 12 will do nothing to lessen the impact on the adjacent woodlands
- The proposed buffer zone between the development and the Council Wood to be totally inadequate.
- Concern that physically uprooting the trees on the site will impact on the adjacent Muiry Woods and the mature trees in neighbouring properties. If the roots are disturbed at neighbouring properties it could have a domino effect on further neighbouring properties trees and cause windblow. This does not appear to have been assessed in the Arboricultural Impact Assessment.
- There are countless scientific studies clearly demonstrating that by fragmenting and reducing the overall size of a patch of woodland, biodiversity within that whole patch is adversely affected. Species within reduced patches are at much higher risk of local extinction. Therefore by destroying the habitat adjacent to our woodlands, wildlife that we have been working hard to encourage could be significantly impacted. The creation of edges significantly alters micro-climatic variables, including solar radiation, incident light, temperature, humidity and wind speed. Plant communities change, shifting towards more aggressive, weedy, pioneer species.
- Sanquhar Woodlands had issues where houses were built too close to existing woodlands. Subsequently, an extended buffer zone of 50m had to be created through the removal of healthy trees to appease the local residents who had safety

and shading concerns. Our fears regarding the fragmentation effect that a housing development of this type would have on these ancient woodlands remains.

- Concern for the remaining trees in that the Arboricultural report makes reference to leaf drop and shading of the gardens in the residential development and without proper protection in place there would be nothing to prevent the new residents from removing trees within their feu.
- Some retained trees are in close proximity to the plots. It is inevitable that, in time, owners will demand they are removed due to dangerous branches or leaf drop (such as happened in Sanquhar).
- The Arboricultural Impact document states that 114 Scots Pine are to be removed, this is not acceptable. They are a rare variety indigenous to Scotland.
- The Forestry Commission have indicated that if this application for planning permission was assessed under the Scottish Government's current control of woodland removal policy it would lead to a strong presumption against development on this site. The Forestry Commission Scotland has clearly stated "that woodland removal at this site is inappropriate". They have further stated; "that the woodland in question is an important and irreplaceable resource that should if possible be protected and enhanced and that there should be a strong presumption against removing semi-natural habitat of this type." Unfortunately, FCS is not a statutory consultee and as such they do not have the power to object to a planning application.
- The report lodged with the amended application still provides for the loss of 281 trees – a staggering amount. The report also suggests new planting of whips but these would take decades to mature and there is no guarantee that residents of the new builds will tolerate the inconvenience of lack of light leaf fall etc. and may well fell existing remaining trees or the newly planted trees. The proposed management plan places too much trust on the individual residents.
- The proposal cannot be said to be carefully integrated into the site with extensive areas of woodland retained.
- The Muiry Woods are enjoyed by local walkers, runners, pet owners and those who want to get closer to nature but can't travel further afield.
- Cutting down trees alongside the road will cause a domino effect and expose neighbouring trees to the south westerly winds. The whole woodland area would be lost altogether, not to mention trees on adjoining properties.
- The number of trees removed does not include the number that will be lost to windblow.
- Loss of trees when Scotland as a nation is trying to grow more is wrong.
- This would destroy the nearest significant woodland area within walking distance of Forres which has a high value for the study of natural history and its functioning habitat.
- Destroying the woodland and the removal of trees is bad for global warming and for our overall well-being and health. We have seen the negative effect of this in other countries across the world creating flooding and destroying their national heritage.
- The continual removal of woodland to the south of Forres should be deplored on the grounds of loss of amenity.

- The tree protection barriers 2m high to be put up are ugly and look unsafe.
- Destroying woodland to build houses on OPP4 would adversely affect amenity, landscape, biodiversity and recreational value and the only economic benefit might be for the developer, while the loss for community would be enormous and permanent.
- Disappointed to learn the necessity to virtually clear fell the majority of trees currently on the site.
- There is no mention of tree preservation orders in respect of tree loss which includes mature Scots Pines.
- The woodland provides a natural boundary to the south of Forres.
- Were planning permission to be granted, it is submitted that this would be contrary to the biodiversity duties of Moray Council in terms of Section 1 of the Nature Conservation (Scotland) Act 2004. Furthermore, retention of trees plays an important role in Moray Council fulfilling its obligations under Section 44 of the Climate Change (Scotland) Act 2009 and to permit their removal would be unsustainable.
- The choices of native trees specified in the “Woodland Management Plan” have different requirements that must be met in order to thrive, such as certain drainage and soil requirements. At no point does the “Woodland Management Plan” address differing soil requirements of the choice of native trees to be planted. Indeed, at paragraph 6.2.6 under “New tree planting” it states “No additional drainage has been specified”.
- The “woodland management Plan” stated that would be an expert visiting the site every 2nd year over a 5 year period to inspect new trees. The Scottish Governments policy on Control of Woodland Removal states that an annual review should be used to monitor progress.

Comments (PO): As detailed in the observation section below of the report the proposal complies with the requirements of the Moray Local Plan 2015 and supplementary guidance.

The development will involve the loss of approx. 50 trees and 231 group trees which are to be replaced by 497 new native broadleaved trees. A Legal Agreement will also be in place if the application is approved, this will detail the terms of a monetary contribution for a hectare of tree planting off site.

The site was designated as an opportunity site prior to the introduction of the Scottish Government’s Control of Woodland Removal Policy therefore it has been accepted that for the site to be developed some trees will lost.

A Woodland Management Plan has been submitted with the proposal that will ensure the impact of the development is minimised and a sustainable tree population will be developed on site.

The site itself is not accessible in any way for the general public. The site is surrounded by deer fencing.

The site was previously used for commercial Forestry and was clear felled in 1989, with the exception of some Scots Pine at the front of the site. It was not replanted. In 1998 the

site was part of an approved extension to Cathay Nursing Home. Then in 2008 the site was included in the Moray Local Plan as an Opportunity Site for low density housing or business use. The trees that are currently on the site (bar the scots pine at the front and eastern boundary) have self-seeded since the site was clear felled 30 years ago

The Forestry Commission Scotland were consulted on the proposal and have stated that 'as the decision was made prior to the adoption of 'the Policy', to accept this area as a development site (in the current and previous Local Development Plans) then FCS recommends that if development is now approved then compensatory planting of the same type and equal area as that lost to the development should be made a condition of the approval'. This has been adhered to by the applicant with double the number of trees being planted on the site as to those being removed and a monetary sum being provided by way of a legal agreement for compensatory tree planting off site.

Within the Arboricultural Impact Assessment/Method Statement (Rev B) has been undertaken that ensures that the trees that are to be retained to be protected.

The proposal demonstrates that it can be integrated into the woodland that is to be retained through plans, Arboricultural Impact Assessment/Method Statement and A Woodland Management Plan.

A buffer is to remain along the boundary of Muiry Woods and the front of the site (along St Leonards Road) therefore a woodland corridor would remain between Muiry Woods and the top of St Leonards Road and will lessen the impact of the proposal to the neighbouring woods and provide a corridor for wildlife.

The proposal will not impact Muiry Woods Visually from the surrounding area the woodland will not appear to be significantly changed due to the band of scots pine that remain which fronts onto the public road.

Tree protection barriers are necessary while the site is being developed. They will be removed upon completion of the site.

The site does not have a Tree Preservation Order on it.

Young trees can take many years to establish however given the number of to be retained the site will still appear wooded.

Wildlife

- The proposal will adversely affect wildlife such as red squirrels, badgers, pine martens, polecats and various birds by the removal of valuable habitat which is home to important fauna and flora.
- The fact that no dreys or setts have been found does not change the fact that the area acts as a corridor and feeding ground for wildlife, which is just as vital as providing den sites. Removal of trees, no matter what their age, would threaten the viability of this corridor. The wildlife could disappear from the area in the course of destruction of the woods and construction of the housing estate.
- Particular concerns for the pine marten which requires a substantial area of woodland and it would be sad if such protected species disappeared from the locality altogether as a result of this proposed development.

- Pine marten, crested tit and red squirrel as listed as UK BAP priority species, all exist in the woods that will be severely changed to accommodate more humans if this plan is realised.
- It is not in the public's overriding interest to disturb European Protected Species that are found on the site.
- Neighbouring properties have photographic evidence of their gardens being frequented by protected species including adult and young pine martens.
- The public who visit Muiry Woods think it is inconceivable that there is not evidence of protected species on the proposed site.
- During construction and engineering works and the deforestation required in connection with the development and subsequent human habitation there is no doubt that protected species would be considerably disturbed.
- Red squirrels nest in the large mature pine trees.
- Destroying habitat is not what is needed in our current times of climate change and mass species extinctions.
- Wildlife will not just be put at risk from the building of 12 houses but also the cars, lawn mowers, radios, strimmers, domestic animals, gully pots that will trap large numbers of invertebrates, amphibians and small mammals and windows causing deaths of birds.
- The woodland developing on OPP4 is the natural succession from clear felling Scots Pine around 24 years ago. Birch and pine now dominate a ground cover of heather and grass with rhododendron in damper and less stony parts. A pinewood orchid, creeping lady's tresses grows below older pines and intermediate wintergreen grows around the old town gravel quarry.
- The 2m high fence erected by the previous owner deterred the public but also prevented free ranging dogs, so roe deer and the ground nesting woodcock have found it a haven. Breeding birds include willow warbler, chiffchaff, blackcap, song thrush, long-tailed and great tit. Although garden cover might provide cover for a few bird species, the introduction of domestic cats would be devastating for all ground nesting species in the whole woodland.
- One or two pairs of Woodcock, now a red listed species, nest every year and the undisturbed cover is a haven for visiting continental birds in the winter months. Badgers have been present in OPP4 for many years, accessing surrounding woodland and neighbouring houses gardens. The perimeter fence has tunnels dug under it and feeding scrapes are widespread in the woodland, including wasp nest excavations.
- An independent survey should be commissioned to accurately determine the full impact on this wildlife if building here was to go ahead.
- Wildlife is at further risk of being killed on the road due to the increase in traffic that 12 houses will create especially at night. Speeding on St Leonards Road has led to frequent killings of Red Squirrels Reports of sighting of dead squirrels are often made to SWT Red Squirrel project.
- Scottish Natural Heritage's (SNH) consultation response can be given no substantial weight in justifying a decision to permit the proposed works as it is contradictory in its terms regarding impact and purely observational.

Comment (PO): Scottish Natural Heritage (SNH) were consulted on the proposal and advised that there are natural heritage interests of local importance on site which will be impacted by this development but this will not be detrimental to the conservation status of European Protected Species with their natural range therefore do not object.

The Protected Species Survey report confirms that no Red Squirrel dreys are found on the site. However it is probable that over time wildlife activity on the site may change therefore if the proposal is approved, a condition will be attached to the consent requiring pre-construction surveys to be carried out to ensure that the development will not adversely impact upon or disturb European protected Species.

The woodland buffer to be provided along the boundary of the site and Muiry Woods will lessen the impact of the proposal to the neighbouring woods and provide a corridor for wildlife.

The Protected Species Survey report states that badgers and red squirrels do visit the site however SNH have commented that the proposal will not be detrimental to the conservation status of European Protected Species including badgers.

The submitted Protected Species Survey report has been carried out by an independent Ecological Consultant as will the pre-construction surveys.

While the proposal will generate extra traffic on the joining public roads in context to the volume of traffic that uses the joining roads it is insignificant to road kill.

If the application is approved a condition stating that any clearance of vegetation takes account of breeding birds, either confirming that none are present or require protection would be covered by the pre-commencement surveys.

Road Safety

Pedestrians

- Crossing St Leonard's Road at several places (Alexandra Terrace, Nelson Road, St Leonard's Drive, Adam Drive) is a dangerous business and there is worry about children on their walk to/from school.
- No pavements on this section of St Leonards Road or speed limit.
- Some stretches of St Leonards have sections of no pavements.
- The Moray Council Transportation Manager at Condition 3 of his response has placed a requirement on the developer to provide a 2m wide cycle and pedestrian path, set back from the B9010, linking the site to the existing Council Woodland Car Park. We believe that this requirement should extend the length of the path to the entrance to Leancoil Hospital as the current path from the Council Woodland Car Park to the Hospital is very narrow, inadequately surfaced and unmaintained.

Increase in Vehicles

- St Leonard's Road is a narrow long road with a narrow pavement all the way up on one side only and is already an unpleasant, sometimes dangerous, road to

walk/cycle on due to lack of width. Residents of the proposal will be forced to use it thereby increasing traffic on an already unsuitable road.

- Increased traffic (approx. 70 cars) will lead to more speeding.
- The road is particularly dangerous at night.
- Taking road safety into consideration, a major rethink of the junction, width and usage of this road would require to be undertaken.
- Should planning consent be granted where would the many builders lorries and vans working on this site park? There is no space to park on B9010. Lorries parking on B9010 would cause obstruction and be dangerous to other road users and pedestrians.
- The road is in a very uneven state and the grassy bank which used to be on the northern side of the road has been totally eroded by heavy traffic and quarry lorries. In wet weather it is impossible to walk along the road without getting drenched. The road needs up grading if it is to support more traffic.
- Access to the A96 through Forres Enterprise Park has undoubtedly increased traffic flow on this minor road since the last MLDP was produced that included OPP4.

Existing Dangers

- This part of the road is not wide enough for two cars to pass each other comfortably. Travel towards Califer in the face of an oncoming vehicle requires leaving the road surface and using the verge or a complete stop for a large oncoming vehicle.
- The junction at the road to Rafford is dangerous and there have been many accidents there. The Y junction just beyond the entrance to the Council owned woods is also dangerous.
- As it stands the public road is susceptible to potholes and surface water splashes onto the boundary wall at Cathay and has caused damage to the wall by eroding the mortar.

Access

- The proposed entry/exit point for this development cannot be seen by vehicles turning from the B9010 onto the minor road until after they have passed the junction due to trees on land outside that owned by the developer.

Speeding

- Speed limit on this section would need to be lessened.
- Vehicles do not normally slow down when taking the nearby junction; they will have very little warning of any traffic emerging from the development.
- St Leonards Road already has considerable lorry traffic from the farms, conifer plantations and from the quarry which already break the speed limit and cause disturbing shockwaves / heavy vibration in the adjacent buildings.
- Residents of St Leonards Road have already complained to the police about the speed of the traffic on a constant basis.

Comment (PO): The Transportation Section has considered all these issues as part of the application but does not object to the proposal on road safety and increase in traffic subject to conditions and informatives being attached to the planning consent.

Prior to the commencement of works the public road (U94E Brodieshill to Califer Road) along the site frontage is required to be widened to a minimum of 5.5m, between the junction with the B9010 and the Eastern site boundary, tying into the existing carriageway at "Scania". This works will also need to take into consideration existing roads drainage infrastructure within the carriageway. A 2m pedestrian and cycle path is also required linking the site and the existing Council Car Park to the West of the site.

It is speculative to assume that development of the scale proposed for 12 housing units, with the required access visibility splays would create road safety concerns.

Speeding on St Leonards Road is a matter separate to the planning consideration of the above development and would not constitute a reason to refuse the current planning application.

The Transportation Section has not objected to the proposals on the grounds of road safety on St Leonards Road and the surrounding roads are capable of dealing with the additional traffic generated.

It is unreasonable to ask for the applicant to extend the length of the path to the entrance of Leancoil Hospital.

Accident data (where reported) has been taken into consideration as part of the process.

Pollution

- If the development preceded the quiet and peaceful ambience of the area which has long been recognised would be jeopardised. It would lead to increased noise and light. This would affect local people such as star-watchers and walker and nearby current residents during construction and once the house are built.
- The street lighting required for the proposal will be reducing and disruptive in what is currently a 'dark sky' area at the moment.
- Increase in traffic noise and pollution to a quiet country road is unacceptable.
- Increase in dust and litter.
- During construction the works required will be on an industrial scale, this could create health issues for existing residents including anxiety, stress and fear.
- The constant stress of construction followed by daily living of 60 permanent house dwellers will soon impact negatively on the surrounding environment.
- The inclusion of benches in the woods could lead to noise and a disruption of the tranquillity of the natural surroundings. This could also encourage barbecues, music, late night activities and an increase of litter. All of which will have an impact on the area.
- It is a major failing on the applicant's part to not address the nuisances such as noise, increased vehicular traffic, lights and drilling etc. in the planning proposal documentation.

Comment (PO): Given the amount of planting that is to be retained on the site it is unlikely that dust will be an issue, it is not considered necessary to set out further controls on dust. Environmental Health were consulted on the proposal and have raised no objections.

It is speculation that the proposal will cause an increase in litter.

As with any new build or re-development on a site, construction impacts including disturbance and disruption are somewhat inevitable but likely to be intermittent, occur over a short-term period and are temporary in duration. Attention to the on-site management of construction activity, including 'best practice' and adherence to requirements of other legislation can also address and mitigate the impact of such effects to ensure that any residual impacts, if any, are not significant.

The increase in the numbers of traffic that would be generated if development were to occur would not result in any substantive or detrimental increase in air pollution.

Drainage/Sewage

- Sewage and drainage is already a big problem in St Leonards Road, it often smells disgusting, despite drains having been professionally cleaned out the length of the road. New houses will compound these problems.
- Neighbouring properties have experienced difficulties with their septic tanks, the proposal could exacerbate this.
- Neighbouring properties are becoming increasingly waterlogged and surrounding fields appear to have been standing in places on a more or less permanent basis.
- Drainage Assessment lodged with the application makes reference to 12 new residential units when the application is for 14 new residential units. The report also lacks detail as to how the soakaways are to operate.
- Even with the new proposed drainage arrangements neighbouring properties are still concerned about the effect all the construction and engineering works will have their soakaways.
- Forres sewage works cannot cope with deluges of rain water, outpouring straight into Findhorn bay, along with waste matter and associated items.
- Find it very difficult to understand why connection to the public sewer should be acceptable when in recent years an application for connection to the public sewer by the nearby established Cathay Nursing Home was refused.
- The application by the nursing home to connect to the public drainage, required public advertisement so I do not understand why the amendment to the application is not being advertised publicly. Surely an increased burden on the public sewer is a matter of public concern?
- Scottish Water have stated that they will not normally accept water connection into their combined sewage system – without this where would this contaminated water end up? In the Chapelton Spring? This would be a catastrophe. It feed the renowned Speyside Distillery.
- The underlying soil is a hard mixture of gravel, sand and boulders, as left by the Ice Age. In some areas a hard iron pan, from leached iron salts, has been caused by

acidic surface conditions, cementing materials together and impeding drainage.

Nearby, Cathay Nursing Home has had major septic tank problems as foul water has not drained but some seems to have surfaced, slightly downhill, in a nearby field.

- The proposal should not compromise the water supply for the distillery to the north side of Forres, where its water supply passes within 200m of the site.

Comment (PO): The Drainage Impact Assessment has been assessed by SEPA and the Councils own Flood Risk Management Team. Following amendments to the assessment following questions raised by consultees, they are now satisfied with the proposed drainage which is connection to the public sewer. Risk of increased problems to neighbouring properties septic tanks etc. will have been taken into consideration as part of the assessment process.

The public road (U94E Brodieshill to Califer Road) along the site frontage is required to be widened to a minimum of 5.5m, between the junction with the B9010 and the Eastern site boundary, tying into the existing carriageway at "Scania". This works will also need to take into consideration existing roads drainage infrastructure within the carriageway.

Scottish Water have raised no objections to the proposal and have stated that there is capacity within the sewers for the development. The development will include a sewerage pumping station which will in turn to connect to the public sewer to the west. It is not considered that the site, through which no water courses flow or spring from, would have a detrimental impact upon private water supplies within the area.

Flooding

- The area has a history of occasional flooding and this proposal will increase this threat due to the major excavation work and indiscriminate felling of trees.
- There is frequently surface water flooding on the U94E Road, the proposal could exacerbate this problem with more (contaminated) water having nowhere else to go. Any rainwater from the site will add to the regular flooding of gardens on St Leonard's Road.

Comment (PO): Parts of the application site lie within the medium likelihood (0.5% annual probability or 1 in 200 year) flood extent of the SEPA Surface Water Flood Map. The proposed on-site drainage and Sustainable Urban Drainage are acceptable to Moray Flood Risk Management therefore there is no increased of flooding caused by the proposal.

Design

- The houses are not in keeping with the rural design; they are too large, clunky and cumbersome to be sympathetic to a woodland setting.
- The houses include boilers. It does not state whether they are oil or gas. Has the gas supply been contacted and/or is oil a safe and sustainable product to be using in woodlands. Both gas and oil are highly combustible.
- Larch cladding is shown for the houses. Larch is a top recommend fuel for commercial firewood suppliers – it burn easily and at a high temperature.

- Black P.V.C. (rainwater goods) would burn and melt at an extremely high temperature.

Comment (PO): The proposed houses are of a high standard of design and will sit well within the site and its surroundings.

The suitability of gas or oil for the houses will be assessed as part of the Building Warrant.

The use of Larch cladding is used throughout Moray and Scotland and is an acceptable external material for the housing.

Precedent

- Risk of development setting a precedent

Character

- Development is wholly out of character with the locality. St Leonards Road is a road comprising large houses with associated large gardens and it would be inappropriate to construct a housing estate with a few trees around it and destroy a whole woodland and the wildlife therein in the process.
- The proposal would be more suitable in a suburban situation.
- The proposal would completely destroy the tranquillity and character of the area forever, as has happened already with a number of developments around Forres.

Comment (PO): St Leonards Road comprises many different house types ranging from large villas to modern bungalows. The plot sizes on St Leonards Road vary in size to accommodate the differing house types. As detailed in the observation section of the report below the proposal complies with the Moray Local Plan 2015 and supplementary guidance. The proposal therefore is not out of character with its surroundings and it will not destroy a whole area of woodland and measures will be in place to protect wildlife.

The proposal is within the Forres settlement boundary.

The surrounding woodland will not be significantly impacted by the proposal.

Overdevelopment

- The development is unnecessary and constitutes inappropriate/overdevelopment as a large cul de sac is not in keeping with existing dwellings in the area.

Comment (PO): The proposed 12 plots range in size from 734 sqm to 1996 sqm therefore are large. With the overall site being 31100 sqm in size the proposed sites can be classed as low density.

Moray Local Plan, Supplementary Guidance and National Policy

- The proposal is contrary to policy ER2 as there is no social or economic benefit of national, regional or local importance, indeed the only economic benefit will be to the developer. It is also contrary to policy EP1 of the current and proposed new plan.

- The proposal shows complete disregard to the “Moray Local Plan 2000, Housing in the Countryside”.
- Concerns for the environment and awareness of the long term impact of removal of woodlands has grown significantly since OPP4 was originally included in Moray's Long Term Plan and current policies should be strictly enforced if the Council are to have any credibility in their concern for our wonderful environment in Moray.
- Revised proposal cannot be classed as low density as required by OPP4.
- The development's impact conflicts with the Moray Woodland & Forest Strategy – Supplementary Guide - published by Moray Council (January 2018), which states the following;

Expanding, Protecting & Enhancing Our Woodlands, page 4

- Support the protection of existing woodland.
 - Promote woodland practices that protect and enhance environmental quality and biodiversity.
 - Promote the conservation of species and habitats (e.g. red squirrel)
- Connecting People & Communities to Our Woodlands, page 15.
- Promote the creation of woodlands close to towns and villages.
 - Prepare masterplans and development briefs for development sites to secure, woodland creation, green infrastructure and green networks
- It also conflicts nationally with Scottish Planning Policy through the Scottish Forestry Strategy (SFS) - The right tree in the right place - Planning for forestry & woodlands, page 9 (2.3 Planning).
- published by Forestry Commission Scotland.
- "The second National Planning Framework (NPF2) reiterates the objectives of the SFS and the need to plan proactively for an expansion of woodland cover.
- In addition, NPF2 confirms the protection that should be afforded to existing woodland, and that woodland removal should only be permitted where it will achieve significant and clearly defined additional public benefits. NPF2 also emphasises the importance of developing green networks and habitat networks for the benefit of people, landscape and nature".

- Proposal does not comply with Scottish Planning Policy (Para 34 - pt7, Para 35 - pt 7, Para 37) Section 1 Nature Conservation (Scotland) Act 2004, Section 3E – part 2 of the Planning etc. (Scotland) Act 2006, Section 25 of the Town and Country Planning (Act)1997, Section 15 of the Planning etc. (Scotland) 2009, Section 1 of the Nature Conservation (Scotland) Act 2004, Schedule 5 and 6 of the Wildlife and Countryside Act 1981 (as amended), European Habitats Directive (Council Directive 92/43/EEC) and Appendix III Berne Convention on the Conservation of European Wildlife and Natural Habitats 1982.

Comment (PO): It is assumed that it is in fact the Moray Local Plan 2015 that is being referred to. Policy H7 ‘New Housing in Open Countryside’ does not apply to this proposal due to the site being located within the Forres settlement boundary.

The site was designated as an opportunity site prior to the introduction of the Scottish Government's Control of Woodland Removal Policy and the change in policy regarding woodland for Moray Council therefore it has been accepted that for the site to be developed some trees will lost.

As detailed further in the observation section below the proposal complies with the required policies of the Moray Local Plan and supplementary guidance therefore in turn complies with Scottish Government policy given the site is designated as an opportunity site.

Environment

- Building houses so far from centre of town leads to reliance on private transport. Environmentally damaging and goes against Scottish Executive's long term aim of reducing Scotland's carbon footprint.

Comment (PO): This is noted however it would not constitute a reason to refuse the current planning application.

Other

- The development applied for occupies less than 50% of the area designated OPP4. There is concern that if this development application is approved and built, a further application will be made for the remaining area of OPP4 with the submitted Block Plan already showing 'future access' onto the minor road by Cathy nursing home. This would mean even more woodlands destroyed and more houses built. The Developer should state his intentions for the remainder of the land before this proposal is even considered.

Comment (PO): The developer is not required to give his intentions for the remainder of designated OPP4 site.

- The developer also has land in the Forres area which has lain undeveloped for the past 10 years.

Comment (PO): This is not a material planning consideration.

- Aware there is not a high demand or an urgent need for new housing in Forres and what demand there is can be met by the unsold stock of existing houses and the large development at Knockomie Braes where many houses remain unsold.

Comment (PO): This is not a material planning consideration.

- This application is similar to the Dallas Dhu applications in that it is in an area of rural countryside previously untainted and inappropriate for new development. Most of the other areas with development in Forres have already lost their rural character.

Comment (PO): The proposal complies with the requirements of the adopted Moray Local Plan and supplementary guidance as detailed in the observations section below.

- The houses will no doubt be in the expensive bracket which is already being enlarged towards Califer -Blervie Castle and along the tracks at the south end of Rafford which are treeless.

Comment (PO): This is not a material planning consideration.

- The development will produce extra costs to the Council, NHS and Scottish water.

Comment (PO): A developer obligation is required to be paid and will be covered prior to the planning consent being issued. This is sought to ensure sustainable economic growth in Moray.

- This development should not be permitted to go ahead despite the area being designated in the current Plan as a development opportunity. It is only a potential opportunity that was identified, and not a guarantee of development.

Comment (PO): Policy ED5 (Opportunity Sites) states that it seeks to promote sustainable development and encourage the use of previously used land which is now vacant or derelict. The town and village statements identify “opportunity sites” which present the opportunity for appropriate alternative uses in the event of a proposal to redevelop. With the designation text (OPP4) the change of the use of the site to low density residential use is given.

- Some of the residents will be smokers and some of these will be careless. Given the number of trees in the area and the abundance of gorse, the unsavoury prospect of a woodland fire looms to mind.

Comment (PO): Whilst this could happen, it is not a material planning consideration and does not constitute a reason for refusal.

- The area is a small paradise that is free of charge. People have been dependant on nature sanctuaries like these for a good while to unwind and generally detach from modern life’s stresses and strains. Their freedom is being taken away from people whose only regard is for financial gain.

Comment (PO): The proposal site is not accessible to the public.

- The whole scheme looks like a package ready for a developer who would impose a uniformity quite alien to this part of the town, where variation in size and style, as well as large gardens, make an attractive mix.

Comment (PO): This is not a material planning consideration and any changes to the proposal (if approved) would either require to be agreed via a non-material variation or by further planning consent.

- The proposal would impact on the residents of St Leonards Road and other surrounding properties.

Comment (PO): The proposal would have a minimal impact on the residents of St Leonards Road.

- This area was granted its OPP4 status in 2008. At that time a development of the type proposed may have been deemed appropriate by the planners. However, public opinion has moved on since then with new Scottish Government legislation and policies and Moray Council environmental policies introduced to address the protection of woodlands and wildlife habitats of this type. We believe that this development, if approved, would directly contravene these policies.

Comment (PO): As correctly stated that site was designated prior to a shift in policy by the Scottish Government therefore it is accepted that the site can developed as per its designation.

- The developer has not consulted with FCWT regarding the future management of any buffer zone and links to the existing paths network, per the current MLDP.

Comment (PO): It is anticipated that the future management of the buffer zone will be discussed with FCWT if it is approved.

- Given the strong community opposition to housing development in this area it is requested that the OPP4 Cathay opportunity site designation be rescinded and changed to ENV designation in MLDP2020.

Comment (PO): The site is to remain as an 'opportunity site' within the new Moray Local Plan 2020.

- The Forres Community Woodlands Trust has received over 20 public objections comments and 336 negative reactions on via social media, not to mention direct emails from concerned members of the Forres community.

Comment (PO): Only representations received to the Council via the correct channels can be considered as representations to the proposal.

- One of the Footpaths Trust's most popular way marked walks, which also appears on national websites, passes very close to the site of this proposed development which would be intrusive and totally inappropriate in this vicinity.

Comment (PO): The proposal will have a minimal impact on the surrounding woodland. A woodland buffer is being provided between the site and Muiry Woods.

- There are satisfactory alternative sites in Forres that would not cause the same degree on environmental damage.

Comment (PO): The site is an ‘opportunity site’ within the Moray Local Plan and complies with the proposal complies with the Moray Local Plan and supplementary guidance.

- The ‘Developer Obligations’ consultation response states that contributions towards healthcare and a sports field are required, censored public benefits cannot be deemed as clearly defined and significant in accordance with Scottish Planning Policy (SPP) Para.148 as stated.

Comment (PO): The Council has previously agreed that specific developer contribution amounts should not be published to unduly influence the assessment of planning matters. The reference to para 148 of the SPP is unclear where it relates to designated Gardens and Designed Landscapes. The closest to the site is at Grant Park over 1km away and visually separated from the site.

- The public should not be faced with a decision to opt for one social benefit at the cost or detriment to another socially beneficial asset.

Comment (PO): The planning application does not seek to pose that question. Developer obligations are in place to offset and compensate for the effect of the development, where it is otherwise deemed to be acceptable.

- To allow the proposed works to commence would not be in the overriding public interest and would leave Moray Council and the developer at risk of further legal action

Comment (PO): This premise of the statement is unclear, where the site if approved would be in accordance with a designated opportunity site, within the adopted local development plan. It cannot be presumed that the public interest is unanimously against a housing development, where pressure and demand for new housing has been identified nationally.

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. The main issues are considered below. On 18 December 2018, at a special meeting of the Planning & 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 2105 MLDP being the primary consideration.

The main planning issues are considered below.

Forres OPP4 Designation

The principle of this proposal for 12 houses accords with the Moray Local Plan 2015, which identifies the site for low density residential or an appropriate business use suited to the amenity of the site.

The proposal falls to be assessed against the provisions of the governing policy ED5: Opportunity Sites and the site specific requirements of the OPP4 designation. Policy ED5 states that town and village statements will identify “opportunity sites” which present the opportunity for appropriate alternative uses in the event of a proposal to re-develop. This policy seeks to promote sustainable development and encourage the use of previously used land which is now vacant or derelict.

The Forres OPP4 designation text makes reference to the opportunity for low density residential use or appropriate business uses, carefully integrated into the woodland with extensive areas of woodland retained. The text also sets out a number of requirements that must be met including significant tree retention, buffers to existing woodland and connecting pedestrian/cyclepaths to the north and west.

The submitted application for the proposed development of 12 houses with associated roads/drainage infrastructure across part of the opportunity site provides sufficient detail to consider the proposal against the requirement of policy ED5 and Forres OPP4 designation text. The proposed layout including the landscaping, woodland management plan, drainage information, functional pedestrian/cyclepath linkage, the access, the future link to adjoining ground (to the north which forms the remainder of the OPP4 designation) address the site specific requirements of OPP4.

The 12 house proposal is a reduction of two plots from the previous planning application 17/01887APP. This reduction in density has resulted in significantly more trees being retained within the site. The proposals are supported by detailed tree survey work to inform identification of most appropriate areas for housing that minimises tree removal. To support this approach further information has been provided to show tree removal on a plot by plot basis for all plots, so it is clear which trees are being retained.

The tree survey report provided identifies tree specimens to be retained and those to be removed and details measures to protect trees during construction. One of the tree planting plans has the original layout and requires to be updated to reflect the revised layout, which is covered by the conditions recommended. As set out above compensatory planting to mitigate the effect of woodland removal is being provided with a mix of native species and would be covered by contribution via the Section 75.

The woodland buffers between the development and Muiry Wood and Council Wood to protect the recreational value of these woodlands has been provided. It is recommended that these woodland buffers are removed from the gardens of plots.

Pedestrian connectivity through to the remaining area of the OPP designation is shown. The north pedestrian/cyclepath connections are shown to the west to allow future residents to access the adjacent woodlands. The designation text also makes reference to the long term management of the buffer zone involving the Forres Community Trust and Forres Footpaths Trust. This relates to the northern section of the opportunity designation that immediately adjoins Muiry Wood which is not part of this planning application.

Given the above the proposals are considered to meet the requirements of the designation text.

Placemaking (PP3)

The local development plan policy PP3 and supplementary guidance on Urban Design seek to ensure that new residential developments function well for occupants and create a sense of place and identity.

A Quality Audit (QA) was undertaken for this and the previous withdrawn application (17/01887/APP). A QA is a tool that is used to adopt a consistent and relevant approach to the assessment of design and place quality as set out by the Scottish Planning Authority. The audit consists of 12 categories which are categorised by movement, buildings and open space/landscaping. The QA assesses each category using a traffic light system; red does not comply, amber almost complies and green it complies.

In order to fully demonstrate the evolution of the proposals and the amendments undertaken by the applicant the two applications were merged into the single QA. Application 17/01887/APP was withdrawn in order to make significant alterations following the QA process which had identified all categories as red (bar car parking). 18/01117/APP was submitted taking account of the QA requirements however further amendments were still required in order for the proposal to be acceptable. The QA identified a number of changes required to improve the design and layout of the development. The changes negotiated as part of the QA have been incorporated within the development proposals, these included, amongst other things, improved pedestrian connectivity, improved site layout including road arrangement, retention of additional trees including woodland buffers along the sites boundary Muiry Wood and the Council Wood, compensatory planting (off site), improved habitat connectivity for wildlife and improved open space. As a result of these changes to the proposal all categories are now green except the Open Space category, which is amber, due to the area of greenspace and proposed education area to the rear of plots 11 and 12 has limited surveillance however it was essential to seek to retain this area of pine trees and create habitat connectivity for red squirrels and other wildlife across the site and minimise disturbance to soils.

Following this process and the amendments made, the proposed development would provide a pleasant and functional living environment, and is considered to comply with Policy PP3 Placemaking of the Moray Local Plan 2015.

Development within Woodland (E4 & ER2)

The above policies collectively seek to protect woodlands from inappropriate development. The woodland on site is identified in the Ancient Woodland Inventory and appears in the Native Woodland Survey of Scotland.

E4 Trees and Development states that woodland removal will only be permitted where it would achieve significant and clearly defined additional public benefits. This policy requirement is applied to undesignated sites however the principle of developing this site has already been established through its designation for low intensity residential or appropriate business uses.

ER2 Development in Woodlands states that woodland removal within native woodlands, ancient semi natural and woodlands within protected sites under the terms of policies E1 and E2 will not be supported. Policy E2 Local Nature Conservation Sites applies as the site is identified in the Native Woodland Survey of Scotland. Under the terms of this policy proposals must demonstrate that local public benefits clearly outweigh the nature conservation value of the site and there is a specific locational requirement for the development. As with Policy E4 the principle of developing the site was established when

the site was originally designated. The planning history set out below helps explain the background to designation of the site.

Policy E4 further states that where woodland is removed developers will generally be expected to provide compensatory planting to mitigate tree removal. There are 50 trees and 231 group (clustered) trees being removed and 497 new native trees being planted which will result in a net gain of tree cover across the site. The woodland retained within the plots and 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. Approximately 2 ha of woodland is being removed as a result of the development. It is acknowledged the applicant has made significant efforts to retain as many trees as possible within the site. The proposals seek to supplement the retained woodland area and woodland buffers around the site with additional tree planting, create an educational area and enhance access to woodland within the site and access into surrounding woodlands. In taking account of these measures, the applicant is being required to provide 1 ha of compensatory woodland planting and has agreed to a developer contribution toward woodland provision elsewhere within Moray. This contribution will be ring fenced for provision in Forres.

On the basis of the above the proposals are considered to meet the terms of E2, E4 and ER2.

Access and Parking (T2 & T5)

Policy T2: Provision of Access requires that no development proposal 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. Policy T5: parking standards states that proposal for development must conform with the Council's current policy on parking standards.

Prior to the commencement of works the public road (U94E Brodieshill to Califer Road) along the site frontage is required to be widened to a minimum of 5.5m, between the junction with the B9010 and the Eastern site boundary, tying into the existing carriageway at "Scania". Trees are generally set back from the road edge by several metres, but diligence over the location of trees roots may affect several closest to the road. These works will also need to take into consideration existing roads drainage infrastructure within the carriageway. A 2m pedestrian and cycle path is also required linking the site and the existing Council Car Park to the West of the site.

The proposal complies with policies T2 and T5 subject to conditions being attached to the planning consent if approved.

Open Space (E5)

Policy E5 states that Open Space must serve a function and be positioned so that it is safe and easily accessible. A minimum 15% open space is required in developments of 10 – 50 houses. Open space must serve a function and be positioned so that it is safe and easily accessible.

Reducing the number of plots from 14 to 12 has created a large area of woodland and educational space within the development. This is accepted as the layout of the development and location of the open space has been dictated by maximising retention of trees within the development.

This has resulted in an area of greenspace and a proposed educational area to the rear of

plots. It is accepted that the area has limited natural surveillance however it was essential to seek to retain this area of pine trees and create habitat connectivity for red squirrels across the site and minimise disturbance to soils.

The total open space area of the site is 9591sqm which is equal to 31% of the total site area. The proposal complies with policy E5.

Drainage and Water (EP5 & EP10)

Policy EP10s aim is to achieve the satisfactory disposal of sewage; it encourages new development to connect to the mains system whenever possible. Policy EP5: Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS) requires that surface water from development should be dealt with in a sustainable manner.

Foul Drainage

In accordance with good practice the development will require to be served by a separate foul and surface water system and incorporate SUDS facilities.

The individual properties are to discharge to a proposed new 150mm diameter PVC foul sewer to be located beneath the development roads. The foul sewer is to connect via gravity to a new Private sewage pumping station.

The point of connection for the new pumping station is located approximately 720m to the north west of the site at the access to Leancoil Hospital. The formal route for the rising main is to be agreed between the relevant landowners/authorities and therefore has not been shown within the Drainage Strategy plan. A condition is imposed to ensure that the appropriate Scottish Water sewer connection is in place prior to occupation of the dwellings. SEPA were consulted on the proposal and have no objection subject to a condition ensuring that the connection to the public foul sewage system is completed prior to the occupation of any dwellings.

As the pumping station is to remain privately maintained, any sewers upstream of this point will not be adoptable by Scottish Water therefore the infrastructure within the site will require to be privately maintained also, either by the applicant or appointed factor.

Storm Drainage

The surface water drainage will require to be designed in accordance with the principles of sustainable development. The objective of SUDS drainage systems is to manage the surface water runoff from the development by providing flow attenuation, water treatment and controlled discharge or dispersal. The aim is to maintain the pre development runoff rate which would be achieved by agreeing a pre development Greenfield runoff rate and designing a system to limit the post development discharge to this value.

The preferred method for incorporating SUDS within a development is to provide a series of features forming a management train throughout the site for the storm water.

Source control methods such as individual soakaways, porous vehicle surfaces and roadside infiltration trenches or swales are situated at the upstream end of the train.

The downstream end of the chain can be made up of detention basins, ponds or wetlands where required.

The surface water runoff for the roof areas of the properties are to therefore discharge to individual private soakaways within the plot boundaries. The soakaways are to be designed to manage surface water runoff up to and including a 1:30 year event.

The Moray Council Transportation Department were consulted prior to designing the road drainage and as such the preferred method of surface water management was agreed to be road side swales. The surface water is therefore to discharge from the road areas via

off-lets/openings in the kerbing in to swales utilising infiltration to manage the surface water runoff. The swales are to be sized to accommodate flows up to and including a 1:200year event.

A Drainage Impact Assessment was submitted following consultation with Moray Flood Risk Management and further information was requested to include:-

- Surface water storage calculations are required to a 1 in 30 year return period plus climate change.
- Evidence is required to show a 1 in 200 year storm event will be contained on site.
- The surface water storage calculations shown are for an indicative plot, specific surface water storage calculations and layout details are required for each house type.
- Specific location details for the road filter drain.

This information was provided and Moray Flood Risk Management are satisfied with the details. If the proposal is approved the Drainage Impact Assessment will form part of the approval.

Control of Development in Flood Risk Areas (EP7)

The SEPA Flood Maps indicate small areas of surface water flooding within the proposed site. There are localised low areas within the site based on the current topography. During the course of the construction it can be considered that site levelling to construct roads, plots and other infrastructure, together with the introduction of the proposed drainage features will remove alter the low areas in question. Localised flooding is therefore unlikely to occur following completion of the site.

The site does lie to the north of the Chapelton Dam area which as part of the Forres (Burn of Mosset) Flood Alleviation Scheme, restricts the peak flow on the Burn of Mosset from passing through to Forres. This will result in a large flood storage reservoir being created in times of high flow. But as displayed on the "Site Plan", this site is considerably elevated above the flood storage area and the B9010 road which runs between the site and flood storage area.

Moray Flood Risk Management and SEPA have no objections to the proposal therefore it complies with policy EP7.

Protected Species (E3)

Nationally protected species are defined in the Wildlife and Countryside Act 1981. Under policy E3 any development proposals that would have an adverse effect on a European Protected Species will not be approved.

A Protected Species Report was submitted with the application. The survey was originally undertaken in March 2016. An updated report, as requested, was undertaken in June 2017.

The protected species survey report confirms that the following species do use the site – badgers, pine marten and breeding birds. The report also indicates that red squirrels are likely to use the site. Information submitted by a third party confirms the presence of red squirrels and pine marten in the area. However, no bat roosts, badger setts, pine marten dens or red squirrel dreys were found by the surveyor within the site at the time of their visits.

Pine martens, red squirrels, badgers and bats are protected species; the legal protection focuses on injury etc. to the animal itself and to damage/destruction/obstruction of access to breeding and resting places. Legal protection does not extend to the wider area used for feeding, commuting etc.

However, wildlife is mobile and territories change and can lead to individuals seeking new locations to breed and rest. It is therefore possible, and even probable, that the level of wildlife activity may change prior to the commencement of development and clearance of ground vegetation.

Scottish Natural Heritage (SNH) were consulted on the proposal and advised that there are natural heritage interests of local importance on site which will be impacted by this development but this will not be detrimental to the conservation status of these species with their natural range therefore raised no objection.

SNH have advised that the impact on protected species can be minimised by ensuring that:-

- pre-construction surveys are undertaken prior to any work commencing on site or on individual plots and this to include vegetation/tree clearance and; -
- by retaining, where reasonable and safe to do so, as many existing trees as possible on site.

A condition will be attached to the consent requiring pre-construction surveys to be undertaken prior to any work commencing on site or individual plots and this will include vegetation/tree clearance as set out in the Protected Species Report.

A large number of trees have been retained on the site and the proposal ensures that a network of trees are retained across the site which will ensure that habitat connectivity is not severed by the development.

Therefore the proposal complies with the requirements of policy E3.

Affordable Housing (H8 and Supplementary Guidance “Affordable Housing”)

Under policy H8 and associated Supplementary Guidance proposals for new housing developments of 4 or more units must provide 25% of the total units as affordable housing or for practical reasons which make on site provision difficult or unviable, the provision of affordable housing off site or securing a commuted sum will be considered by the Council.

It has been agreed that a commuted payment towards affordable housing will be made to the Council prior to planning consent being granted therefore the proposal adheres with policy H8.

Accessible Housing (H9)

Policy H9 requires 10% of private sector units of proposals for 10 or more houses are built to wheelchair accessible standards as detailed in the supplementary guidance “Accessible Housing”. Therefore for the proposal, 1.2 accessible housing units would be required, please note this figure is rounded up to 2 units. The Accessible Housing Supplementary Guidance requires that at least 50% of the wheelchair accessible units must be delivered as a single storey dwelling with no accommodation in the upper roof space i.e. a bungalow.

Within the site two accessible units (House Style G (Bungalow) are provided on sites 6 and 12 therefore the proposal complies with policy H9. The proposal therefore complies with policy H9.

PP2 Climate Change

Proposals must be supported by a Sustainability Statement that sets out how the above objectives have been addressed within the development.

An acceptable sustainability statement was submitted with the proposal.

Developer Obligations (IMP3)

As from 14 October 2016, the Council has adopted Supplementary Guidance on developer obligations as a material consideration in the determination of planning applications. The proposal has been subject to an assessment for developer obligations.

A contribution totalling £115,758.20 towards Healthcare (£52,756.20), Sports and Recreation (£3,002), Affordable Housing (£48,000) and (£12,000) for compensatory planting has been agreed with the applicant and will be the subject of a S.75 legal agreement to be signed prior to planning consent being issued.

Conclusion

Having initially been advertised as a departure from MLDP 2015, the proposals have undergone several revisions and is considered to comply with all relevant policies in the Moray Local Development 2015. The application is recommended for approval.

REASON(S) FOR DECISION

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

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

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APPENDIX

POLICY

Adopted Moray Local Development Plan 2015

Primary Policy PP1: Sustainable Economic Growth

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

Primary Policy PP2: Climate Change

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

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

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

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.

OPP4: Cathay

An opportunity may arise for the redevelopment of this site for low density residential use or an appropriate business use suited to the amenity of the site. Plot sizes should be in keeping with the existing development along St. Leonards Road. Development proposals will need to be carefully integrated into the woodland site, with extensive areas of woodland retained. This should include a woodland buffer between any proposed development and the existing Muiry wood, to protect the recreational value of the latter. Long term management of this buffer zone should involve the Forres Community Woodland Trust and Forres Footpaths Trust. Footpath links will need to be provided by the developer to the north and west of the site to connect with existing path networks in the surrounding woodland.

Access onto the public road will be required to meet visibility standards and is likely to require the removal of mature trees.

A pedestrian/cycle connection is also required from the development access to the existing network adjacent to St. Leonards Road.

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.

Policy ED5: Opportunity Sites

The town and village statements will identify "opportunity sites" which present the opportunity for appropriate alternative uses in the event of a proposal to re-develop. These are often vacant or derelict sites that are no longer required for their original or previous uses. These "brownfield" sites are an alternative to utilising undeveloped, "greenfield" land. Any new proposal should be compatible with surrounding uses.

The historical uses of "opportunity sites" could require contaminated land assessments to be carried out, with remediation prior to re- development.

Any uses that are given should be viewed as illustrative examples only, and not taken as a definitive list of acceptable activities.

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 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 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 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 T2: Provision of Access

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

- Proposals must maximise connections and routes for pedestrian and cyclists, including links to active travel and core path routes, to reduce travel demands and provide a safe and realistic choice of access.
- Provide access to public transport services and bus stop infrastructure where appropriate.

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

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

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

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

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

Significant travel generating proposals will only be supported where:

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

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

Policy T5: Parking Standards

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

Policy IMP1: Developer Requirements

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

- a) The scale, density and character must be appropriate to the surrounding area.
- b) The development must be integrated into the surrounding landscape
- c) Road, cycling, footpath and public transport must be provided at a level appropriate to the development. Core paths; long distance footpaths; national cycle routes must not be adversely affected.
- d) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water.
- e) Where of an appropriate scale, developments should demonstrate how they will incorporate renewable energy systems, and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria.
- f) Make provision for additional areas of open space within developments.
- g) Details of arrangements for the long term maintenance of landscape areas and amenity open spaces must be provided along with Planning applications.
- h) Conservation and where possible enhancement of natural and built environmental resources must be achieved, including details of any impacts arising from the disturbance of carbon rich soil.
- i) Avoid areas at risk of flooding, and where necessary carry out flood management measures.
- j) Address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- k) Address and sufficiently mitigate any contaminated land issues
- l) Does not sterilise significant workable reserves of minerals or prime quality agricultural land.
- m) Make acceptable arrangements for waste management.

Policy IMP3: Developer Obligations

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

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

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

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

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.

TSP33: Rafford Road/(B9010)/Brodies Hill-Califer Road (U94E)

Junction improvements related to development sites to South and East of Forres .

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.



**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON
26 MARCH 2019**

**SUBJECT: 19/00105/PAN - PROPOSAL OF APPLICATION NOTICE
AFFORDABLE HOUSING, LANDSCAPING AND ASSOCIATED
INFRASTRUCTURE AT BAIN AVENUE, ELGIN**

**BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT,
PLANNING AND INFRASTRUCTURE)**

1. REASON FOR REPORT

- 1.1 To inform the Committee that a Proposal of Application Notice (PAN) was submitted on 31 January 2019 by Springfield Properties PLC.
- 1.2 This report is submitted to Committee in terms of Section III (E) (1) of the Council's Scheme of Administration relating to exercising the statutory functions of the Council as a Planning Authority.

2. RECOMMENDATION

2.1 It is recommended that:

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

3. BACKGROUND

- 3.1 Scottish Government has published guidance which encourages elected members to highlight any issues with a proposed development at the pre-

application stage which they would wish to see taken into account within any formal application for planning permission.

- 3.2 Following consideration by this Committee on 11 November 2014 it was agreed that any PAN received after this date would be reported to Committee to give Members of the Committee, and the Council, the opportunity to identify any key issues/provisional views about the proposed development and that these matters be reported back to the applicant (paragraph 4 of the Minute refers).
- 3.3 This current report is not about the merits of the proposed development but rather, based on local knowledge of local issues and wider concerns, etc. Members are invited to identify any matters relevant to the proposal. These will be reported back to the prospective applicant for their information and attention, and to inform the development of the proposed application. It is also proposed that, for information, Members' comments be forwarded to consultees likely to be involved in any formal application for planning permission for the proposal.
- 3.4 As described, this PAN relates to a proposal for affordable housing, landscaping and associated infrastructure on parkland at Bain Avenue, Elgin. The PAN includes a Location Plan (**Appendix 1**) which defines the extent of the proposed development site. No house designs or site layout arrangements have been provided at this stage nor any details of numbers of units.
- 3.5 The site extends to approximately 2.1 hectares and currently comprises an area of grass, including a children's playpark and SUDS detention basin, set within a residential area on the southeastern periphery of Elgin. The roughly triangular shaped site is flat and is bounded by housing to the west/northwest and roads to the other two sides.
- 3.6 The site is located on land currently designated as open space within the Moray Local Development Plan 2015, namely ENV3 Amenity Greenspace and ENV4 Playspace for Children and Teenagers. The site is subject to similar open space designations ENV2 Amenity Green Space and ENV3 Playspace for Children and Teenagers in the Moray Local Development Plan 2020 Proposed Plan, which has been the subject of a public consultation exercise between 7 January to 15 March 2019.
- 3.7 Relevant to the current Hierarchy Regulations and for residential development on a site which exceeds 2 hectares, the proposal would be a major development for planning purposes. As such, the proposal would be subject to PAN and pre-application consultation with the local community procedures. The applicant's agent has also been advised of the Council's pre-application advice service to assist in identifying key issues and information that would be expected to accompany any formal application.
- 3.8 A formal response has been issued to the applicant's agent to confirm that the proposed arrangements for engaging with the local community are sufficient. The applicant's agent has served a copy of the PAN on Elgin Community

Council and local ward Members. The agent has been advised that no additional parties require to be notified with a copy of the PAN.

- 3.9 The agent has advised that a public consultation event in the form of a staffed public exhibition is to be held at the New Elgin and Ashgrove Public Hall, Elgin on Thursday 7 March 2019. For validation purposes for a major application, the applicant is required to submit a pre-application consultation report setting out the steps taken to consult with the local community together with details of comments made on the proposal and how the applicant has responded to all comments made on the proposal in the development of the application.

4. SUMMARY OF IMPLICATIONS

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

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

(b) Policy and Legal

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

(c) Financial implications

None.

(d) Risk Implications

None.

(e) Staffing Implications

None.

(f) Property

None.

(g) Equalities/Socio Economic Impact

None.

(h) Consultations

The Corporate Director (Economic Development Planning & Infrastructure), the Head of Development Services, Legal Services Manager, Manager (Development Management), the Equal Opportunities Officer, Gary Templeton (Principal Planning Officer), and Lissa Rowan (Committee Services Officer) have been consulted, and comments received have been incorporated into the report.

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

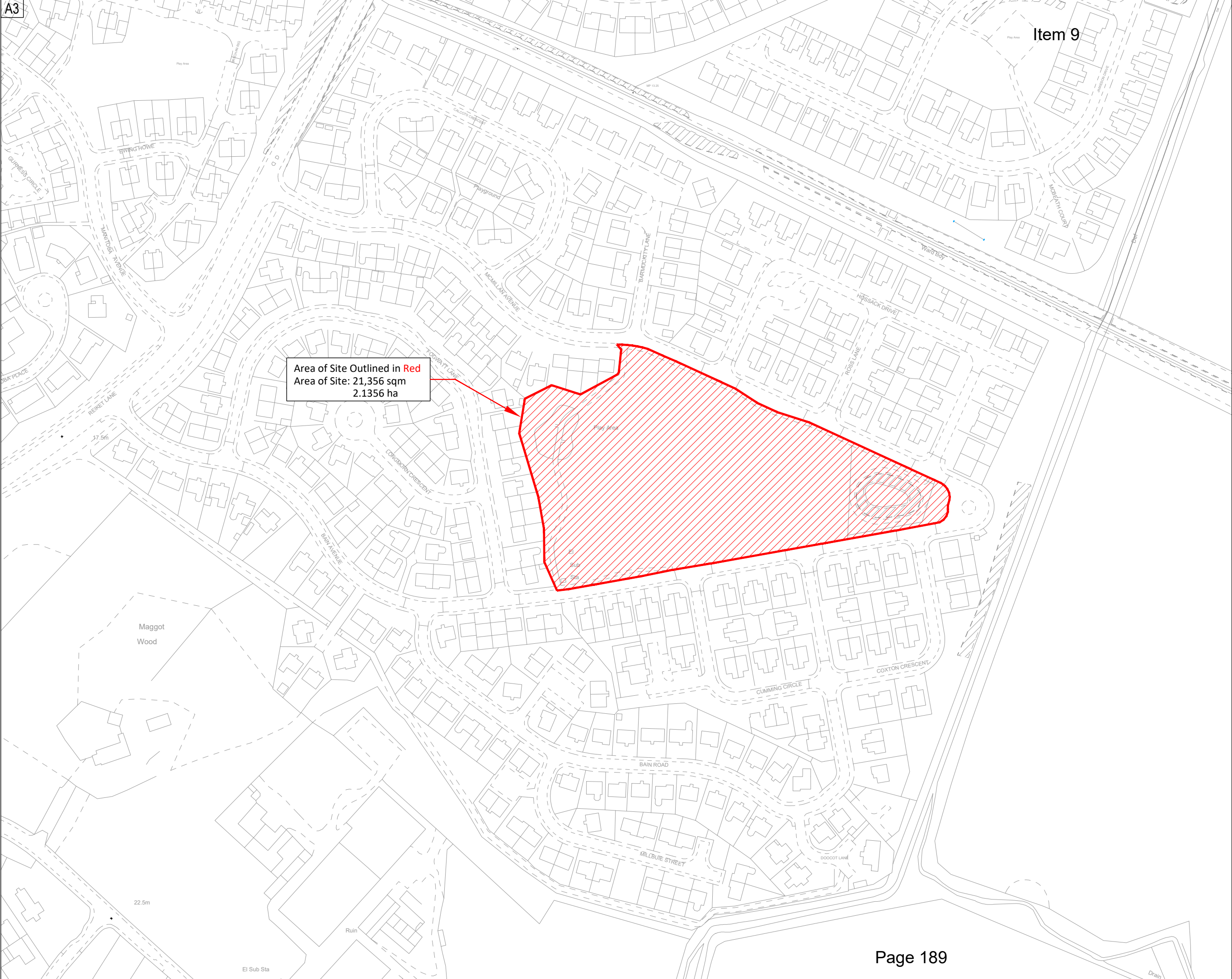
5. CONCLUSION

- 5.1 The Council has received a PAN intimating the intention that a formal application for planning permission will be submitted for a major development proposal, in this case for permission for affordable housing, landscaping and associated infrastructure at Bain Avenue, Elgin. The Committee (and any other Member(s) of the Council) are asked to identify any provisional views/relevant issues which they would wish to see taken into account and inform the development of the proposal.**

Author of Report: Craig Wilson, Planning Officer

Background Papers:

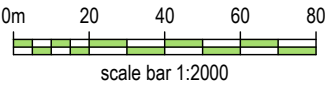
Ref: 19/00105/PAN



Area of Site Outlined in Red
Area of Site: 21,356 sqm
2.1356 ha

Item 9

Important notes for clients / contractors
No works are to commence on site until all relevant approvals have been obtained. Any deviations to the approved plans have to be reported to this office. Contractors to check all dimensions on site prior to commencement of work. Given dimensions only to be used. "DO NOT SCALE". The copyright of this drawing and design remain the sole property of Springfield Properties Plc and must not under any circumstance be reproduced in any way without express written consent.



Rev.	Date	Remarks	By	Ch.
Revisions				

Springfield Properties Plc

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Alexander Fleming House,
8 Southfield Drive,
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Project
MC(--)
Village Green

Drawing
POAN Location Plan

Scale 1:2000	Date Jan 19	Drawn by AB	Checked by
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Drawing no. MC(--)_PLP_01	Rev
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**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON
26 MARCH 2019**

SUBJECT: PLACEMAKING

**BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT,
PLANNING AND INFRASTRUCTURE)**

1. REASON FOR REPORT

- 1.1 This report asks the Committee to note the steps taken in promoting better Placemaking in Moray and to approve a revised Quality Audit 2 to replace the existing Quality Audit on adoption of the new Local Development Plan.
- 1.2 This report is submitted to Committee in terms of Section III (E) (2) of the Council's Scheme of Administration relating to the Review and Preparation of Strategic and Local Plans.

2. RECOMMENDATION

2.1 It is recommended that the Committee;

- i) notes the steps being taken to promote better Placemaking in Moray;
- ii) notes the role of good Placemaking in preventative planning and in supporting Scotland's public health challenges;
- iii) agrees the content of the Quality Audit 2 as set out in Appendix 1;
- iv) agrees that Quality Audit 2 replace the current Quality Audit on adoption of the new Local Development Plan, with delegated authority given to the Head of Development Services to make any changes to the Audit as a result of the Local Development Plan Examination;
- v) agrees that Quality Audit 2 is applied to relevant applications submitted after adoption of the new Local Development Plan;

- vi) **agrees that Quality Audits are a material consideration in the development management process when the new Local Development Plan is adopted and that Quality Audits form part of the report of Handling and Committee Reports, as appropriate; and**
- vii) **agrees that training for elected members be organised on Placemaking and Quality Auditing.**

3. BACKGROUND

3.1 Scottish Planning Policy (SPP) requires the planning system to support development that is designed to a high quality which demonstrates the six qualities of a successful place;

- Distinctive.
- Safe and Pleasant.
- Welcoming.
- Adaptable.
- Resource Efficient.
- Easy to Move Around and beyond.

3.2 Para 47 of SPP also requires the planning system to “adopt a consistent and relevant approach to the assessment of design and place quality such as that set out in the forthcoming Scottish Government Place Standard.”

3.3 To support the aspirations for better Placemaking, Moray Council has implemented the following actions to date;

- The Moray Local Development Plan 2015 introduced Placemaking as a primary policy.
- The Council has promoted Masterplanning for large development areas to promote better Placemaking. This has been particularly successful at Findrassie, which won a national planning award and also at Bilbohall, Elgin; Dallas Dhu, Forres and at a smaller scale, Kinloss Golf course. The Masterplans at Findrassie and Dallas Dhu were also subject to review by a design panel from Architecture and Design Scotland (ADS), which proved a very useful review and learning process.
- Elected members undertook Masterplanning training with ADS and officers.
- Elected members have visited Tornagrain new town, the Housing Expo site in Inverness and the UHI/ Inverness college campus to see a variety of design approaches.
- A requirement has been introduced that all projects to be funded through the Strategic Housing Investment Programme (SHIP) are to comply with local planning policy and to achieve a “green” standard in the Quality Audit. This has been included in the SHIP published February 2019.
- The Council has been operating a Quality Auditing (QA) process since it was approved at a meeting of this Committee on 1 December 2015 (para 5 of minute refers).

The existing QA consists of a wheel of 12 categories which development proposals of 10 or more houses are assessed against and scored using a traffic light system. Where a proposal is assessed as “red” it fails to meet the required standard and the necessary mitigation is identified to the applicant/developer. One of the best aspects of the QA process is the joint working between services as the QA, led by development plans, involves officers from Transportation, Housing, Flood Risk Management, Development Management and Scottish Natural Heritage assessing the placemaking qualities of a proposal. The Quality Audit has generated significant interest from other authorities who consider it to be best practice, which is being replicated in other authorities.

- 3.4 This Committee agreed on 29 January 2019 (para 11 of minute refers) a report on Aligning Planning and Roads Construction Consent and that existing procedures be reviewed to enable the consenting processes to be aligned. The review of the QA includes criteria to support this alignment process.

4. PROPOSALS

- 4.1 While the steps outlined above have brought some improvements, notably on masterplanning, collaborative working and process, it has made limited progression from delivering “anywhere” development to successful places being delivered on the ground, which the Scottish Government and Council aspire to achieve. The Proposed Plan contains stronger policies to deliver the Placemaking aspirations set out in Scottish Planning Policy. Further improvements are proposed;

- The current QA will be replaced by QA2 (**see Appendix 1**), to support the wording of the proposed new policy and to support the national health challenges such as loneliness, dementia and obesity, the need for better quality, multi benefit open spaces and the opportunity to align planning consent with roads construction.
- Training for members on Placemaking and Quality Auditing.
- Awareness raising for developers and landowners, which will be delivered through events on the new policies in the Local Development Plan.

5. SUMMARY OF IMPLICATIONS

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

Promoting and delivering quality Placemaking supports 3 of the 4 main priority areas set out in the LOIP, aiming to make Moray a more attractive place to live, work and invest.

(b) Policy and Legal

Placemaking is a primary policy in the statutory Local Development Plan.

(c) Financial implications

None.

(d) Risk Implications

None.

(e) Staffing Implications

Quality Auditing involves staff from a number of services across the Council.

(f) Property

None.

(g) Equalities/Socio Economic Impact

None.

(h) Consultations

The Corporate Director (Economic Development, Planning and Infrastructure), the Head of Development Services, the Legal Services Manager, the Development Management Manager, Paul Connor (Principal Accountant), Lissa Rowan (Committee Services Officer), the Housing Strategy & Development Manager, the Senior Engineer Transport Development, the Consultancy Manager and the Equalities Officer have been consulted and their comments taken into consideration in this report.

6. CONCLUSION

6.1 Placemaking is a priority for the Scottish Government bringing social, economic and environmental benefits and in doing so can bring a key preventative role.

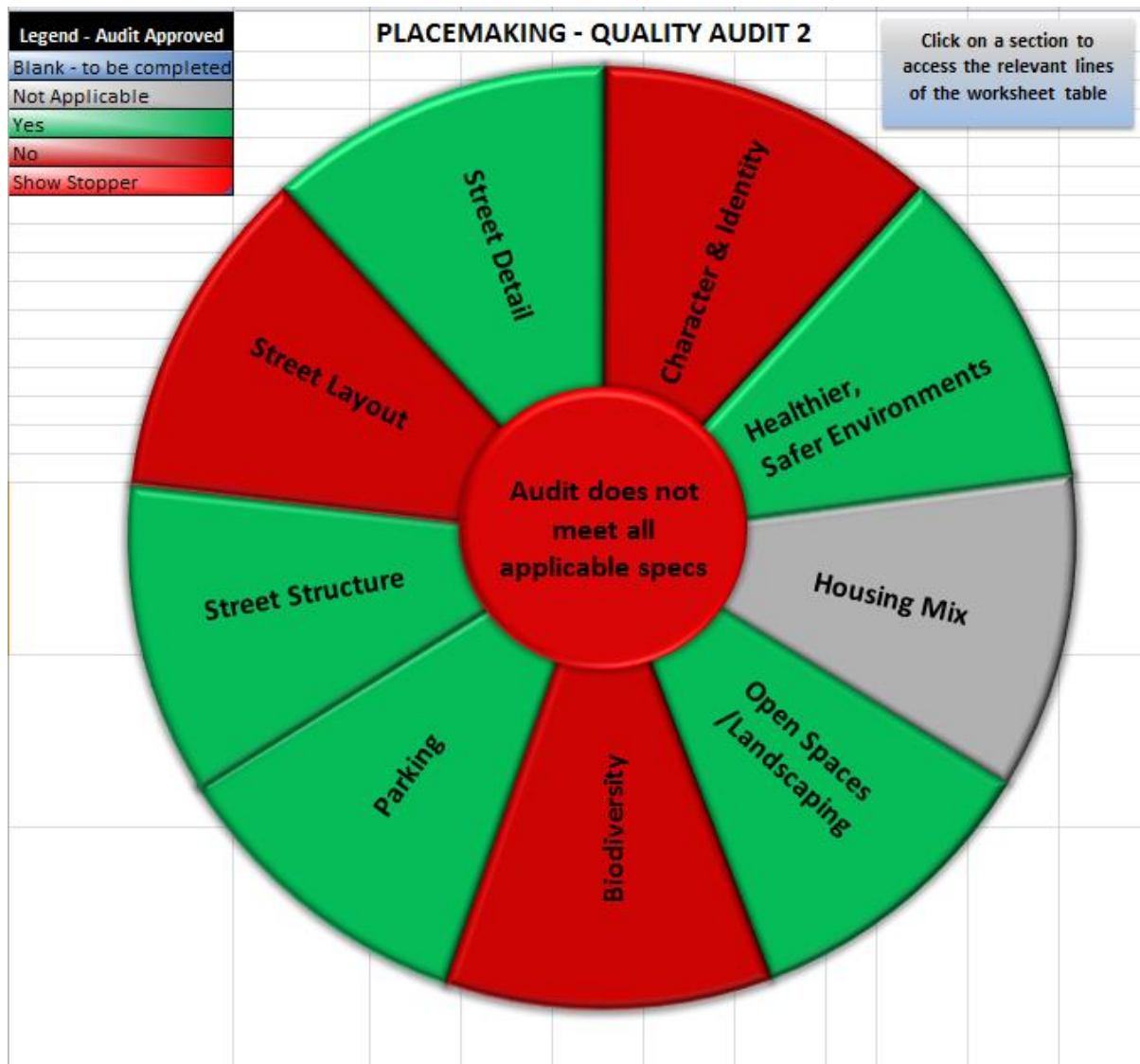
6.2 A number of policies, processes and training activities have been undertaken over the last few years, which have brought some improvements to promote better Placemaking, however, further improvements are required and this report highlights a number of proposals, including the introduction of a revised Quality Audit tool to assess planning applications for 10 or more houses.

Author of Report: Gary Templeton, Principal Planning Officer

Background Papers:

Ref:

Appendix 1



Character and Identity	1. Create places that are distinctive to prevent homogenous 'anywhere' development.
Character and Identity	2. 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.
Character and Identity	3. 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.
Character and Identity	4. Distinctiveness must be reinforced along main thoroughfares, open spaces and places where people may congregate such as shopping/service centres.
Character and Identity	5. Retain, incorporate and/or respond to relevant elements of the landscape such as topography and planted features, natural and historic environment, and provide 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.
Healthier, Safer Environments	1. 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.
Healthier, Safer Environments	2. Designed to encourage physical exercise for people of all abilities.
Healthier, Safer Environments	3. Create a distinctive urban form with landmarks, key buildings, vistas, gateways and public art to provide good orientation and navigation through the development.
Healthier, Safer Environments	4. Provide a mix of compatible uses, where indicated within settlement statements, integrated into the fabric of buildings within the street.
Healthier, Safer Environments	5. 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.

Healthier, Safer Environments	6. 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.
Healthier, Safer Environments	7. 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.
Healthier, Safer Environments	8. Provide seating opportunities within streets, paths and open spaces for all generations and mobility's to interact, participate in activity, and rest and reflect.
Healthier, Safer Environments	9. Provide for people with mobility problems or a disability to access buildings, places and open spaces.
Healthier, Safer Environments	10. Create development with public fronts and private backs.
Healthier, Safer Environments	11. Maximise environmental benefits through the orientation of buildings, streets and open space to maximise the health benefits associated with solar gain and wind shelter.
Housing Mix	1. 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.
Housing Mix	2. All tenures of housing should have equal access to amenities, greenspace and active travel routes.
Open Spaces/ Landscaping	1. 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.

Open Spaces/ Landscaping	2. Landscaped areas must provide seasonal variation (mix of planting and colour) including native planting for pollination and food production.
Open Spaces/ Landscaping	3. 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.
Open Spaces/ Landscaping	4. Semi-mature tree planting and shrubs must be provided along all routes with the variety of approaches reflecting and accentuating the street hierarchy.
Open Spaces/ Landscaping	5. Public and private space must be clearly defined.
Open Spaces/ Landscaping	6. 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.
Open Spaces/ Landscaping	7. Proposals must provide advance landscaping identified in site designations and meet the quality requirements of policy EP5 Open Space.
Open Spaces/ Landscaping	8. Structural landscaping must incorporate countryside style paths (such as bound or compacted gravel) with waymarkers.
Open Spaces/ Landscaping	9. Maintenance arrangements for all paths, trees, hedging, shrubs, play/sports areas, roundabouts and other open/green spaces and blue/green corridors must be provided.
Biodiversity	1. 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.
Biodiversity	2. 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.

Biodiversity	3. 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.
Biodiversity	4. Developments must safeguard and connect into wildlife corridors/green networks and prevent fragmentation of existing habitats.
Parking	1. 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.
Parking	2. Provide semi-mature trees and planting within communal private and public/visitor parking areas and on-street parking at a maximum interval of 4 car parking spaces.
Parking	3. Secure and covered cycle parking and storage, car sharing spaces and electric car charging points must be provided in accordance with policy DP1 Development Principles.
Parking	4. Parking areas must use a variation in materials to reduce the visual impact on the streetscene.
Street Structure	1. Provide a clear hierarchy of streets reinforced through street width, building density, and street and building design, materials, hard/soft landscaping and variety of approaches to tree planting and shrubs.
Street Structure	2. Streets and connecting routes should encourage walking and cycling over use of the private car by providing well connected, safe and appealing routes.
Street Structure	3. Design junctions to prioritise pedestrians, accommodate active travel and public transport and service/emergency vehicles to reflect the context and urban form and ensure that the street pattern is not standardised.
Street Structure	4. 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.
Street Structure	5. Roundabouts, key junctions and accesses from the strategic road network must be designed to create

	gateways and contribute to the character of the overall development.
Street Structure	6. Drawings and statement to demonstrate provision of 'connected' development and proposed street hierarchy which reflects place vs movement, including connection to public transport stops and local facilities out with the site.
Street Structure	7. 'Speed Control' (also part of safer neighbourhoods) drawings and statement to demonstrate how vehicle speeds will be controlled and applicable to street hierarchy within development, reflecting place vs movement.
Street Layout	1. Acceptable swept path analysis for refuse vehicles, buses, cars and emergency vehicles (drawings to be provided by developer)
Street Layout	2. Acceptable visibility splays at internal junctions, forward visibility and site accesses (drawings to be provided by developer)
Street Detail	1. Drainage discharge rates (information to be provided by applicant)
Street Detail	2. SUDs techniques (strategy to be provided by developer, including justification for proposed measures)
Street Detail	3. Utilities Strategy (plan showing how water, electricity, telecoms and gas would be incorporated within street)
Street Detail	4. Key street material palette (statement from developer with examples and justification for choices).



**REPORT TO: PLANNING & REGULATORY SERVICES COMMITTEE ON
26 MARCH 2019**

SUBJECT: COMPENSATORY PLANTING

**BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT,
PLANNING & INFRASTRUCTURE)**

1. REASON FOR REPORT

- 1.1 To ask the Committee to agree a draft list of sites suitable for compensatory planting and to carry out public consultation on the list and to identify any additional planting sites.
- 1.2 This report is submitted to Committee in terms of Section III (E) (1) of the Council's Scheme of Administration relating to exercising the statutory functions of the Council as a Planning Authority.

2. RECOMMENDATION

- 2.1 It is recommended that the Committee agrees:-
 - (i) to consider and note the draft list of sites suitable for compensatory planting, as set out in APPENDIX 1;
 - (ii) that public consultation is carried out on the draft list of sites and to identify additional planting sites;
 - (iii) that reports will be submitted to future meetings of this Committee to approve a finalised list of suitable sites for compensatory planting and a priority system for implementation; and
 - (iv) that a policy guidance note on the implementation of the compensatory planting policy is produced.

3. BACKGROUND

- 3.1 The Scottish Government's Control of Woodland Removal Policy provides policy direction for decisions on woodland removal in Scotland. Woodland

removal is defined as the permanent removal of woodland for the purposes of conversion to another type of land use. The Policy states that removal should only be permitted where it would achieve significant and clearly defined additional public benefits. Where woodland is removed in association with development, developers will generally be expected to provide compensatory planting.

- 3.2 Policies E4 *Trees and Development*, ER2 *Development in Woodlands* and Trees and Development Supplementary Guidance of the Moray Local Development Plan (MLDP) 2015 give protection to trees and woodlands as they contribute to the character of an area, provide important natural habitat areas and have a recreational value. 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.
- 3.3 Where an application is consented which involves the felling of woodland, the applicant must provide compensatory planting elsewhere on the site of the development, off site in land within their ownership or provide a commuted payment. If a commuted payment is made, the Council has a Service Level Agreement (SLA) with the Woodland Trust to deliver the compensatory planting. The payment fee includes a 20 year replacement and maintenance allowance. The Council are currently reviewing the SLA and are exploring how Greenfingers could play an active part in delivering the compensatory woodland planting.
- 3.4 To date, £17.6k has been received in payments for compensatory planting. In Buckie, a developer contribution of £20k has been received for the development of a community woodland and sites are currently being investigated. A draft list of possible sites suitable for compensatory planting has been developed based on the Open Space Strategy and recent bids from Moray Council's Estates Section.

4. PROPOSALS

- 4.1 There is an opportunity to significantly enhance existing spaces in Moray's towns and villages through a programme of woodland planting. This would bring amenity and biodiversity value to these areas, supporting the principles of the Open Space Strategy.
- 4.2 **APPENDIX 1** sets out a draft list of sites that have been assessed as suitable for compensatory planting. Public consultation will be held, as detailed in Section 5 below, on the draft list of sites and to identify additional sites and a report will be submitted to a future meeting of this Committee to agree on a final list of sites.
- 4.3 Once a list of sites has been approved, a set of criteria will be developed and the sites will be prioritised for implementation before being reported back to this Committee for approval.

- 4.4 If agreed by Committee, a policy guidance note on the implementation of the compensatory policy will be developed by officers.

5. ENGAGEMENT

- 5.1 Internal consultees from Consultancy, Estates and Lands & Parks have been consulted and provided suggestions on potential sites which have been incorporated in the list of sites in **APPENDIX 1**.
- 5.2 Whilst the principle of planting is established, discussions are ongoing regarding some of the proposed sites such as Forres Railway Station and the flood alleviation scheme sites at River Lossie (Elgin), Chanonry Industrial Estate (Elgin) and River Findhorn & Pilmuir (Forres).
- 5.3 Suggestions for additional planting sites, as well as comments on the draft list, will be sought from Community Councils and Associations, as well as local amenity and access groups. Press releases, internet and social media will be used to raise awareness of the consultation.

6. SUMMARY OF IMPLICATIONS

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

The Corporate Plan prioritises the need to maintain and promote Moray's landscape and biodiversity. The 10 Year Plan identifies the need to build a better future for children and young people in Moray by providing the healthiest start in life. Providing trees as a result of compensatory planting policies improves the local natural environment and biodiversity whilst also helping to promote healthier lives.

(b) Policy and Legal

The Scottish Government's Control of Woodland Removal Policy and Policies E4 *Trees and Development*, ER2 *Development in Woodlands* and Trees and Development Supplementary Guidance of the MLDP 2015 prevents the permanent removal of woodland unless the impact on the woodland is clearly outweighed by social or economic benefits of national, regional and local importance, and if a programme of proportionate compensatory planting has been agreed with the Planning Authority.

(c) Financial implications

The cost of planting and maintenance is covered for a 20 year period by the compensatory planting fee. The review of the SLA will aim to extend this to cover "whole life" costs.

(d) Risk Implications

None.

(e) Staffing Implications

Work on developing potential sites suitable for compensatory planting has been carried out within the existing staff workloads of the Development Plans team.

(f) Property

A number of the sites identified in **APPENDIX 1** are Council owned. Where they are privately owned, discussions will be held with landowners.

(g) Equalities/Socio Economic Impact

No Equality Impact Assessment is required for this report.

(h) Consultations

The Corporate Director (Economic Development Planning & Infrastructure), the Head of Development Services, the Legal Services Manager, the Estates Manager, the Lands & Parks Officer, the Equal Opportunities Officer, the Acting Employment Support Service Manager & Training Services Coordinator, Paul Connor (Principal Accountant) and Lissa Rowan (Committee Services Officer) have been consulted and comments received have been incorporated into the report.

7. CONCLUSION

- 7.1 Where an application is consented which involves the felling of woodland, the applicant must provide compensatory planting to mitigate the effects of woodland removal.**
- 7.2 A SLA currently exists with the Woodland Trust aimed at delivering compensatory woodland planting, funding is available to carry out planting projects and the SLA is being reviewed.**
- 7.3 Committee is asked to agree a draft list of sites suitable for compensatory planting, as set out in Appendix 1, and carry out public consultation on the draft list and to identify additional planting sites.**

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

Background Papers:

Ref:

Compensatory Planting Sites**Elgin HMA**

- Elgin Flood Alleviation Scheme (River Lossie) *
- Elgin Flood Alleviation Scheme (Rear of Chanonry Industrial Estate)
- Park at Seafeld Primary School, Elgin
- Sunbank East, Lossiemouth
- Millbuies Country Park

Forres HMA

- Blaven Court, Forres *
- Bogton Park, Forres
- Califer Road, Forres
- Forres (River Findhorn & Pilmuir) Flood Alleviation Scheme – Green corridor from West Entrance through to Thornhill
- Forres Train Station *
- Mannachie Park, Forres

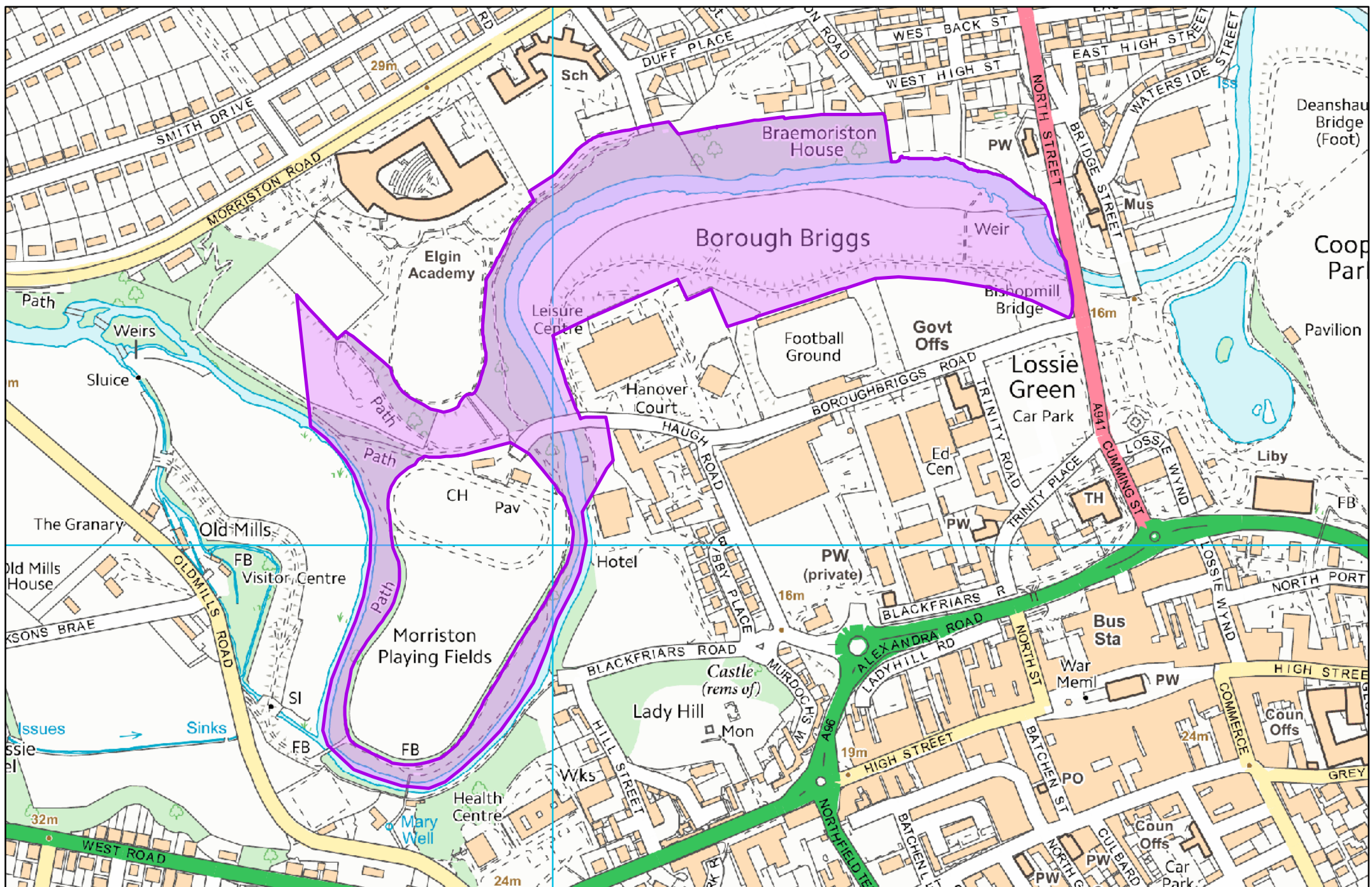
Buckie HMA

- Former Railway Lines, Buckie
- Land beside Gollachy Waste Site, Buckie
- Mill of Buckie, Buckie *
- Queen Street Gardens, Buckie

Speyside HMA

- Tininver Street Playing Fields, Dufftown

* Consultation required with landowner



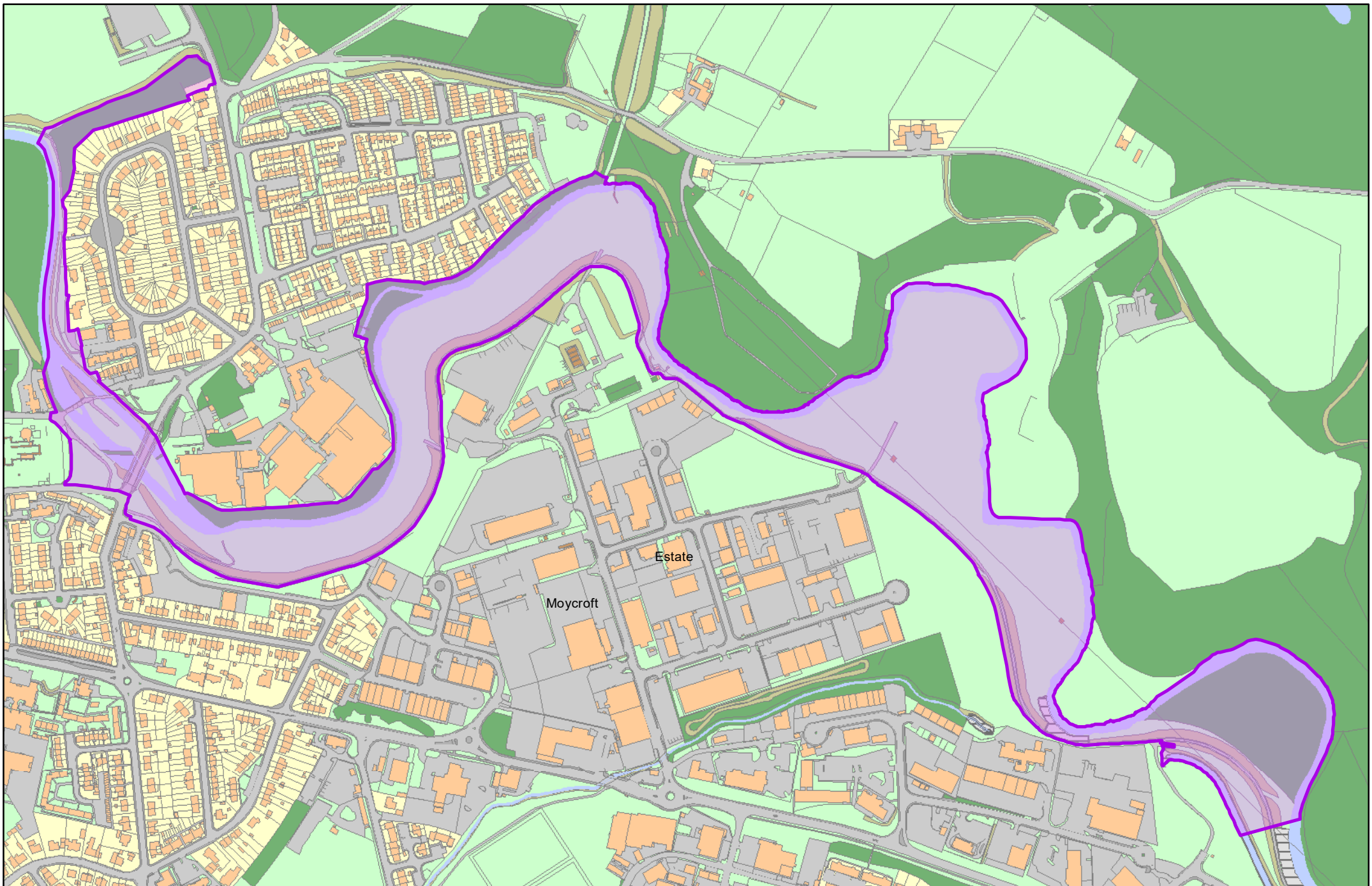
Elgin Flood Alleviation Scheme (River Lossie)

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Elgin Flood Alleviation Scheme (Rear Of Chanonry Industrial Estate)

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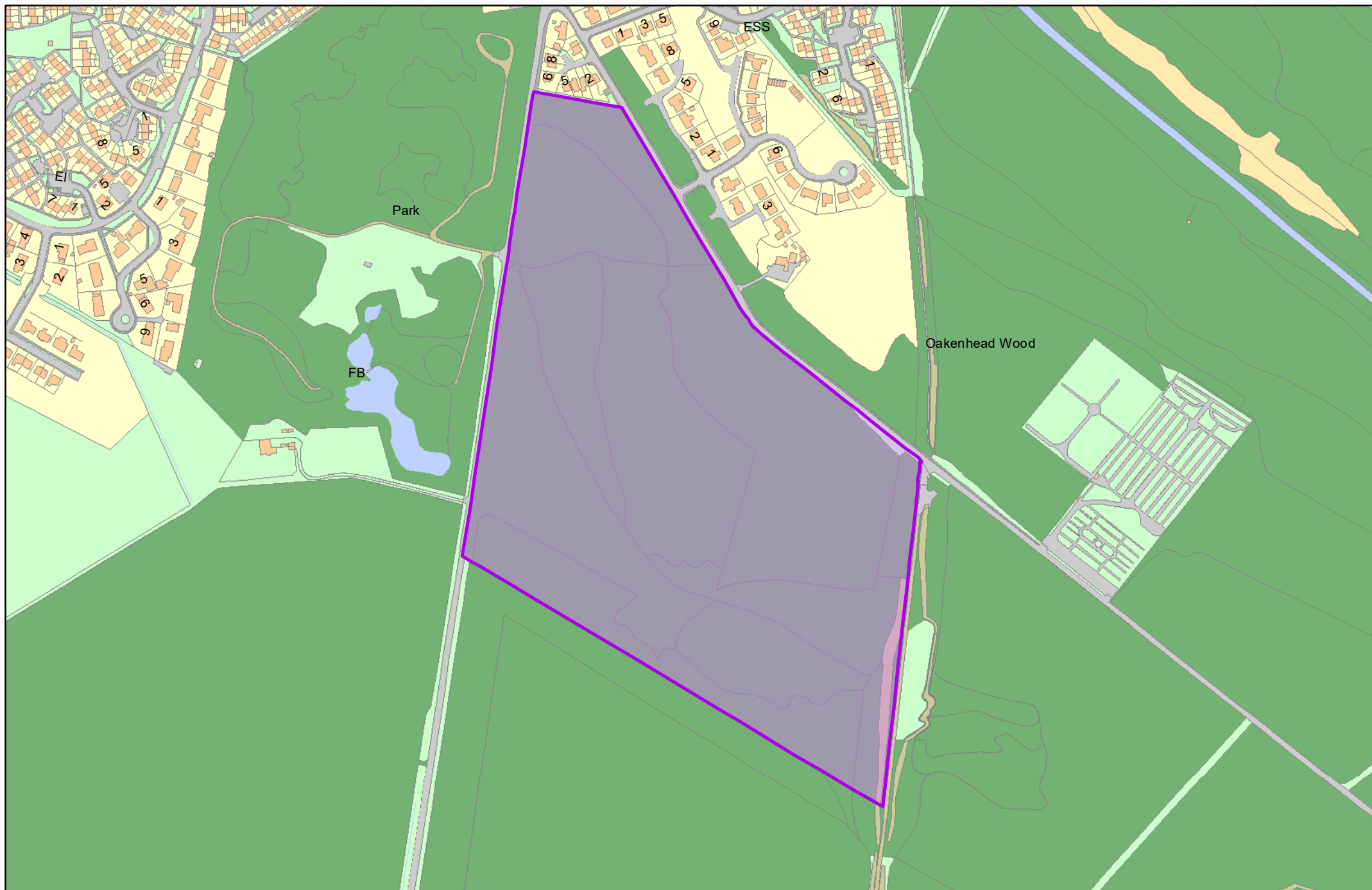
Park Adjacent To Seafield Primary School

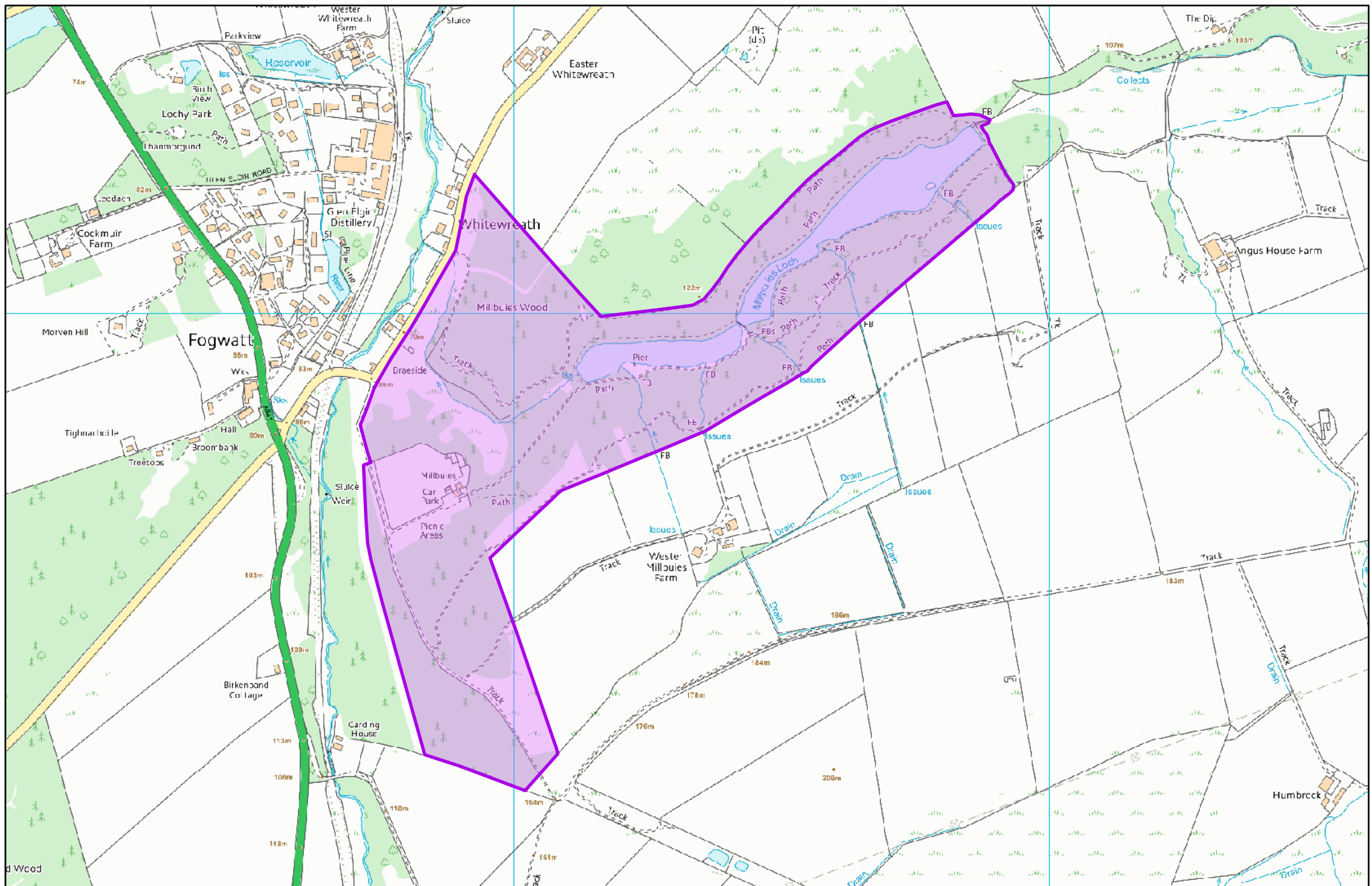
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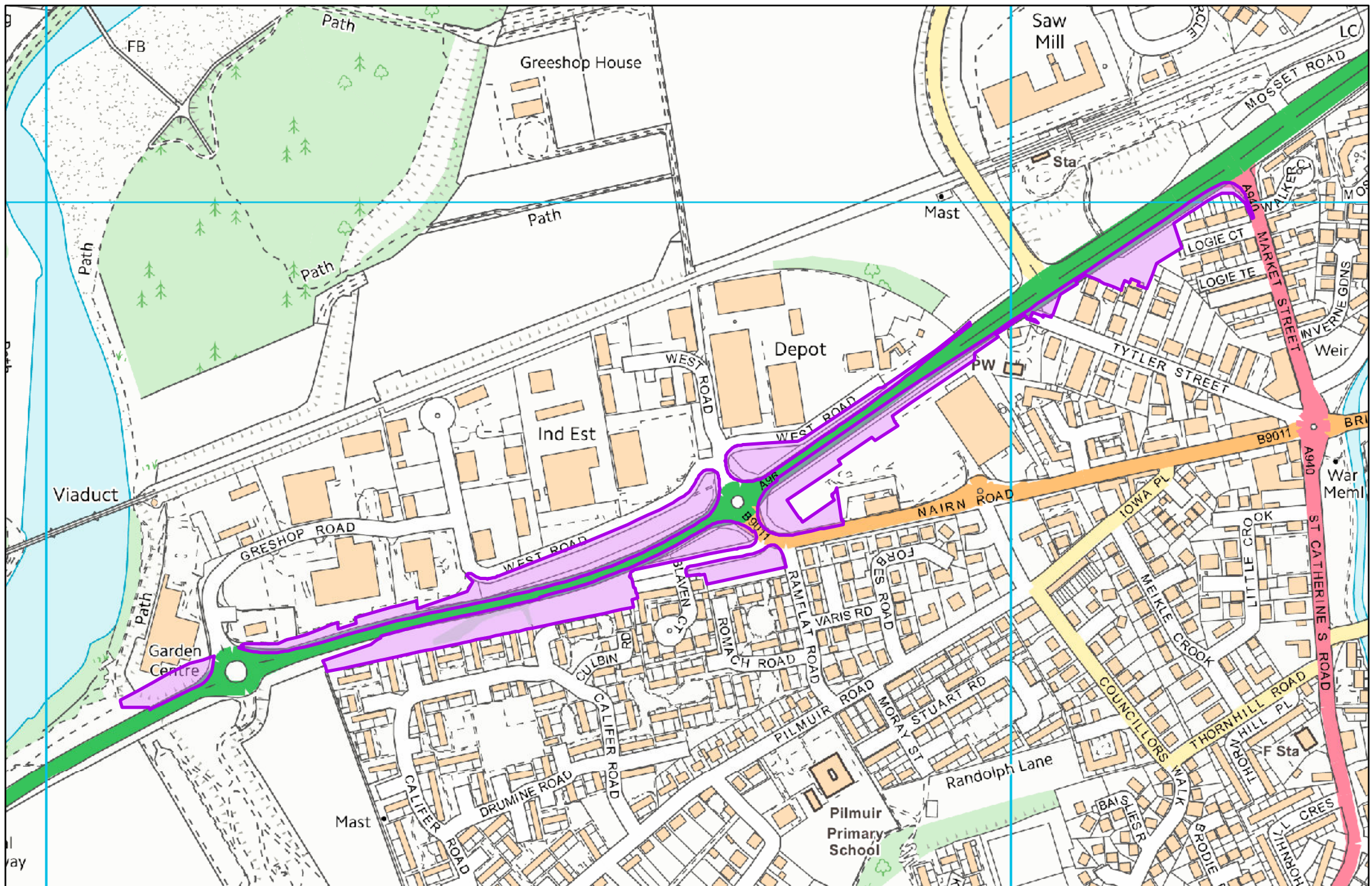
Milbuies Country Park

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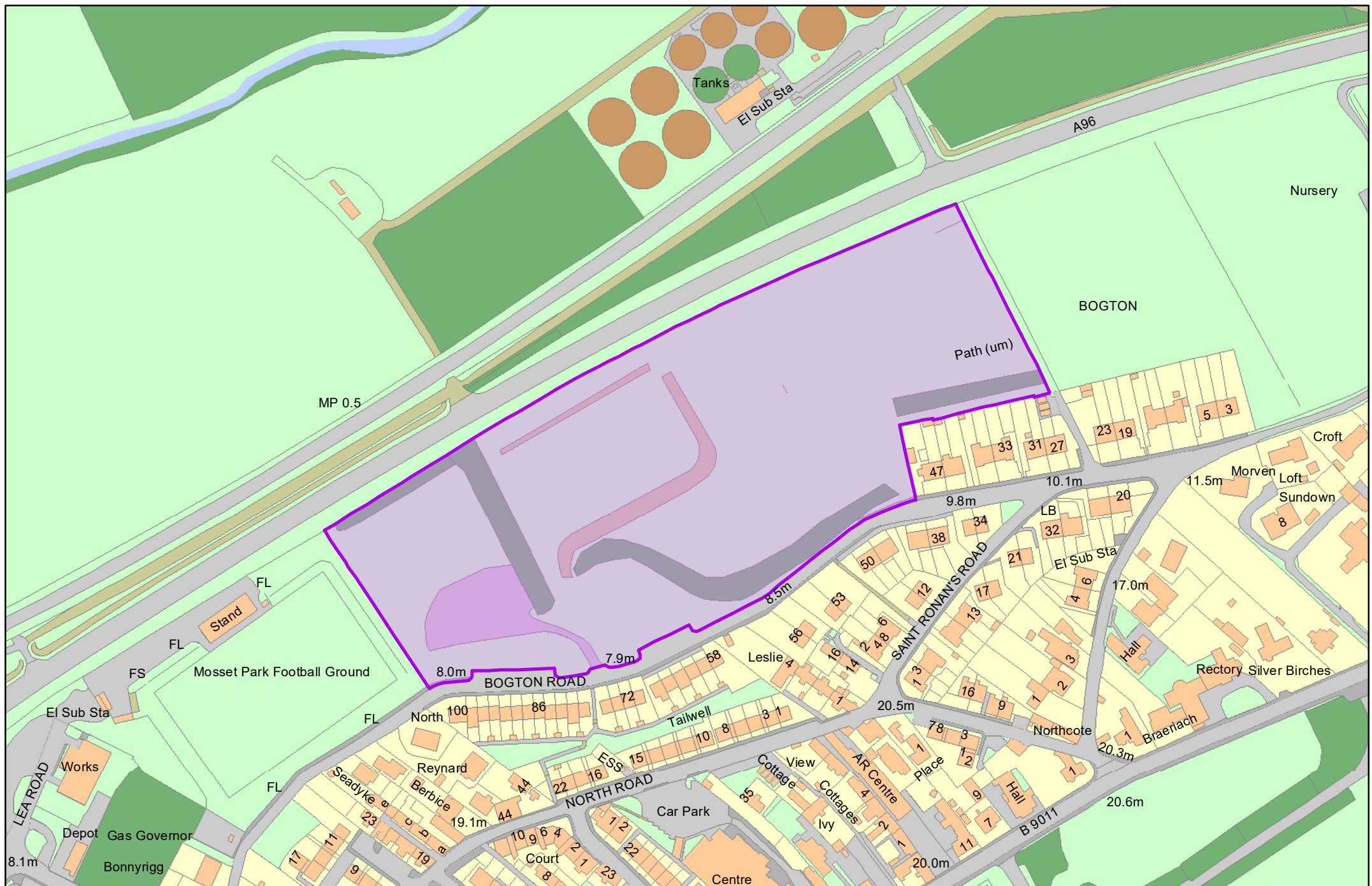


Blaven Court, Forres Page 211

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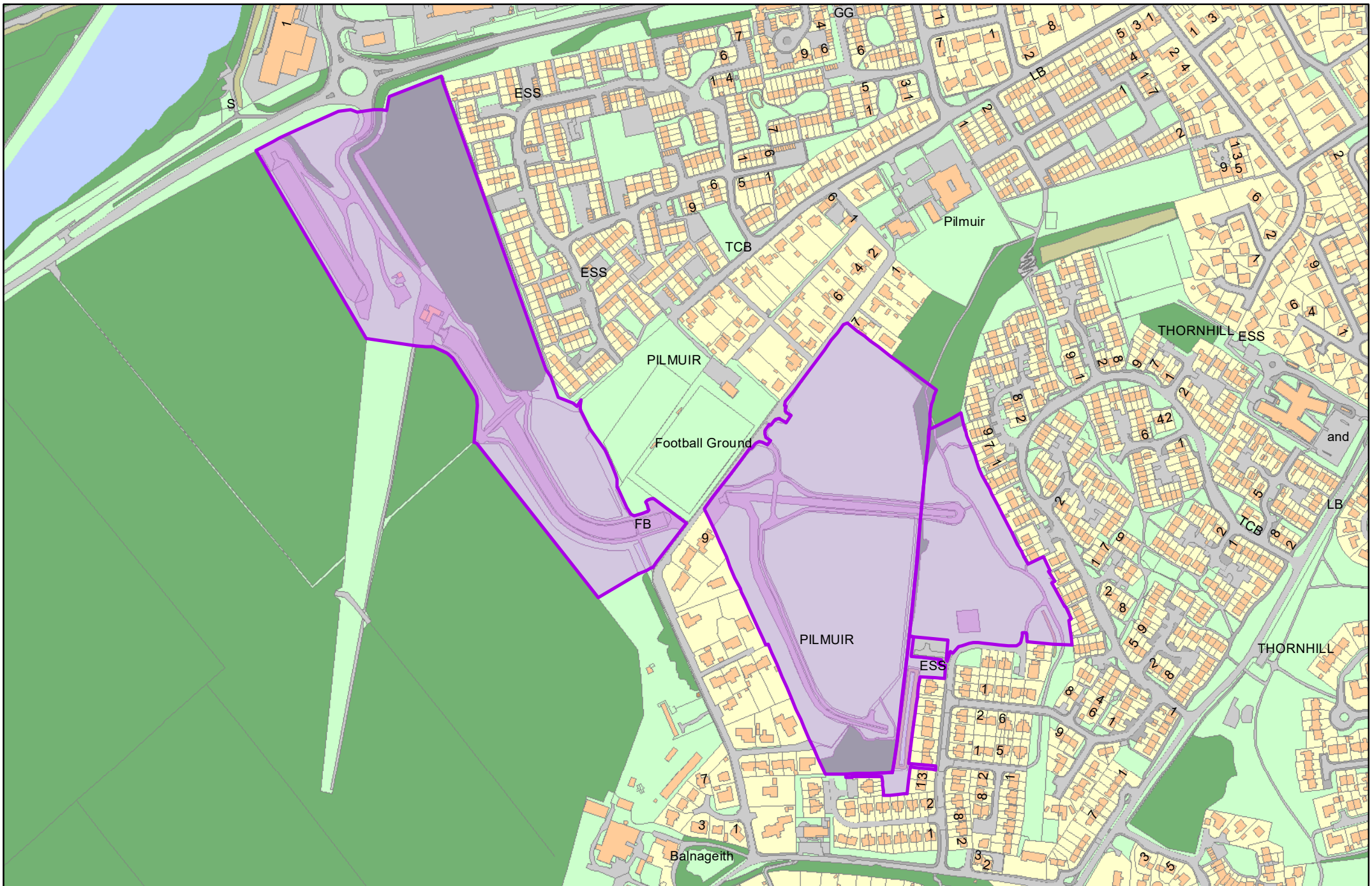
Bogton Park, Forres Page 212

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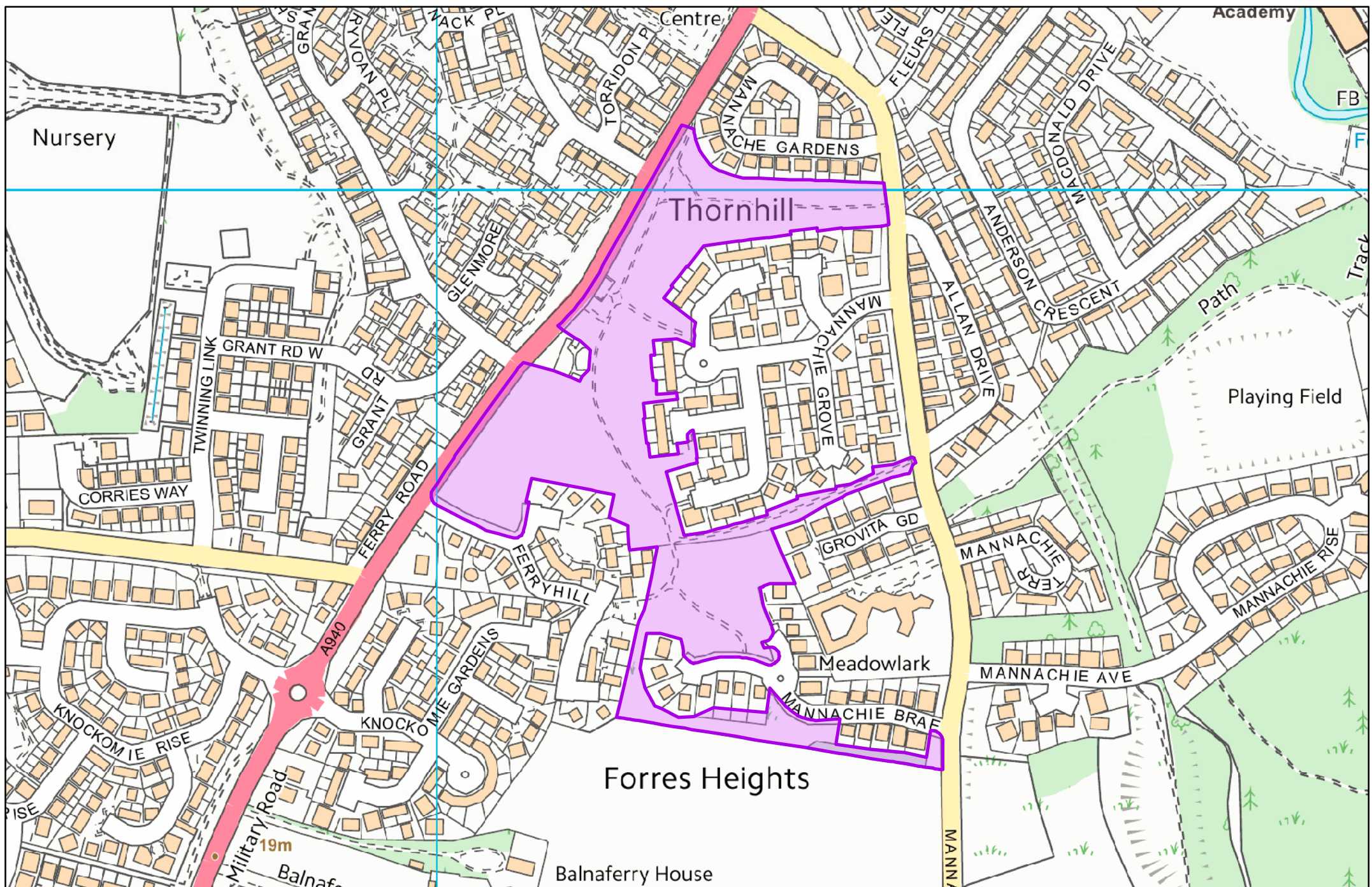


Forres Railway Station Page 215

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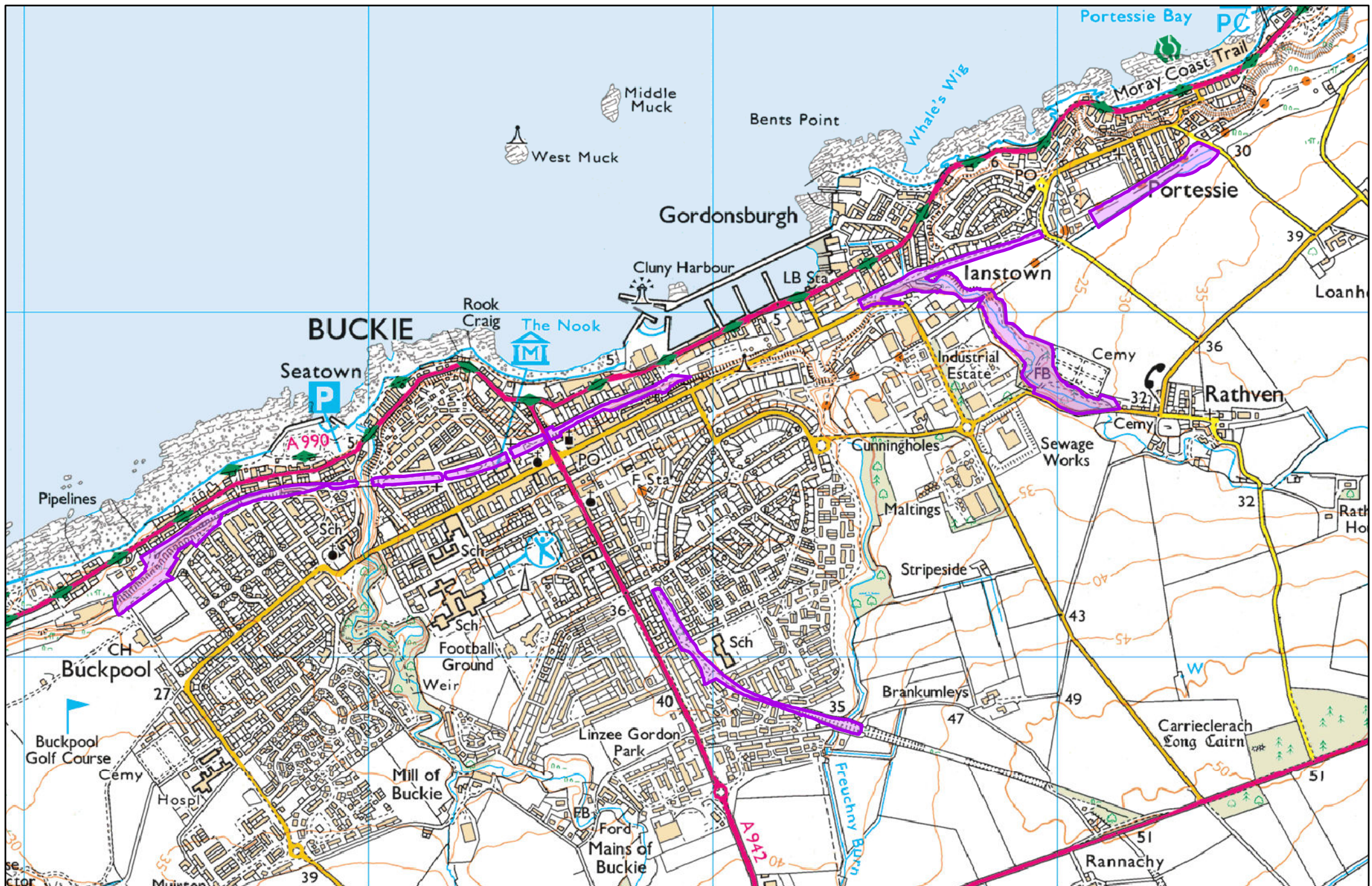
Mannachie Park, Forres

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Former Railway Lines, Buckie

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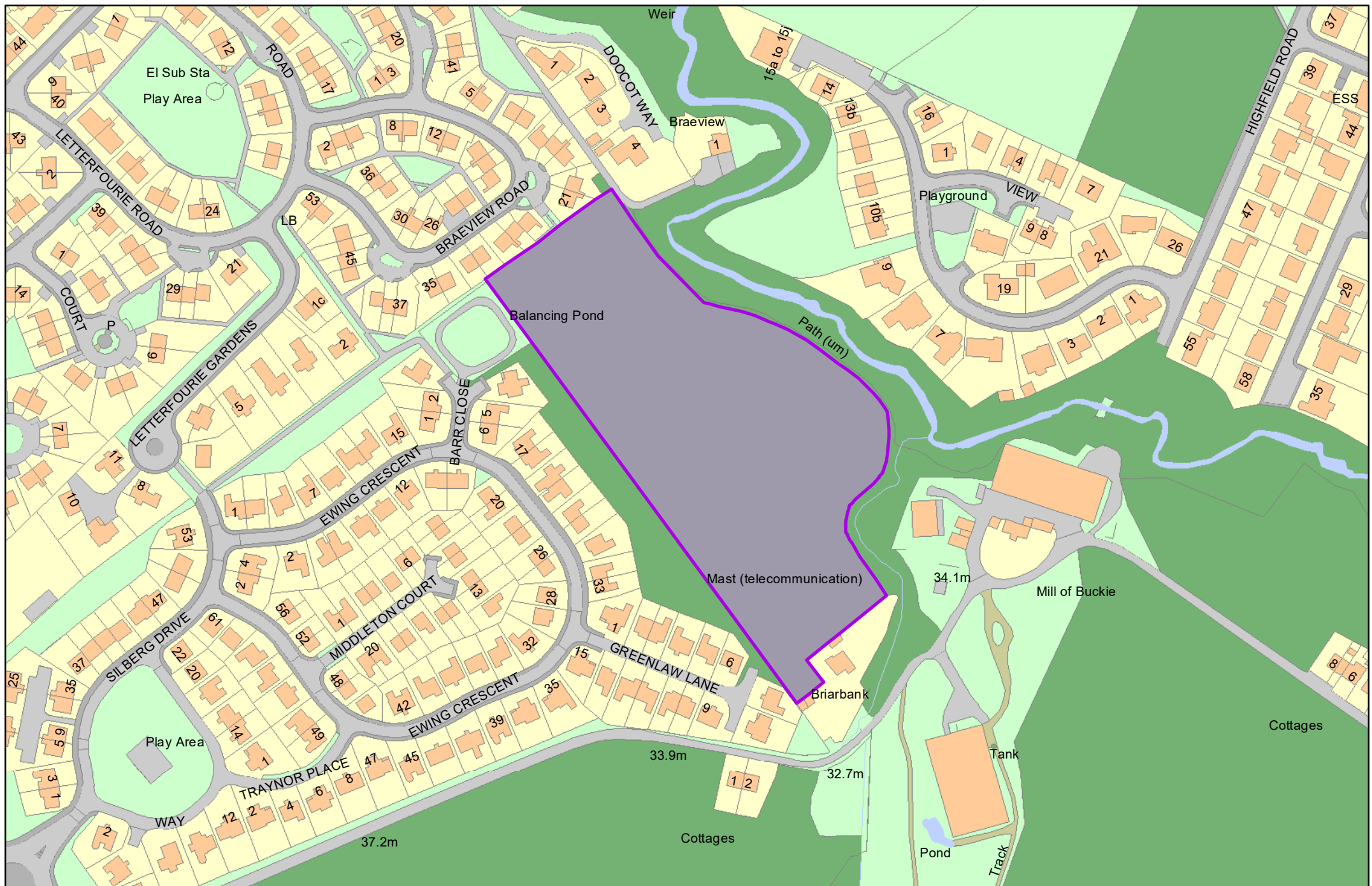
Land Beside Gollachy Waste Site, Buckie

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Mill Of Buckie, Buckie Page 219

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Queen Street Gardens, Buckie

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**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON
26 MARCH 2019**

**SUBJECT: VALIDATION OF PLANNING APPLICATIONS (SECOND PHASE)
& CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLANS**

**BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT,
PLANNING & INFRASTRUCTURE)**

1. REASON FOR REPORT

- 1.1 To inform the Committee of the progress implementing the Committee decision following the report to this Committee in December 2017 on National Standards for the validation and determination of planning applications and other related consents and how further improvements can be made. In addition work is proposed to streamline how Construction Environmental Management Plans (CEMP's) are to be covered by planning conditions and reduce duplication of information being requested by internal and external consultees.
- 1.2 This report is submitted to Committee in terms of Section III (E) (1) of the Council's Scheme of Administration relating to the functions of the Council as Planning Authority.

2. RECOMMENDATION

2.1 It is recommended that the Committee agree to:

- i) validation checks on planning applications continuing to be more robust and that the requirements for validation be extended as set out in paragraph 5.3;
- ii) note that average validation rates over the last 12 months on day one of receipt is 38% rising to 91% after 28 days (a slight increase from 2017);
- iii) Officers holding a further workshop with local agents/developers with a focus on ensuring that the requirements set out in the recently adopted Supplementary Guidance for flooding and surface water are understood to assist with reducing average timescale for the determination of planning applications; and

- iv) **note that officers are working with officers from Scottish Environment Protection Agency (SEPA), Scottish Natural Heritage (SNH), and Flood Risk Management (FRM) to coordinate the requirements for Construction Environmental Management Plans (CEMP's), streamlining resources and are looking to produce best practice guidance for use locally in the best interests of the environment, aiding developers working practices and reducing the need for multiple planning conditions.**

3. BACKGROUND

- 3.1 On 5 December 2017 this Committee agreed to the Heads of Planning Scotland guidance note on the national standards for the validation and determination of planning applications and other related consents in Scotland being used as best practice for Development Management purposes (paragraph 7 of the Minute refers).
- 3.2 This document has been on placed on Moray Council's website and validation checks have been more robust with a focus on requesting details of the following:
- Details of Private Water and Surface Water arrangements
 - Details of Access & Parking
 - Tree Surveys – where trees are identified to be removed or impacted upon
- 3.3 The majority of our smaller local agents and some larger developers have been supportive of this revised approach which has in turn assisted to frontload the application process by ensuring that the correct supporting information is available at the time neighbour notification is carried out rather than being provided only when requested by consultees or following a site visit.
- 3.4 Unfortunately some developers have requested that their applications are validated on submission without this information and as there is no statutory basis for holding applications this has been done where requested.
- 3.5 Validation rates have been monitored over the last 12 months and only 38% are made valid on the first attempt (mainly due to the fee not being paid), rising to 91% after 28 days. It would be reasonable to aspire to a target of 50% on the first attempt and 100% after 28 days.

4. PROPOSED EXTENSION OF VALIDATION REQUIREMENTS

- 4.1 Regulation 24 of the Development Management Regulations enables a Planning Authority to request from an applicant further documents, materials or evidence which they consider are required to determine the application. By applying this same principle it is recommended that the following information be incorporated into the validation process and extend the requirements previously agreed:

- **A Planning Statement:** to include the following: description of existing/ lawful use, description of the proposed use, hours of operation, days of week to be operated, numbers of staff and or number of anticipated clients per day; any amplified music, odour extract details and any take-away element;
 - **Topographical Survey and Cross Sections:** where site level changes are proposed and existing ground conditions are undulating;
 - **Finished Floor Levels:** of proposed buildings/houses and gardens
 - **Detailed Landscaping Proposals:** to include species type, mix, sizes and timescales for planting
 - **Sustainable Drainage Proposals:** Drainage Statements and Drainage Impact assessments to comply with the recently adopted Supplementary Guidance on Flooding & Drainage
- 4.2 By providing this supporting information up front it will assist consultees and reduce the need to seek further information from the applicant during the assessment process as well as reducing the need for holding responses.
- 4.3 A follow up workshop with agents is also recommended to be arranged and will focus on the information requirements needed to comply with the recently adopted Supplementary Guidance on Flood Risk and Drainage Impact Assessment for New Developments. This will provide agents that were unable to attend the first workshop a further opportunity to engage with Development Management and consultees.

5. **CONSTRUCTIONAL ENVIRONMENTAL MANAGEMENT PLANS**

- 5.1 All major planning applications are subject to consultation with SEPA, SNH and FRM. It has become apparent that despite some information being submitted by applicants all three consultees are recommending that suspensive planning conditions be imposed that relate in some way to the provision of a Construction Environmental Management Plan (CEMP).
- 5.2 These conditions are extremely important and the reason they are imposed is to ensure an acceptable form of development to minimise impacts of construction upon the surrounding land, air and water environment, including protected and notable species/habitats and the amenity of neighbouring property.
- 5.3 As a number of these conditions have been imposed on recent major developments and subsequently discharged, this has highlighted that there has been significant overlap of information. This is extremely frustrating for the developer, their contractors and all parties involved. In addition it makes enforcing the plans difficult once approved. Following an annual liaison meeting with SEPA and discussion with SNH it has been agreed that time should be set aside to focus on this one issue. By working together we are looking to produce some local guidance and agreement that will streamline working practices whilst ensuring the environment is protected. Ultimately this should reduce the number of conditions being imposed and make discharging

and enforcing the plans simpler in future, saving resources for both internal and external consultees.

6. SUMMARY OF IMPLICATIONS

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

The Corporate Plan prioritises are to promote economic development and growth and maintain and promote Moray's landscape and biodiversity and work towards a financially stable Council that provides valued services to our Communities.

(b) Policy and Legal

Development Management Regulations 2013, Moray Local Development Plan 2015 and Adopted Supplementary Guidance.

(c) Financial implications

None from this report.

(d) Risk Implications

The risk of not having robust procedures in place for validation impacts on the overall quality of the submission and places an unnecessary burden on staff resources.

(e) Staffing Implications

Any additional workload would be utilised with existing staff resources.

(f) Property

None.

(g) Equalities/Socio Economic Impact

None.

(h) Consultations

The Corporate Director (Economic Development Planning & Infrastructure), the Head of Development Services, the Legal Services Manager, Neal MacPherson (Principal Planning Officer, Development Management), Gary Templeton (Principal Planning Officer, Development Plans), the Transportation Manager, the Consultancy Manager, Environmental Health Manager, the Equal Opportunities Officer, Paul Connor (Principal Accountant) and Lissa Rowan (Committee Services Officer) have been consulted and comments received have been incorporated into the report.

7. CONCLUSION

- 7.1 For the purposes of validation, planning applications and other related consents will not be validated on the first attempt where the necessary information as set out in paragraphs 3.2 and 4.1 in agreement with the applicant/agent/developer has not been provided.**
- 7.2 Officers are to undertake work with SEPA, SNH and FRM to ensure the environment is protected during construction and to agree on standard planning conditions to be imposed along with local guidance to assist developers in their preparation.**

Author of Report: Beverly Smith, Development Management & Building Standards Manager

Background Papers:

Ref:



**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON
26 MARCH 2019**

**SUBJECT: HANDLING OF SECTION 36 CONSULTATIONS, ATTENDANCE
AT PUBLIC LOCAL INQUIRIES AND ASSOCIATED COSTS**

**BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT,
PLANNING & INFRASTRUCTURE)**

1. REASON FOR REPORT

- 1.1 To inform the Committee of the procedures in the dealing with Section 36 applications and the associated costs for Moray Council with handling these consultations as a Planning Authority.
- 1.2 This report is submitted to Committee in terms of Section III (E) (1) of the Council's Scheme of Administration relating to the functions of the Council as Planning Authority.

2. RECOMMENDATION

2.1 It is recommended that the Committee agree to:

- i) **note the contents of the report and procedures in handling Section 36 applications and their associated costs;**
- ii) **note the methods of responding to these applications and the staff resources being drawn from Legal Services, Development Management, Development Plans, Environmental Health, Transportation, Moray Council's Landscape Advisor and the requirement for input from Moray Council's legal advisors to carry out an advocacy role at a Public Local Inquiry (PLI); and**
- iii) **the Head of Development Services sending a request to the Scottish Government seeking a grant to assist with the handling of these consultations that have been submitted prior to the amendment of the Electricity (Applications for Consent) Regulations 1990 being implemented (anticipated to be May 2019) where such applications are to be determined after May 2019 to fill the gap between the existing and proposed fee structure.**

3. BACKGROUND

- 3.1 In Scotland any application to construct or operate an onshore power generating station with a capacity over 50 megawatts (MW) requires the consent of Scottish Ministers under Section 36 of the Electricity Act 1989. Such applications can either be refused or granted (with or without conditions). Where consent is granted, deemed planning permission may also be granted. Applications for the construction or operation of an onshore power generating station of 50mW or less are made to the relevant Planning Authority.
- 3.2 If a Planning Authority objects to a Section 36 application, and no proposed modifications or conditions cause it to withdraw that objection, or if Ministers decide at their discretion to refer the application to Public Local Inquiry (PLI), that application will be passed from Energy Consents & Deployment Unit (ECDU) to the Directorate for Planning and Environmental Appeals (DPEA), to be considered at a PLI. Once the papers are passed to the DPEA, Scottish Ministers cease to have a role in the application until the Reporter's report is received.
- 3.3 An independent Reporter will be appointed by Scottish Ministers to conduct the inquiry and compile a report considering all the evidence from the application process and from the various parties through inquiry, hearing and written submissions. The Reporter then submits an official report, making a recommendation in respect of the application, to the Scottish Ministers following the close of the inquiry. Scottish Ministers must take the report into account in reaching their final decision on the application. The inquiry report will be published at the same time as the Minister's decision on an application.
- 3.4 In February 2018 the Scottish Government produced a paper on Fees Charged for Applications under the Electricity Act 1989. As a Footnote to this consultation this paper stated "The proposed fee increases outlined in this paper reflect costs to Scottish Ministers and assume Planning Authorities will not receive any additional money following the implementation of the revised fees. Ministers intend to maintain the existing voluntary payments at current absolute values and they will cease to be the equivalent of two-thirds of the increased application fees Ministers plan to introduce". In effect this would mean that Planning Authorities would not receive additional fee payments.
- 3.5 In December 2018 the Scottish Government published their response to the consultation exercise on the Fees Charged for Applications under the Electricity Act 1989. In summary the fees are proposed to be increased and there will be greater remuneration to planning authorities in relation to onshore applications than previously proposed in the consultation document. A voluntary contribution shall continue to be made to Planning Authorities, now to be equivalent to one half of the fee received for onshore electricity generation development under Section 36 and 36C of the Act for which the revised fee is paid. Ministers aim to implement the revised fees from May 2019 but will be subject to a negative procedure in the Scottish Parliament.

This means that the regulations are signed by a Minister before they are laid before the Parliament, and they come into force generally 28 days after being laid.

4. RESOURCE IMPLICATIONS AS A CONSULTEE

- 4.1 Since the consultation paper on fee structure was issued this Council has been consulted on three Section 36 applications; two are pending consideration and one, to which the Council submitted an objection, pending determination at inquiry.
- 4.2 In summary, based on the current levels of fees charged we are in receipt of £52,000 to deal with all three consultations. Had the fee increase been implemented sooner we would have been in receipt of £197,500, a difference of £145,500. Prior to a consultation being received the LPA is involved in scoping exercises under the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 and pre-application meetings to identify supporting information requirements including viewpoints for landscape assessment and involves significant staff resources.
- 4.3 The next stage in terms of responding to these consultations we consult with our internal consultees including Development Plans, Transportation, Environmental Health (to address Noise, Private Water and Contaminated Land issues), Flood Risk Management, and we undertake consultation with our Landscape Adviser prior to presenting a report to this Committee. The recommendation to Members as to whether or not an objection should be raised to the consultation prior to being returned to the ECDU involves this Committee making a site visit and giving careful consideration to all material considerations raised in a detailed Committee Report.
- 4.3 Where an objection by a Local Planning Authority (LPA) is raised the application sits with the Directorate of Planning & Environmental Appeals (DPEA), before being allocated to a Reporter and is to be decided by way of an Inquiry. This will then involve Officers attending a pre-inquiry meeting, preparing inquiry statements and precognitions which will be the subject of an inquiry session. There can also be hearing sessions and written submissions for some topics and these also have to be prepared for. All of this involves a considerable amount of staff resources and costs. A decision is then required as to whether or not Counsel needs to be engaged to represent the LPA at the inquiry. The decision on this depends on the complexity of the issues involved. This resource in addition to the staff costs already incurred in reaching this stage can be a significant cost and can amount to over £50,000 depending on the length of the PLI. These costs have to be met up front and only if, at the conclusion of the process, the Reporter considers that another party has acted unreasonably, can some of the costs be recovered. The Council is always left "out of pocket" to some extent.
- 4.4 In deciding whether to engage Counsel, the complexities of the case and the significance of the issues to the Council as Planning Authority must be weighed against the resulting cost in preparing for and presenting the case to the PLI. In terms of the Council's Scheme of Delegation the Head of Legal

and Democratic Services can instruct Counsel, in consultation with the Council Leader and the relevant Committee Chair in this case the Chair of this Committee. In many cases the Council's case has been presented by in-house legal and planning staff and we have sought to restrict our involvement in the PLI process as much as possible. Officers have contacted the DPEA to express our concerns about the financial burden PLIs place on Councils in the current financial climate but they have confirmed that PLIs are part of the statutory planning process and Councils are expected to participate in the process.

- 4.5 The existing fee structure has already been deemed to be inadequate at covering the cost of handling these applications which are becoming increasingly complex. The most recent submissions require cumulative assessments to be made not just on landscape and visual grounds but also to assess cumulative noise impacts (which may require the Council to engage a specialist noise adviser). These specialists are also required to be available at inquiry and hearing sessions.
- 4.6 The timing of the three recent Section 36 applications is unfortunate in terms of being able to benefit from the proposed revised fee structure and Members are asked to note the resource implications that are being incurred. In terms of being able to fill the gap that currently exists between the existing and proposed fee structure (taking into account the current financial position of the Council) it is recommended that a grant be sought from the Scottish Government.

5. SUMMARY OF IMPLICATIONS

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

The Corporate Plan priorities are to promote economic development and growth and maintain and promote Moray's landscape and biodiversity and work towards a financially stable council that provides valued services to our Communities.

(b) Policy and Legal

Electricity Act 1989, Energy Consents Good Practice Guidance (Scottish Government Energy Consents & Deployment Unit), The Electricity (Applications for Consents) Regulations 1990 and Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017. Fees Charged for Applications under the Electricity Act 1989.

(c) Financial implications

None from this report but financial implications will arise through the handling of individual consultations. If a PLI is triggered there is no specific budget to cover the costs of this. In the past these have been treated as a call on Council reserves but these have been depleted over the years so any PLI would result in a significant budget pressure.

(d) Risk Implications

The risk of not having a robust defence would impact on the integrity of the planning system.

(e) Staffing Implications

There are increasing staffing implications arising from the handling of these consultations as a result of the increasing complexity of the cumulative issues that are raised. . There are also significant impacts on staff who are involved in any PLI process

(f) Property

None.

(g) Equalities/Socio Economic Impact

None.

(h) Consultations

The Corporate Director (Economic Development Planning & Infrastructure), the Head of Development Services, the Legal Services Manager, Neal MacPherson (Principal Planning Officer, Development Management), Gary Templeton (Principal Planning Officer, Development Plans), the Transportation Manager, the Consultancy Manager, the Environmental Health Manager, the Equal Opportunities Officer, Paul Connor (Principal Accountant) and Lissa Rowan (Committee Services Officer) have been consulted and comments received have been incorporated into the report.

6. CONCLUSION

- 6.1 Note the Local Planning Authorities role in handling Section 36 Applications, the impact on staff resources and costs associated with dealing with these consultations. It is recommended that a grant be sought from the Scottish Government to assist with the handling of these consultations to fill the gap between the existing and proposed fee structure.**

Author of Report: Beverly Smith, Development Management & Building Standards Manager

Background Papers:

Ref:



REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON 26 MARCH 2019

SUBJECT: CONFIRMATION OF STOPPING-UP OF SECTION OF FOOTWAY ON BURDSHAUGH, FORRES

BY: HEAD OF LEGAL AND DEMOCRATIC SERVICES

1. REASON FOR REPORT

- 1.1 The Committee is asked to confirm, as an unopposed Order, “The Moray Council (Section of Footway on Burdshaugh, Forres-Stopping-Up Order) 2018.
- 1.2 This report is submitted to Committee in terms of Section III (E) (1) of the Council's Scheme of Administration relating to the functions of the Council as Planning Authority.

2. RECOMMENDATION

- 2.1 **The Committee is asked to confirm as an unopposed Order, “The Moray Council (Section of Footway on Burdshaugh, Forres-Stopping-Up Order) 2018” and instruct the Head of Legal and Democratic Services to make the Order.**

3. BACKGROUND

- 3.1 Following an appeal against refusal of Planning Application 07/02414/FUL, planning permission was granted to the developer by the Directorate for Planning and Environmental Appeals (DPEA) on 16 September 2009, to carry out the development of Forty-six dwelling houses and Forty-eight flats with associated parking at Site R2, Grantown Road, Forres, Moray. Part of the development is to construct a replacement foot/cycle bridge over Mosset Burn and a new footway. The replacement bridge has now been completed. A Stopping-Up Order is required bringing to an end all rights subsisting in the existing section of footway on Burdshaugh which will become redundant. The section of footway on Burdshaugh which is affected by the Order, is more particularly detailed on the plan shown as **Appendix 1** to this Report.
- 3.2 In terms of the procedure under the relevant Act, the proposed Stopping-Up Order was advertised in the appropriate publications on 26th October 2018 and 31st October, 2018 and relevant notices were served on statutory undertakers. One observation was received from Scottish and Southern

Energy during that period relating to apparatus lying within the area covered by the Order. The information was passed to the developer to ensure that the infrastructure will not be affected by the Stopping-Up of the section of footway on Burdshaugh, Forres at the locations identified.

- 3.3 In terms of Section 207 and Schedule 16 of the Town and Country Planning (Scotland) Act 1997, as amended, the Planning Authority may confirm the Stopping-Up Order themselves without submitting the Order to the Scottish Government if there are no unresolved objections at the end of the statutory period. The observation referred to in para 3.2 above has been considered and addressed and there are no outstanding issues from the consultation process.

4. SUMMARY OF IMPLICATIONS

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

This report assists with the aim of having a growing and diverse economy in terms of the provision of infrastructure .

(b) Policy and Legal

The stopping up of sections of road is required to ensure proper implementation of the Planning Consent which has been granted. The proposal complies with the Town and Country Planning (Scotland) Act 1997 as amended.

(c) Financial Implications

The costs involved in promoting and making the Order and implementing the works will be met in full by the developer as agreed by the Council and the developer.

(d) Risk Implications

Failure to complete the statutory process to stop up the section of footway on Burdshaugh, Forres will lead to the Planning Consent which has previously been granted not being suitably implemented with related risks in respect of transport and infrastructure.

(e) Staffing Implications

There are no specific staffing implications arising from the proposal.

(f) Property

There are no specific property implications arising from the proposal.

(g) Equalities/Socio Economic Impact

There are no issues in this case.

(h) Consultations

The Transportation Manager, Richard Adam (Network Asset Engineer - Environmental Services), Iain Robertson (Senior Technician – Environmental Services) , Richard Smith, (Principal Planning Officer – Development Management) and Lissa Rowan (Committee Services

Officer) have been consulted and any comment incorporated into the report.

Colin Matheson Traffic Sergeant, Police Scotland has been consulted and is in agreement with the report.

Further consultation will be carried out through newspaper advertisement which will finalise the advertising process.

The relevant Ward Members have been consulted and any views they may have can be made known at the meeting.

5. CONCLUSION

The Committee is asked to consider the recommendations set out in Section 2 of the Report and confirm, as an unopposed Order, “The Moray Council (Section of Footway on Burdshaugh, Forres-Stopping-Up Order) 2018”

Author of Report: Emma Dawson, Paralegal (Property and Contracts)

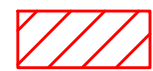
Background Papers: (a) Planning Consent in respect of Application 07/02414/FUL.

Ref: EDOC-229-6525

A1

Important notes for clients / contractors
No works are to commence on site until all relevant approvals have been obtained. Any deviations to the approved plans have to be reported to this office. Contractors to check all dimensions on site prior to commencement of work. Given dimensions only to be used. "DO NOT SCALE". The copyright of this drawing and design remain the sole property of Springfield Properties Plc and must not under any circumstance be reproduced in any way without express written consent.

LEGEND



Proposed area of existing footpath to be stopped up

1:2500

Item 14

9.0939

19.3452

42.2706

14.1652

This is the plan referred to in Moray Council Stopping Up of Footway at Burdshaugh, Forres Order 2018

1:100

Rev.	Date	Remarks	By	Ch.
Revisions				
 Springfield Properties Plc				
Elgin Office Alexander Fleming House, 8 Southfield Drive, Elgin, Moray, IV30 6GR Tel: 01343 552 550 Fax: 01343 551 776 Email: info@springfield.co.uk		Larbert Office Springfield House, 3 Central Park Avenue, Larbert, FK5 4RX Tel: 01324 555 536 Fax: 01324 574 890 Email: larbert@springfield.co.uk		
Project Burdshaugh Footbridge Upgrade Burdshaugh Forres				
Drawing Stopping Up Order Plan				
Scale See Dwg	Date July 18	Drawn by DB	Checked by KF	
Drawing no. BRF-ENG-501				Rev -

